Bismarck-Burleigh Commissions Committee

The Bismarck-Burleigh Commissions Committee is scheduled to meet on Tuesday, June 4, 2024, at 4:00 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota.

Call to Order

1. Consider approval of minutes

   Documents:

   May 7, 2024 - Mintues.pdf

2. Storm Water Discussion

   Documents:

   County ETA stormwater issues.pdf
   County storm issue plat dates.pdf
   Ordinance 4817 - 1997 Adoption of Stormwater Ordinance 14.1.pdf
   Ordinance 5853 - 2011 update of 14.1.pdf
   Ordinance 6270 - 2017 rewrite of 14.1.pdf

3. Other Business

Adjourn

Next meeting: 4:00 PM, July 2, 2024
Tom Baker Meeting Room - Bismarck City/County Building
221 N 5th Street, Bismarck, ND

Bismarck-Burleigh Commissions Committee

5/7/2024 - Minutes

Call to Order

Commissioner Bakken called the meeting to order at 4:00 PM.

Roll Call

Committee members present Burleigh County Auditor Mark Splonskowski, Burleigh County Commissioner Steve Bakken, and City Administrator Jason Tomanek. City of Bismarck Mayor Mike Schmitz attended the meeting via Teams.

Agenda

1. Consider approval of minutes

   Mayor Schmitz motioned to approve the May 7, 2024, meeting minutes, and Auditor Splonskowski seconded. Upon a roll call vote, all voted aye.

2. Bismarck Burleigh Public Health Update

   Bismarck Burleigh Public Health Director Renae Moch presented information regarding the draft bylaws for a Joint Board of Health. The group discussed the need for a board member application that reflects professional medical experience and agreed to collaborate to create an application.

3. Dakota Media Access Discussion

   Dakota Media Access Executive Director Mary Van Sickle addressed the Committee regarding the growing need for funding and increased requests for meeting coverage for Dakota Media Access. Primary funding for Dakota Media Access is provided by the City of Bismarck and the City of Mandan. The funding source is composed of the franchise fees for cable subscribers through Midco, which is collected by the Cities and is on a downward trend as fewer homeowners are paying for cable subscriptions. Ms. Van Sickle is open to discussing options for strategies to share the ongoing operating expenses.

4. Provident Building Update

Commissioner Bakken reported that Burleigh County will remain a tenant in the City/County Building through the end of 2025.

5. Other Business

Commissioner Bakken raised the topic of storm water-related concerns in rural subdivisions. Commissioner Bakken noted that the topic was discussed at the Burleigh County Commission meeting the night prior. It was agreed that the topic will be added to the next Bismarck Burleigh Commissions Committee on June 4, 2024.

Adjourn

There being no further business to discuss, the meeting adjourned at 4:50 PM.

Stormwater and other related problems within the ETA

Over the years we have had numerous problems related to stormwater issues within the ETA. Most of these problems were a result of an inadequate City of Bismarck stormwater ordinance, lack of enforcement (by the City of Bismarck) of the stormwater ordinance during construction and the lack of enforcement post construction (related to the City of Bismarck's jurisdictional concerns). Since the City of Bismarck insisted on controlling development within the ETA the County had little or no authority to regulate development activities and to deal with potential stormwater problems before they became a problem.

In the last 7-10 years the number of stormwater problems within the ETA have been greatly reduced due to changes to the Stormwater ordinance, and the addition of new personnel within the City Engineering and Planning departments that have worked more closely with the County. In addition, the County Highway Department has been much more assertive in identifying, and requiring potential problem areas to be addressed before the developer and City leave/turn over the subdivision to the County to maintain.

In spite of these changes to the stormwater review process, the County has been stuck dealing with these historical problem areas. The following list details the problem areas:

Subdivision:	**Problem:**
Apple Creek:	
Copper Ridge	Drainage problems east of 6219 Copper Ridge Lane – required additional drainage work.
Copper Ridge	Erosion problems throughout the subdivision – required a lot of shoulder and ditch reconstruction.
Copper Ridge	Drainage problems at Copper Ridge Lane and Woodrow Dr – required us to acquire additional stormwater easement and add stormwater drainage structures in order to solve the problem.
Faimans Sunrise Addition	Drainage problems along Palimino Dr – required re-ditching and regrading of the roadway and ditch.
Leisure World Estates	Drainage along Northgate Drive has always been a problem and the construction of Leisure World just increased the problem. We are now required by the Burleigh Water Board to add additional culverts under Northgate Drive.
Apple Meadows 1st	Drainage problems along Beacon Loop – required us to add stormwater drainage structures with in the subdivision to drain water out to the ditch along Highway 10.
Apple Meadows	Drainage problems with in the subdivision required us to re-ditch several areas.
WDH	Drainage problems with in the subdivision required us to do additional re-ditching.
Prairiewood Estates	The subdivision created drainage problems along 48th Ave requiring the County and the residents to re-ditch and pump water during the year.
Burnt Creek:	
Prairiecrest 2nd	Drainage problems at 914 Violet Lane – required additional drainage work.

Harvest Grove	Drainage problems along North Washington street – required us to replace culverts and perform major ditch repairs (which included a large ditch block) and rip-rap.
Harvest Grove	Drainage problems along the south and west sides of 8400 Northwood Drive – required us to re-ditch along 84th Ave and Washington St.
Brentwood Estates	Drainage problems at 9030 Plainview Dr – required us to replace culverts and perform major ditch work through 9101 Wentworth Dr.
Hay Creek Pines	Major drainage problems along both Forest Drive and Oak Drive – resulted in the reconstruction of both roadways with the addition of a number of culverts and the re-ditching of much of the area.
Rustic Acres	Major drainage problems throughout the subdivision – required the reconstruction of both Shamrock Place and Clover Place.
Four K's Estate	Additional runoff from the subdivision required the replacement and up sizing of culverts under 26th Street – which should have been done as part of the subdivision construction.
Shamrock Acres	Poor drainage design throughout the subdivision (in particular along 26th Street) has resulted in the County replacing several culverts and repairing the roadway numerous times.
Sunny Meadow Estates	Poor drainage throughout the subdivision has resulted in the County spending a lot of money on repairs to both Mirage Place and Desperado Place.
Fort Rice:	
Twin Buttes	Poor drainage through the subdivision has resulted in flooding of several building structures – this has required the County to work with property owners on removing trees and re-ditching some of their property.
Gibbs:	
Country Creek	Numerous drainage problems along Runnel Road and Shoal Drive have caused the major problems in the area – this resulted in the re-drainage of water through the subdivision and the replacement of many culverts/approaches. The County now needs to snow blows the new drainage ditch each year to ensure spring runoff stays within the ditch.
Country Ridge	Because of the problems with in Country Creek, Country Ridge's runoff needed to be delayed within the subdivision to allow Country Creek runoff to occur before more water was added to the system.
Country Creek	Drainage problems around 7331 and 7315 Runnel Road resulted in the county building several underground structures and stormwater drainage piping in order to deal with the problem.
Rock Creek	Drainage problems have will result in the County needing to replacing culverts and re-ditching this subdivision in the near future in order to meet the property owner's needs.
East Meadows Estates	Drainage problems throughout the subdivision have resulted in the County installing subsurface drain tile along 80th Street.
Brookfield Estates	Major drainage was allowed to go through the subdivision from the north. As a result of water problems within the subdivision, the residents built a berm (and drainage ditch) around the subdivision to divert the water – this has resulted in the County setting up an O&M agreement with the residents to clean, snow blow and maintain the new bypass ditch.
Rainbow Acres	Major water problems within the subdivision has caused the roadway to breakup – County and Township have had to spend extra money in this subdivision to improve the roadway and ditches.

TJ Ranch Estates	Drainage problems at 7245 Russell Road has resulted in the County changing culverts and improving the drainage in the area.
Hay Creek:	
Northridge Estates	We have had several drainage problems within the subdivision. So far, the County has had to have several meetings with residents to deal with the problems but have not had to make any changes to the existing structures.
State Street Office Park	Major drainage problems with in the subdivision required the County to re-ditch the main ditch within the subdivision and replace/reset several culverts.
Sunny-View Acres	Poor drainage within the subdivision has required the County to clear snow from ditches in order to enhance drainage in the spring. Some culverts have been replaced but every spring requires us to blow snow from the ditches.
Sunny-View Acres	Because the subdivision was not designed to deal with all the water from the area, the culverts on 84th Ave have been replaced to reduce/delay the amount of water that enters the Sunny-View Acres Subdivision.
Crescent Ridge	Water problems along 78th Ave have required the County to rebuild that roadway.
Grande Prairie Estates	Water coming from the east was not designed to go through this subdivision (between 4028 Rawhide Drive and 4041 Heartland Drive). The County needed to install drainage structures to divert the water to the north of the Grande Prairie Estates subdivision.
Green Acres	Major drainage problems along 57th Ave NW, because of the Green Acres Subdivision, has required the County to re-ditch and place culverts along 57th Ave.
Foxhaven 3rd	The construction of Oakland Subdivision has caused drainage problems with in Foxhaven. County needed to replace culverts and do some re-ditching.
Breens	Drainage problems with in the subdivision required the County to replace some culverts and do some re-ditching.
Sabots	Drainage problems with in the subdivision required the County to replace some culverts and do some re-ditching.
Lincoln:	
Timberlane Place	Drainage leaving Timberlane Place was not accounted for when Whispering Bay was constructed. So the County was required to build drainage structures at 2882 Woodland Dr to ensure that residents to the east where not flooded during high Missouri River flows.
Fox Island	The subdivision design did not deal with high water tables that resulted in flooding in Timberlane Place and Fox Island subdivisions, so the County needed to constructed drainage structures adjacent to 3002 and 3005 Deer Lodge Drive.
Fox Island	Major flooding around the whole area required the County to construct the Tavis Road Pump Structure. Additional construction was required because a private developer was allowed to place flood control items on a public roadway.
Spiritwood Estates	Drainage problems within the subdivision required the County to do additional ditching and replace several culverts.
Metro Industrial Park	Poor drainage everywhere within the subdivision required the County to regrade the ditches and reset all of the culverts.

Apple Creek Industrial Park	Poor drainage everywhere within the subdivision required the County to regrade all of the ditches and roadways and reset many of the culverts throughout the subdivision.
Secluded Acres	The construction of Southbay resulted in drainage problems within Secluded Acre. This resulted in the County re-ditching several areas.
Riverview:	
Sundown Acres	Poor drainage between 14900 and 14844 Sand Dune Lane has required the County to reconstruct the drainage between the two properties.

Plat Information - Historical Problem Areas

Plat Name	Year Platted	Current Bismarck ETA
4 K's Estate	1972	No
Apple Creek Industrial Park	1998	Yes
Apple Meadows First	2001	Yes
Breen's	1964	Yes
Brentwood Estates	1973	Yes
Brookfield Estates	1975	Yes
Copper Ridge	2005	Yes
Country Creek	2003	No
Country Ridge	2015	No
Crescent Ridge	1997	Yes
East Meadows Estates	2008	No
Faimans Sunrise Addition	1980	No
Fox Island	1994	Yes
Foxhaven 3rd	1999	Yes
Grand Prairie Estates	1975	Yes
Green Acres	1972	Yes
Harvest Grove	2003	Yes
Hay Creek Pines	1979	Yes
Leisure World Estates	1980	No
Metro Industrial Park Replat	1982	Yes
Northridge Estates	2002	Yes
Prairiecrest 2nd	2001	Yes
Prairiewood Estates	1999	No
Rainbow Acres	2007	Yes
Rock Creek	2004	No
Rustic Acres Replat	1995	Yes
Sabots	1978	Yes
Secluded Acres	1981	Yes
Shamrock Acres	1973	Yes
Spiritwood Estates	2002	Yes
State Street Office Park	2006	Yes
Sundown Acres	1973	No
Sunny Meadow Estates Replat	1997	Yes
Sunny-View Acres	1993	Yes
Timber Lane Place	1978	Yes
TJ Ranch Estates	1975	Yes
Twin Buttes	1979	No
WDH	2010	Yes

ORDINANCE NO. 4817

AN ORDINANCE TO CREATE AND ENACT TITLE 14.1 OF THE CITY OF BISMARCK CODE OF ORDINANCES, RELATING TO STORMWATER MANAGEMENT.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

TITLE 14.1

STORMWATER MANAGEMENT

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CHAPTER 14.1-01

GENERAL PROVISIONS

14.1-01-01 Purpose and Policy. This title sets forth uniform requirements for stormwater management systems within the City and its extraterritorial jurisdiction. It is the intent of the Board of City Commissioners that the requirements and standards contained in this ordinance comply with all applicable state and federal laws. In the event of any conflict between the provisions of this ordinance and the provisions of an erosion

control, shoreland protection, or floodplain ordinance, or other regulations adopted by the City, County, State or Federal authorities, the more restrictive standard prevails.

The objectives of this title are:

1. To promote, preserve, and enhance the natural resources within the City of Bismarck and its extraterritorial jurisdiction;

2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater management practices;

3. To protect the City's natural resources from adverse impacts occasioned by development or other activities;

4. To regulate land development, land disturbing, or other activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

5. To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);

6. To require detailed review standards and procedures for land development activities proposed throughout the City, and its extraterritorial jurisdiction, thereby achieving a balance between urban growth and development, and the protection of water quality; and

7. To provide for adequate stormwater system analysis and appropriate stormwater system design as necessary to protect public and private property, water quality, and existing natural resources. This title establishes and provides for the following stormwater management criteria:

a) The regulation of development through the issuance of stormwater permits and through the enforcement of general stormwater drainage requirements throughout the City. It also authorizes monitoring and enforcement activities, and provides for the setting of applicable fees for the equitable distribution of costs associated with the administration of the stormwater management program established herein.

b) The regulation of, and the establishment of criteria for, public underground storm sewers, artificial and natural open channel drainage systems, stormwater detention and retention ponds, and private stormwater drainage systems discharging into the public system.

c) The regulation of development activities as they relate to managing stormwater volumes, rates of runoff, flow duration, and their subsequent impacts to downstream property and stormwater management facilities.

d) Provides for a stormwater management system user charge and the method for calculating charges for each user classification. Procedures for rate adjustments and annual review criteria are established.

e) Penalties for violating the provisions of this ordinance, and the orders, rules, regulations and permits issued hereunder.

f) Applies in the City of Bismarck, North Dakota, and its extraterritorial jurisdiction, and to persons outside the City who are, by contract or agreement with the City, users of the City stormwater management system. Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this ordinance.

14.1-01-02. Definitions. For the purpose of this ordinance and title, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

Agricultural Land Use: The use of land for planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or yarding of livestock.

Applicant: Any person wishing to obtain a building permit, special use permit, zoning or subdivision approval.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year (i.e. 100-year flood). It is also referred to as the regional flood.

Board: The Board of City Commissioners of the City of Bismarck.

City: The City of Bismarck or the Board of City Commissioners of the City of Bismarck.

Control Measure: A practice or combination of practices to control erosion and attendant pollution.

Conveyance Structure: A pipe, open channel, or other facility that transports runoff from one location to another.

Detention Facility: A natural or manmade structure, including wetlands, for the temporary storage of runoff which may contain a pool of water, or may be dry during times of no runoff.

Development Properties: Lands and properties located within an approved stormwater management permit boundary.

Developer: A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.

E.P.A.: United States Environmental Protection Agency.

Engineer: The City Engineer of the City of Bismarck or authorized agent.

Erosion: Any process that wears away at the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

Erosion and Sediment Control Plan: A written description of the number, locations, sizes, and other pertinent information about best management practice methods designed to meet the requirements of this ordinance.

Extraterritorial Jurisdiction: The territorial authority of the City which extends to all unincorporated land located within two (2) miles of the corporate limits of the City as authorized by the North Dakota Century Code.

Flood Fringe: That portion of the flood plain outside of the floodway.

Floodplain: The areas adjoining a water course or water basin that have been or may be covered by a regional or base flood.

Floodplain Management: The regulation of the nature and location of construction on (or other occupancy of) lands subject to inundation by flood waters, so that foreseeable (probable) flooding damages will have an average annual risk smaller than some preselected amount. Floodplain management consists of technical and nontechnical studies, policies, management strategies, statutes and ordinances that collectively manage floodplains along rivers, streams, major drainageways, outfalls, or other conveyances. The federal government normally plays a major role in floodplain planning and management, whereas in urban stormwater management and design, local governments dominate the decision-making process.

Floodway: The channel of the water course, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge floodwater and provide water storage during a regional or base flood.

Hydric Soils: Soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

Hydrophytic Vegetation: Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Impervious Area: Impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil.

Land Development Activity: The construction or demolition of buildings, roads, parking lots, paved storage areas, and similar facilities.

Land Disturbing Activity: Any manmade change of the land surface including removing vegetative cover, excavating, filling and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; and harvesting trees.

Landowner: Any person holding title to or having an interest in land.

Land User: Any person operating, leasing, renting, or having made other arrangements with a landowner by which the landowner authorizes use of their land.

Local Detention: Detention provided to serve only the developing area in question and no areas outside of the development boundaries. This is also known as on-site detention.

Local Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system serving only the property within the development boundaries. This is also known as the on-site drainage system.

Major Stormwater System: The portion of the total stormwater system that collects, stores, and conveys runoff that exceeds the capacity of the minor system. The major drainageways are readily recognizable natural or improved channels that conveys runoff that exceeds the capacity of the minor drainage system, including emergency overflow facilities. It transports the minor and

major stormwater runoff and serves more than the area within the development boundaries. The major system is usually less controlled than the minor system, and will function regardless of whether or not it has been deliberately designed and/or protected from encroachment, including when the minor system is blocked or otherwise inoperable. The major stormwater system is usually evaluated for the one hundred (100)year runoff event.

Management Practice: A practice or combination of practices to control erosion and water quality degradation.

Minor Stormwater System: The portion of the total drainage system that collects, stores and conveys frequently occurring runoff, and provides a relief from nuisance and inconvenience. This system has traditionally been carefully planned and constructed, and normally represents the major portion of the urban drainage infrastructure investment. The degree of inconvenience the public is willing to accept, balanced against the price it is willing to pay, typically establishes the drainage capacity or design recurrence frequency of a minor system. Minor systems include roof gutters and on-site drainage swales, curbed or side swaled streets, stormwater inlets, underground storm sewers, open channels and street culverts. Generally, the minor stormwater system is designed to accommodate the minor (or ordinary) storm recurring at regular intervals, generally from two (2) to ten (10) years.

Multiple-Purpose Facility: An urban stormwater facility that fulfills multiple functions, such as enhancement of runoff quality, erosion control, wildlife habitat, or public recreation, in addition to its primary purpose of conveying or controlling runoff.

National Pollution Discharge Elimination System (NPDES) Permit: Any permit or requirement enforced by the North Dakota State Department of Health pursuant to the Clean Water Act as amended for the purposes of regulating stormwater discharge.

On-Site Detention: Detention provided to serve only the developing area in question and no areas outside of the development boundaries. This is also referred to as local detention.

Outfall Facility: Any channel, storm sewer, or other conveyance receiving water into which a storm drain or storm drainage system discharges.

Outlet: Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Owner or Occupant: Any person owning or using a lot, parcel of land, or premises connected to and discharging stormwater into the stormwater system of

the City, and who pays for and is legally responsible for the payment of stormwater rates or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment.

Permanent Development: Any buildings, structures, landscaping and related features constructed as part of a development project approved under a stormwater permit.

Permanent Facilities: Those features of a stormwater management plan which are part of any natural or constructed stormwater system that require periodic or minimal maintenance to retain their operational capabilities. This includes but is not limited to storm sewers, infiltration areas, detention areas, channels, streets, etc.

Permittee: Any person who applies for and receives a stormwater permit from the City.

Person: Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency - public or private.

Private Drainage Channel: A drainage channel on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.

Private Storm Sewer: A storm sewer on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.

Public Drainage Channel: A drainage channel located entirely within a naturally occurring or constructed watercourse.

Public Storm Sewer: A storm sewer located entirely within publicly owned land or easements.

Regional Detention: Detention facilities provided to serve an area outside the development of boundaries. A regional detention site generally receives runoff from multiple stormwater sources.

Regional Flood: A flood that is representative of large floods known to have occurred generally in the state and recently characteristic of what can be expected to occur on an average frequency in the magnitude of a one hundred (100) year recurrence interval. It is also referred to as the base flood.

Retention Facility: A natural or manmade structure that provides for the storage of stormwater runoff by means of a pool of water.

Runoff: The rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

Sediment: Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

Site: The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the permit application.

Stabilize: To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel, or other measures.

State: The State of North Dakota.

Storm Sewer: A pipe or conduit for carrying storm waters, surface runoff, street and wash waters, and drainage, excluding sewage and industrial wastes.

Stormwater Detention: Temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow.

Stormwater Management: The planned set of public policies and activities undertaken to regulate runoff under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.

Stormwater Management Criteria: Specific guidance provided to the engineer/designer to carry out drainage and stormwater management policies. An example might be the specification of local design hydrology - the design storm.

Stormwater Management System: Physical facilities that collect, store, convey, and treat stormwater runoff in urban areas. These facilities normally

include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipators.

Stormwater Retention: Storage designed to eliminate subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).

Structure: Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

Unpolluted Water: Any water of quality equal to or better than the effluent criteria in effect, or water that would not cause a violation of receiving water quality standards and would not benefit by discharge into a sanitary sewer and wastewater treatment facilities is considered unpolluted.

Urban Area: Land associated with, or part of, a defined city or town. This title of the Code of Ordinances applies to urban or urbanizing, rather than rural, areas.

User: Any person who discharges, causes or permits the discharge of stormwater into the City's stormwater management system.

User Fee: A fee levied on users of a stormwater management system for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works.

Watershed Master Plan: The plan that an engineer/designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the site development and grading plan; peak rates of runoff, flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to regulatory officials for their review for adoption.

Wetlands: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes.

a. A predominance of hydric soils;

b. Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

c. Under normal circumstances support the prevalence of such vegetation.

14.1-01-03. Scope. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a Stormwater Management Plan to the City Engineer. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the Stormwater Management Plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this title.

Exemptions to the requirements of this section include:

1. Any part of a subdivision if a plat of the subdivision has been approved by the Board of City Commissioners and recorded with the Register of Deeds on or before the effective date of this title. A stormwater permit for land disturbing activities on such properties may still be required, however, in accordance with this title;

2. Land disturbing activity involving the construction of a single-family or a two-family dwelling;

3. A parcel for which a building permit has been approved on or before the effective date of this title;

4. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or

5. Emergency work to protect life, limb, or property.

The City Engineer may waive any requirement of this title upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in Chapter 14.1-05. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. At the City Engineer's discretion, a waiver request may, or at the request of a City Commissioner a waiver request shall, be brought before the Board of City Commissioners for consideration and approval or denial.

CHAPTER 14.1-02

STORMWATER MANAGEMENT PLAN - APPLICATION

14.1-02-01. Application. A written application for Stormwater Management Plan approval, along with the proposed Stormwater Management Plan, shall be filed with the City Engineer. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this title. Prior to applying for approval of a Stormwater Management Plan, it is recommended that the applicant have the Stormwater Management Plan reviewed by an affected public agencies.

Two sets of legible copies of the drawings and required information shall be submitted to the City Engineer and shall be accompanied by a receipt from the City to document the payment of all required fees for processing and approval as set forth in Section 14.1-02-03. Plans shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.

14.1-02-02. Contents of Stormwater Management Plan. At a minimum, the Stormwater Management Plan shall contain the following information:

1. Existing site map. A map of existing site conditions showing the site and immediately adjacent areas, including:

a. The name and address of the applicant, the section, township and range, and the north point, date and scale of drawing, and number of sheets;

b. The location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, and districts or other defining landmarks;

c. Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two feet;

d. A watershed boundary map illustrating the project site location as a subwatershed within the watershed of the larger or major drainage basin;

e. A delineation of streams, rivers, public waters and the presence or absence of wetlands located on and immediately adjacent to the site, including depth of water, a general description of vegetative cover found within the site, a statement of general water quality, and any classification given to the water body by state or federal agencies;

f. Location and dimensions of existing stormwater drain systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and setting forth those areas of the unaltered site where stormwater collects or passes;

g. A description of the soils on the site, including a map indicating soil types of the areas to be disturbed, containing information on the suitability of the soils for the type of development proposed, potential for erosion, the type of stormwater management system proposed, and any remedial steps to be taken by the developer to render the soils suitable.

h. Current extent of vegetative cover and a clear delineation of any vegetation proposed for removal;

i. The current land use of the area in which the site is located; and

j. The 100-year flood plains, flood fringes, and floodways.

2. Site Construction Plan. A Site Construction Plan shall be provided, including:

a. Locations and dimensions of all proposed land disturbing activities and any phasing or scheduling of those activities;

b. Approximate locations of all temporary soil or dirt stockpile areas;

c. Location and description of all construction site erosion control measures necessary to meet the requirements of this ordinance;

d. A schedule of anticipated starting and completion dates for each land disturbing activity, including the installation of construction site erosion control measures needed to meet the requirements of this ordinance; and

e. Provisions for maintaining the construction site erosion control measures prior to, during, and after construction.

3. Plans of Final Site Conditions. A Plan of Final Site Conditions on the same scale as the existing site map showing the proposed site changes shall be provided, including:

a. The proposed final grading plan shown at contours at the same interval as provided above or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features;

b. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of proposed landscape materials which will be added to the site as part of the development;

c. A drainage plan of the developed site delineating the direction and at what rate stormwater runoff will be conveyed from the site and setting forth the areas of the site where stormwater will be collected;

d. The proposed size, alignment, and intended use of any structures to be erected on the site;

e. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to used; and

f. Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the review of the project.

4. Stormwater Management Plan Report. A written report discussing pre and post development hydrology and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns. The contents of the report shall be in accordance with the recommended format in the City's Stormwater Design Standards Manual (Manual).

14.1-02-03. Fees. All applications for Stormwater Management Plan approval shall be accompanied by a processing and approval fee established by the City Engineer. In the case of complex applications or regional stormwater facilities, a secondary fee schedule will be used as established by the City Engineer. All fees under this title shall be reviewed and approved by the Board of City Commissioners.

CHAPTER 14.1-03

STORMWATER MANAGEMENT PLAN - REVIEW

14.1-03-01. Process. Stormwater Management Plans meeting the requirements of Chapter 14.1-02 shall be submitted to the City Engineer for review and compliance with the standards of Chapter 14.1-04. The City Engineer shall approve, approve with conditions, or deny the Stormwater Management Plan. If a particular stormwater management plan involves a complex application or has the potential for significant controversy, the City Engineer or the applicant may bring the proposed stormwater management plan before the Board of City Commissioners for consideration and public comment.

14.1-03-02. Duration. Approval of any plan submitted under the provisions of this ordinance shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the City Engineer may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the City Engineer within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised in the same manner as originally approved. Any denied application may be resubmitted with additional information addressing the concerns contained within the denial. The resubmittal is subject to all applicable fees and shall be considered as a new application.

14.1-03-03. Conditions. A Stormwater Management Plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this ordinance are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over

time, require alteration of the site design to insure buffering, require the acquisition of certain lands or easements, and require the conveyance to the City of Bismarck or other public entity of certain lands or interests therein. The City Engineer may specify special requirements for specific watersheds within the City and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed. Approval of a plan shall bind the applicant to perform all of the conditions and requirements of the plan prior to any land disturbing activities.

CHAPTER 14.1-04

STORMWATER MANAGEMENT PLAN - APPROVAL STANDARDS

14.1-04-01. General. This section describes approval standards against which proposed Stormwater Management Plans will be measured. A Stormwater Management Plan which fails to meet the standards contained in this section shall not be approved by the City Engineer or the Board of City Commissioners. Other standards, such as state and federal standards, shall also apply. If two standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the responsibility of the applicant to obtain any required permits from other governmental agencies having jurisdiction over the work to be performed. Typically, such agencies would include the Burleigh County Water Resource District, the Burleigh County Engineer's Office, the State Water Commission and State Engineer's

Office, the State Department of Transportation, the State Health Department, the State Historical Preservation Officer, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and possibly others.

In addition to this Stormwater Management Ordinance, the applicant is responsible for adhering to the requirements of other ordinances contained within the Code of Ordinances for the City of Bismarck, including:

1. Zoning ordinance regulations contained under Title 14 which are of special interest to new development projects.

2. Conformance with the requirements of the FP-Floodplain District, Title 14, Section 14-04-19.

3. Regulations governing the subdivision of land, Title 14, Chapter 14-09.

The following sections describe routine approval standards to be used in evaluating proposed Stormwater Management Plan.

14.1-04-02. Stormwater Design Standards Manual. The Stormwater Design Standards Manual (Manual), as adopted and amended by the City of Bismarck, contains the principal standards and design criteria for developing an effective and acceptable Stormwater Management Plan. The Manual contains an overview of the City's Stormwater Management Policy and design objectives as well as a detailed discussion of the contents of Stormwater Management Plans submitted to the City Engineer for approval. The Manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, instructions for the development of an erosion and sedimentation control plan, and requirements for easements and right-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.

14.1-04-03. Models/Methodologies/Computations. Hydrologic models and design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities shall be approved in advance by the City Engineer. All Stormwater Management Plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall contain a validated seal and be signed by a Professional Engineer registered in the State of North Dakota. This requirement will be met as part of the properly completed Stormwater Management Plan Report, as described in the Stormwater Design Standards Manual.

14.1-04-04. Construction Plans and Specifications. The construction plans and specifications prepared for the construction of the stormwater management facilities must:

1. Be consistent with the Stormwater Management Plan approved by the City Engineer.

2. Be in conformance with the requirements of the City of Bismarck Municipal Specifications and any other necessary permits issued by other governmental agencies.

3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4. Be submitted to the City Engineer for approval.

5. No construction may commence until approval of the construction plans and specifications has been received.

The set of construction plans, in a format acceptable to the City Engineer, shall contain a drawing or drawings delineating the erosion and sedimentation management plan, including details of silt fences, storm drain inlet protection, and other construction erosion control facilities. The construction specifications shall contain technical specifications describing erosion, sedimentation, and water control requirements during and after construction operations.

14.1-04-05. Construction Activities. Construction operations must at a minimum comply with the following requirements;

1. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site; the receiving channels; or any wetland.

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

3. Tracking Management. Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to prevent sediment from being tracked onto public or private roadways. Any material reaching or placed on a public or private road shall be removed (not by flushing) before the end of each work day.

4. Water Quality Protection. The construction contractor shall be required to control oil and fuel spills, and the discharge of any chemicals to

prevent such spills or discharges from entering any water course, sump, sewer system, water body, or wetland.

5. Site Erosion and Sedimentation Control. Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the Stormwater Design Standards Manual.

14.1-04-06 Stormwater Management Criteria for Permanent Facilities. Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the Stormwater Management Plan and shall meet the following criteria:

1. Pre-versus Post Hydrological Response of Site. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to manage increased runoff so that the two (2) year, ten (10) year and one hundred (100) year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. In lieu of the installation or construction of stormwater management facilities, an applicant may make an in-kind or monetary contribution for the development and maintenance of regional stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant. The City Engineer shall establish this fee based upon an approved master plan and an analysis of drainage and flood protection benefits provided to property directly impacted by the regional stormwater management facilities.

2. Natural Features of the Site. The applicant shall give consideration to reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of these natural features.

3. Stormwater Management Strategies. The following stormwater management practices shall be investigated in developing a Stormwater Management Plan:

a. Natural infiltration of precipitation and runoff on-site, if suitable soil and geological conditions are available. The purpose of this strategy is to encourage the development of a Stormwater Management Plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious

surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches.

b. The flow attenuation by use of open vegetated swales and natural depressions.

c. Stormwater detention facilities.

d. Stormwater retention facilities (on a case by case basis).

A combination of successive practices may be used to achieve the applicable minimum control requirements specified in the above four strategies. Justification shall be provided by the applicant for the method selected.

4. Adequacy of Outlets. The adequacy of any outlet used as a discharge point for proposed stormwater management facilities must be assessed and documented to the satisfaction of the City Engineer. The hydraulic capacities of downstream natural channels, reaches, storm sewer systems, or streets shall be sufficient to receive post-development runoff discharges and volumes without causing increased property damages or any increase in the established base floodplain elevation. If a floodplain or floodway has not been established by the Federal Emergency Management Agency, then the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a Professional Engineer registered in the State of North Dakota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the City Engineer are approved and installed as part of the Stormwater Management Plan. The assessment of outlet adequacy shall be included in the Stormwater Management Plan and shall be certified by a Professional Engineer registered in the State of North Dakota.

5. Stormwater Detention/Retention Facilities. Stormwater detention or retention facilities proposed to be constructed in the Stormwater Management Plan shall be designed according to the most current technology as reflected in the Stormwater Design Standards Manual.

14.1-04-07. Operation, Maintenance and Inspection. All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The City Engineer may inspect all stormwater management facilities at any time. Inspection records will be kept on file at the City Engineering Department. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and

maintenance purposes. The City Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions and penalties for noncompliance orders.

14.1.04-08. Easements and Bonds. Easements or bonds may be required as conditions to the issuance of a permit.

14.1-04-09. Management of Site Vegetation. The applicant shall provide for the installation and maintenance of vegetation on development property in accordance with the following criteria:

1. Use of Impervious Surfaces. No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative materials on impervious surfaces, or within stormwater drainage systems with impervious liners or conduits.

2. Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved, all areas shall be covered by plants or vegetative growth.

3. Use of Pervious Surfaces. No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade drainageways, wetlands, or within wetland buffer areas.

14.1-04-10. Plan Applicability. A plan issued under this title runs with the land and is a condition of plat approval. Any owner or subsequent owner of any parcel within the plat must comply with the plan or any approval, revision or modification of the plan.

CHAPTER 14.1-05

STORMWATER MANAGEMENT PERMITS

14.1-05-01. Stormwater Management. It is unlawful to initiate land development, land disturbing, or other activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body, or wetland outlet within the jurisdiction of the City, without having first complied with the terms of this title.

14.1-05-02. Stormwater Management Permits.

1. Mandatory Permits. Any person proposing a development or project which involves land development, land disturbing, or other activities as defined in this title, shall obtain a stormwater management permit before initiating those activities.

2. Permit Application. All persons subject to meeting the requirements for a mandatory stormwater permit shall complete and file with the City Engineer an application in the form prescribed by the City Engineering Department and accompanied by a fee established by the City Engineer and adopted by the Board of City Commissioners. The permit application shall be accompanied by a Stormwater Management Plan as prescribed under Chapter 14.1-02 of this title. The City Engineer will evaluate the data furnished as part of the Stormwater Management Plan and may require additional information. After evaluation and acceptance of the Stormwater Management Plan, the City Engineer may issue a stormwater management permit subject to any terms and conditions deemed necessary.

3. Permit Conditions. Stormwater management permits are issued subject to all provisions of this title and all other applicable regulations, user charges and fees established by the City. Permits may contain any of the following conditions:

a. The user fee for a stormwater outlet utilizing a regional stormwater management facility;

b. Limits on the maximum rate of stormwater discharge;

c. Limits on water quality degradation of stormwater discharge;

d. Requirements for the installation, operation and maintenance of stormwater detention/retention facilities.

e. Compliance schedule;

f. Requirements for notification to and acceptance by the City Engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality; and

g. Other conditions as deemed appropriate by the City Engineer to insure compliance with this title.

4. Permit Duration. Permits must be issued for a time period specified by the City Engineer. The applicant shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the City Engineer during the term of the permit as set forth in paragraph five (5).

5. Permit Modification. Permits may be modified by the City Engineer for just cause upon 30 days' notice. Just cause shall include but not be limited to:

a Promulgation of a new applicable nationwide permit standard;

b. Changes in the requirements of this ordinance;

c. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and

d. Changes in the design or capability of receiving stormwater facilities.

The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shll include a reasonable time schedule for compliance.

6. Permit Amendments. Stormwater permits may be amended only by a written request submitted by the Permittee to the City Engineer. This request shall contain the reason for the change and documentation related to any additional impacts which may result from amendment approval. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines as used for the stormwater permit applications under this title.

7. Permit Transfer. A permit runs with the property it covers and is transferable to new owners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel.

8. Monitoring Facilities. The City Engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater facility component. Where at all possible, the monitoring facility shall be located on the property of the applicant as opposed to on public rights-of-way. Ample room

must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

9. Inspection. The City Engineer may inspect the stormwater management facilities of any permittee to determine compliance with the requirements of this title. A permittee shall allow the City Engineer to enter upon the premises at all reasonable hours for the purposes of inspection, sampling or record examination. The City Engineer shall be allowed to set up equipment on the permittee's premises as required for the purpose of collecting samples and flow recording.

14.1-05-03. Final Stormwater Management Plan. Upon completion of all required construction activities, the permit applicant shall submit to the City Engineer the final Stormwater Management Plan to document any change to the original Stormwater Management concept. The final Stormwater Management Plan shall contain Record Drawings showing the final configuration for all improvements as constructed. The final Stormwater Management Plan and Record Drawings shall be certified by a Professional Engineer registered in the State of North Dakota.

CHAPTER 14.1-06

ENFORCEMENT

14.1-06-01. Emergency Suspension of Permits. The City Engineer may for cause order the suspension of the stormwater management permit of a person or parcel owner when it appears to the City Engineer that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, substantial danger to the environment, or a violation of any permit conditions imposed by this title. If any person is notified of the suspension of a stormwater management permit and/or a person fails to comply voluntarily with the suspension order, the City Engineer shall commence whatever steps are necessary to obtain compliance, including judicial proceedings. The City Engineer may reinstate the stormwater management permit upon proof of compliance with all permit conditions.

Whenever the City Engineer orders the suspension of a stormwater management permit pursuant to the emergency provisions of this section, the City Engineer shall serve notice on the permittee personally, by registered or certified mail. The permittee has the right to an informal hearing before the City Engineer upon request made in writing and filed with the City Engineer. The informal hearing must be held within five (5) days of the request. Following the hearing, the City Engineer may affirm, modify or rescind the order.

Any applicant dissatisfied with an order the City Engineer issued pursuant to this section may request a hearing before the Board of City Commissioners by filing a written request for a hearing with the City Engineer, within fifteen (15) days of receipt of the order, who shall inform City Administration. The hearing must be held within thirty (30) days of receipt of the request, or as subject to the current meeting schedule, whereupon the Board of City Commissioners may affirm, modify or rescind the order. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending.

14.1-06-02. Revocation of a Permit. A stormwater management permit may be revoked following notice and an opportunity for a hearing in accordance with Sections 14.1-06-03 and 14.1-06-04. The Board of City Commissioners may revoke a stormwater management permit for cause, including but not limited to:

a. Violation of any terms or conditions of the stormwater management permit;

b. False statements on any required reports;

c. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or

d. Any other violation of this title or related ordinance.

The Board of City Commissioners may suspend a stormwater management permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing provided in accordance with Sections 14.1-06-03 and 14.1-06-04.

14.1-06-03. Notification. Whenever the City Engineer finds that any person has violated or is violating this title, stormwater discharge permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the City Engineer shall serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, unless a shorter time frame is set by the City Engineer due to the nature of the violation, a plan for the satisfactory correction thereof must be submitted to the City Engineer.

14.1-06-04. Hearing. If the violation if not corrected by timely compliance, the City Engineer may order any permittee who causes or allows a violation to a stormwater permit to show cause before the Board of City Commissioners why the order of the City Engineer should not be upheld. A notice of hearing must be served on the permittee specifying the time and place of a hearing to be held by the Board regarding the order of the City Engineer, and directing the permittee to show cause before the Board why the order of the City Engineer should not be upheld. The notice must be served personally or by registered or certified mail at least ten (10) days before the hearing. The evidence submitted at the hearing shall be considered by the Board which shall then either uphold, modify or rescind the order of the City Engineer. An appeal of the Board's decision may be taken according to law.

14.1-06-05. Legal Action. The discharge of deposited or eroded materials onto public rights-of-way or public storm sewer systems within the City of Bismarck shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the owners expense based on the properties from which they originated. The owner shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed they may be removed under the City Engineer's direction and any associated costs shall be the responsibility of the owner.

If any person commences any land disturbing activities which result in increased stormwater quantity or stormwater quality degradation into the City stormwater management system contrary to the provisions of this title, federal or state requirements or any order of the City, the City Attorney may, following the authorization of such action by the Board of City Commissioners, commence action for appropriate legal and/or equitable relief.

CHAPTER 14.1-07

PENALTIES

14.1-07-01. Penalty. Any person who is found to have violated an order of the Board of City Commissioners made in accordance with this title, or who has failed to comply with any provision of this title and the orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

14.1-07-02. Costs of Damage. Any person violating any of the provisions of this title or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this title the costs for any cleaning, repair or replacement work caused by the violation of stormwater discharge.

14.1-07-03. City Attorney's Fees and Costs. In addition to the civil penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this title or the orders, rules, regulations and permits issued hereunder.

14.1-07-04. Falsifying Information. Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, or other document filed or required to be maintained pursuant to this title, or stormwater management permit, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this chapter, shall be guilty of an offense.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect on January 1, 1998.

First reading: January 14, 1997
Second reading as amended: February 25, 1997
Final passage and adoption as amended: February 25, 1997
Publication dates: February 11 and 18, 1997

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

I, W. C. Wocken, do hereby certify that I am the duly appointed, qualified City Administrator of the City of Bismarck, North Dakota and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of City Commissioners at its regular meeting of February 25, 1997.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 26th day of February, 1997.

(SEAL)

W. C. Wocken, City Administrator

ORDINANCE NO. 5853

First Reading	*November 8, 2011*
Second Reading	*November 22, 2011*
Final Passage and Adoption	*November 22, 2011*
Publication Date	*November 11 & 18, 2011*

AN ORDINANCE TO AMEND AND RE-ENACT TITLE 14.1 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO STORMWATER MANAGEMENT.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Title 14.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Stormwater Management is hereby amended and re-enacted to read as follows:

CHAPTER 14.1-01 - GENERAL PROVISIONS

14.1-01-01. Purpose and Policy. This ~~t~~Title sets forth uniform requirements for stormwater management systems within the City and its extraterritorial jurisdiction. It is the intent of the Board of City Commissioners that the requirements and standards contained in this ~~ordinance~~ Title comply with all applicable state and federal laws. In the event of any conflict between the provisions of this ~~ordinance~~ Title and the provisions of an erosion control, shoreland protection, or floodplain ordinance, or other regulations adopted by the City, County, State or Federal authorities, the more restrictive standard prevails.

The objectives of this ~~t~~Title are:

1. To promote, preserve, and enhance the natural resources within the City of Bismarck and its extraterritorial jurisdiction;

2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater management practices;

3. To protect the City~~'s~~ and surrounding area's natural resources from adverse impacts ~~occasioned~~ caused by development or other activities;

4. To regulate land development, land disturbing, or other activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

5. To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);

6. To require detailed review standards and procedures for land development activities proposed throughout the City, and its extraterritorial jurisdiction, thereby achieving a balance between ~~urban~~ growth and development, and the protection of water quality; ~~and~~

7. To provide for the protection of surrounding or adjacent properties from water and wind erosion through the use of best management practices that meet the intended use; and

~~7~~8. To provide for adequate stormwater system analysis and appropriate stormwater system design as necessary to protect public and private property, water quality, and existing natural resources. This ~~t~~Title establishes and provides for the following stormwater management criteria:

a~~)~~. The regulation of development through the issuance of stormwater permits and through the enforcement of general stormwater drainage requirements throughout the City and its extraterritorial jurisdiction. It also authorizes monitoring and enforcement activities, and provides for the setting of applicable fees for the equitable distribution of costs associated with the administration of the stormwater management program established herein.

b~~)~~. The regulation of, and the establishment of criteria for, public underground storm sewers, artificial and natural open channel drainage systems, stormwater detention and retention ponds, and private stormwater drainage systems ultimately discharging into the public system.

c~~)~~. The regulation of development activities as they relate to managing stormwater volumes, rates of runoff, flow duration, and their subsequent impacts to downstream property, water quality, and stormwater management facilities.

d~~)~~. Provides for a stormwater management system user charge and the method for calculating charges for each user classification. Procedures for rate adjustments and annual review criteria are established.

e~~)~~. Penalties for violating the provisions of this ~~ordinance~~ Title, and the orders, rules, regulations and permits issued hereunder.

f). Applies in the City of Bismarck, North Dakota, and its extraterritorial jurisdiction, and to persons outside the City who are, by contract or agreement with the City, users of the City stormwater management system. Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this ~~ordinance~~ Title.

(Ord. 4817, 02-25-97)

14.1-01-02. Transfer of Authority. The City may, through the use of a joint powers agreement, transfer the authority for the administration and/or enforcement of this title in the City's extraterritorial area to another entity.

14.1-01-023. Definitions. For the purpose of this ~~ordinance and~~ tTitle, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

Agricultural Land Use: The use of land for planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or yarding of livestock.

Applicant: Any person wishing to obtain a building permit, special use permit, zoning change, ~~or~~ subdivision approval, or stormwater permit.

Base Flood or 100-year Flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year ~~(i.e. 100-year flood). It is also referred to as the regional flood~~.

Base Flood Elevation (BFE): The height of the base flood or 100-year flood, usually in feet above mean sea level, as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by the stormwater management plan prepared for the area in which the property is located.

Board of City Commissioners: The Board of City Commissioners of the City of Bismarck.

City: The City of Bismarck ~~or the Board of City Commissioners of the City of Bismarck~~.

City Engineer: The City Engineer of the City of Bismarck or a duly authorized representative of the City Engineer.

Control Measure: A practice or combination of practices to control erosion and attendant pollution.

Conveyance Structure: A pipe, open channel, or other facility that transports runoff from one location to another.

County: The County of Burleigh.

County Engineer. The County Engineer of Burleigh County or a duly authorized representative of the County Engineer.

Design Standards Manual: The Stormwater Design Standards Manual, as originally adopted by the Board of City Commissioners and as subsequently amended by technical amendments by the City Engineer, which contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan.

Detention Facility: A natural or manmade structure, including wetlands, ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, or other structures, used for the temporary storage and controlled release of runoff. Such facilities are used to delay or attenuate flow, ~~which~~ may contain a pool of water during times of storage, ~~or~~ and may be dry during times of no runoff.

Development: Any man-made change to improved or unimproved property, including any land disturbing activity, construction or the subdivision of land.

Development Properties: Lands and properties located within an approved stormwater ~~management~~ permit boundary.

Developer: A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.

E.P.A.: The United States Environmental Protection Agency.

~~Engineer: The City Engineer of the City of Bismarck or authorized agent.~~

Erosion: Any process that wears away at the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

Erosion and Sediment Control Plan: A written description of the number, locations, sizes, and other pertinent information about best management practice methods designed to meet the requirements of this ~~ordinance~~ Title.

Extraterritorial Jurisdiction: The territorial zoning and subdivision authority of the City which extends to all unincorporated land located within four (4) miles of the corporate limits of the City, or amended by agreement, as authorized by Section 40-47-01.1 of the North Dakota Century Code.

Final Stabilization: Activities following rough grading of the site to permanently make the site steadfast or firm, minimizing soil movement by establishing a perennial vegetative grass cover by mulching and seeding, sodding, landscaping, concrete, gravel, or other permanent best management practices. The density of the vegetative cover shall be as required in the Design Standards Manual.

~~Flood Fringe: That portion of the flood plain outside of the floodway.~~

Floodplain or Flood-prone Area: ~~The areas adjoining a water course or water basin that have been or may be covered by a regional or base flood.~~ Any land area susceptible to partial or complete inundation by water from any source.

Floodplain Administrator: The person designated by the City of Bismarck to administer the City's floodplain regulations.

Floodplain Management: The regulation of the nature and location of construction on (or other occupancy of) lands subject to inundation by flood waters, so that foreseeable (probable) flooding damages will have an average annual risk smaller than some preselected amount. Floodplain management consists of technical and nontechnical studies, policies, management strategies, statutes and ordinances that collectively manage floodplains along rivers, streams, major drainageways, outfalls, or other conveyances. The federal government normally plays a major role in floodplain planning and management, whereas in urban stormwater management and design, local governments dominate the decision-making process.

Floodway or Regulatory Floodway: ~~The channel of the water course, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge floodwater and provide water storage during a regional or base flood.~~ The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Hydric Soils: Soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

Hydrophytic Vegetation: Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Impervious Area: Impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil.

Land Development Activity: The construction or demolition of buildings, roads, parking lots, paved storage areas, and similar facilities.

Land Disturbing Activity: Any manmade change of the land surface including removing vegetative cover, excavating, filling and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; and harvesting trees.

Landowner: Any person holding title to or having an interest in land.

Land User: Any person operating, leasing, renting, or having made other arrangements with a landowner by which the landowner authorizes use of their land.

Local Detention: Detention provided to serve only the developing area in question and no areas outside of the development boundaries. This is also known as on-site detention.

Local Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system serving only the property within the development boundaries. This is also known as the on-site drainage system.

Major Stormwater System: The portion of the total stormwater system that collects, stores, and conveys runoff that exceeds the capacity of the minor system. The major drainageways are readily recognizable as natural or improved channels that conveys runoff that exceeds the capacity of the minor drainage system, including emergency overflow facilities. It transports the minor and major stormwater runoff and serves more than the area within the development boundaries. The major system is usually less controlled than the minor system, and will function regardless of whether or not it has been deliberately designed and/or protected from encroachment, including when the minor system is blocked or otherwise inoperable. The major stormwater system is usually evaluated for the one hundred (100) year runoff event.

Management Practice: A practice or combination of practices to control erosion and water quality degradation.

Minor Stormwater System: The portion of the total drainage system that collects, stores and conveys frequently occurring runoff, and provides a relief from nuisance and inconvenience. This system has traditionally been carefully planned and constructed, and normally represents the major portion of the urban drainage infrastructure investment. The degree of inconvenience the public is willing to accept, balanced against the price it is willing to pay, typically establishes the drainage capacity or design recurrence frequency of a minor system. Minor systems include roof gutters and on-site drainage swales, curbed or side-swaled streets, stormwater inlets, underground storm sewers, open channels and street culverts. Generally, the minor stormwater system is designed to accommodate the minor (or ordinary) storm recurring at regular intervals, generally from two (2) to ten (10) years.

Multiple-Purpose Facility: An urban stormwater facility that fulfills multiple functions, such as enhancement of runoff quality, erosion control, wildlife habitat, or public recreation, in addition to its primary purpose of conveying or controlling runoff.

National Pollution Discharge Elimination System (NPDES) Permit: Any permit or requirement enforced by the North Dakota State Department of Health pursuant to the Clean Water Act as amended for the purposes of regulating stormwater discharge.

Notice of Transfer (NOT): Documentation indicating that the responsibilities of the stormwater permit have been transferred along with the transfer of a parcel of land.

On-Site Detention: Detention provided to serve only the developing area in question and no significant areas outside of the development boundaries. This is also referred to as local detention.

Outfall Facility: Any channel, storm sewer, or other conveyance receiving water into which a storm drain or storm drainage system discharges.

Outlet: Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Owner or Occupant: Any person owning or using a lot, parcel of land, or premises connected to and discharging stormwater into the City's stormwater system ~~of the City~~, and who pays for and is legally responsible for the payment of stormwater rates, special assessments or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment.

Permanent Development: Any buildings, structures, landscaping and related features constructed as part of a development project approved under a stormwater permit.

Permanent Facilities: Those features of a stormwater management plan which are part of any natural or constructed stormwater system that require periodic or minimal maintenance to retain their operational capabilities. This includes but is not limited to storm sewers, infiltration areas, detention areas, channels, streets, etc.

Permittee: Any person who applies for and receives a stormwater or other permit ~~from the City~~ under this Title.

Person: Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency - public or private.

Private Drainage Channel: A drainage channel on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.

Private Storm Sewer: A storm sewer on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.

Public Drainage Channel: A drainage channel located entirely within a naturally occurring or constructed watercourse located on public lands or within a dedicated public easement.

Public Storm Sewer: A storm sewer located entirely within publicly owned land or easements.

Regional Detention: Detention facilities provided to serve an area outside the development ~~of~~ boundaries. A regional detention site generally receives runoff from multiple stormwater sources.

Regional Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system generally serving multiple sources or developments.

~~Regional Flood: A flood that is representative of large floods known to have occurred generally in the state and recently characteristic of what can be expected to occur on an average frequency in the magnitude of a one hundred (100) year recurrence interval. It is also referred to as the base flood.~~

Retention Facility: A natural or manmade structure that provides for the storage of stormwater runoff by means of a pool of stored water. Such facilities

are designed to eliminate subsequent surface discharge and, where applicable, provide for the treatment of stormwater runoff. Wet ponds are the most common type of retention facility (although a wet pond may also be used as a detention facility).

Runoff: The rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

Sediment: Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

Site: The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the permit application.

Stabilize: To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel, or other measures.

State: The State of North Dakota.

Storm Sewer: A pipe or conduit for carrying storm waters, surface runoff, street and wash waters, and drainage, excluding sewage and industrial wastes.

Stormwater: The flow of water which results from precipitation and which occurs during or immediately following rainfall or a snowmelt.

~~Stormwater Detention: Temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow.~~

Stormwater Easement: An easement dedicated for the purpose of conveying, detaining or retaining stormwater. This may be accommodated by installing storm sewer, or for conveying surface water by means of utilizing natural topography or constructing a drainage channel. Certain uses within this easement are prohibited, including but not limited to, structures, trees, fences, any other elements or uses that may result in any obstruction to flows within this easement, or other incompatible uses, such as any portion of a private sewage disposal system.

Stormwater Management: The planned set of public policies and activities undertaken to regulate runoff under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows or runoff volumes, for runoff detention and retention, or for pollution control,

and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.

Stormwater Management Criteria: Specific guidance provided to the engineer/designer in the Design Standards Manual to carry out drainage and stormwater management policies. An example might be the specification of local design hydrology - the design storm.

Stormwater Management Plan (SWMP): A written document detailing stormwater runoff characteristics for a defined area and the management of that runoff.

Stormwater Management System: Physical facilities that collect, store, convey, and treat stormwater runoff in ~~urban~~ areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

Stormwater Permit: A permit allowing land development and land disturbing activities so as to protect the public stormwater system.

Stormwater Program Coordinator: The person designated by the City of Bismarck to administer the NDPDES (MS4) permit and oversee the compliance and regulation of stormwater permits issued by the City, or a duly authorized representative of the Stormwater Program Coordinator.

~~Stormwater Retention: Storage designed to eliminate subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).~~

Structure: Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

~~Unpolluted Water: Any water of quality equal to or better than the effluent criteria in effect, or water that would not cause a violation of receiving water quality standards and would not benefit by discharge into a sanitary sewer and wastewater treatment facilities is considered unpolluted.~~

Urban Area: Land associated with, or part of, a defined ~~city or town~~ municipality. ~~This title of the Code of Ordinances applies to urban or urbanizing, rather than rural, areas.~~

User: Any person who discharges, causes or permits the discharge of stormwater into the ~~City's~~ public stormwater management system.

User Fee: A fee levied on users of a stormwater management system for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works.

Watershed Master Plan: The plan that an engineer/designer formulates to manage urban and/or rural stormwater runoff for a particular development project or drainage area. It typically addresses such subjects as the characterization of the site development and grading plan; existing and projected conditions; peak rates of runoff, flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to ~~regulatory officials~~ the Board of City Commissioners for their review ~~for~~ and acceptance or adoption.

Wetlands: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes.

a. A predominance of hydric soils;

b. Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

c. Under normal circumstances support the prevalence of such vegetation.

(Ord. 4817, 02-25-97; Ord. 5278, 09-23-03)

14.1-01-0~~3~~4. Scope. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities for an approved development must submit a ~~S~~stormwater ~~M~~management ~~P~~plan including an erosion and sediment control plan to the City Engineer. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the ~~S~~stormwater ~~M~~management ~~P~~plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ~~t~~Title. In addition, no land disturbing activities shall occur until all initial best management practices (BMPs) have been implemented. A waiver of the stormwater management plan does not relieve the applicant from the stormwater permit requirements, including permit fees and an approved erosion and sediment control plan.

Exemptions to the requirements of this ~~section~~ Title include:

1. Any part of a subdivision if a plat of the subdivision has been approved by the Board of City Commissioners and recorded with the ~~Register of Deeds~~ County Recorder on or before the effective date of this ~~t~~Title (January 1, 1998). A stormwater permit for land disturbing activities on such properties may still be required~~, however,~~ in accordance with this ~~t~~Title;

2. Land disturbing activity involving the construction of a single-family or a two-family dwelling;

3. A parcel for which a building permit has been approved on or before the effective date of this ~~t~~Title;

4. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or

5. Emergency work to protect life, limb, or property.

~~The City Engineer may waive any requirement of this title upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in Chapter 14.1-05. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. At the City Engineer's discretion, a waiver request may, or at the request of a City Commissioner a waiver request shall, be brought before the Board of City Commissioners for consideration, and approval or denial.~~
(Ord. 4817, 02-25-97)

CHAPTER 14.1-02 - STORMWATER MANAGEMENT PLAN – ~~APPLICATION~~

14.1-02-01. Application.

~~14-1-02-0~~1. Application Procedure.

a. Written Application. A written application for ~~S~~stormwater ~~M~~management ~~P~~plan approval, along with the proposed ~~S~~stormwater ~~M~~management ~~P~~plan, shall be filed with the City Engineer. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this ~~t~~Title. Prior to applying for approval of a ~~S~~stormwater ~~M~~management ~~P~~plan, it is recommended that the applicant have the ~~S~~stormwater ~~M~~management ~~P~~plan reviewed by ~~an~~ all affected public agencies.

b. Copies. ~~Two~~ The number of sets of legible copies of the drawings as indicated by the City Engineer and required information shall be submitted to the City Engineer and shall be accompanied by a receipt from the City to document the payment of all required fees for processing and approval as set forth ~~in Section 14.1-02-03~~ herein. Plans shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.

c. Waiver. The City Engineer may waive any requirement of this Title upon making a finding that compliance with the requirement will involve an unnecessary non-economic hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in Chapter 14.1-05. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. At the City Engineer's discretion, a waiver request may, or at the request of a City Commissioner a waiver request shall, be brought before the Board of City Commissioners for consideration, and approval or denial.

(Ord. 4817, 02-25-97)

~~14.1-02-0~~2. Contents of Stormwater Management Plan. At a minimum, the ~~S~~stormwater ~~M~~management ~~P~~plan shall contain the following information:

a. Written Report. A written report discussing pre- and post-development hydrology and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns. The contents of the report shall be in accordance with the recommended format in the City's Design Standards Manual and shall contain the following additional information:

i. The name and address of the applicant;

ii. The section, township and range;

iii. The acreage of the development and the acreage of the disturbed area;

iv. A description of the existing soils on the site, if necessary, including a map indicating soil types of the areas to be disturbed, information on the suitability of the soils for the type of development proposed, potential for erosion, the type of stormwater management system proposed, and any remedial steps to be taken by the developer to render the soils suitable; and

v. The current land use of the area in which the site is located.

b. Maps. The following maps shall be included with the written report. Each map shall contain a north point indicator, date, scale of drawing, and the datum.

i. Location Map. The location of the tract at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, districts or other defining landmarks, and a watershed boundary map illustrating the project site location as a subwatershed within the watershed of the larger or major drainage basin.

~~1~~ii. Existing ~~s~~Site Conditions ~~m~~Map. A map of existing site conditions showing the site and immediately adjacent areas, including:

~~a. The name and address of the applicant, the section, township and range, and the north point, date and scale of drawing, and number of sheets;~~

~~b. The location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, and districts or other defining landmarks;~~

~~c~~1. Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two (2) feet;

~~d~~2. A watershed boundary map illustrating the ~~project site location as a~~ subwatershed(s) within the ~~watershed of the larger or major drainage basin~~ site or development;

~~e~~3. A delineation of streams, rivers, public waters and the presence or absence of wetlands located on and immediately adjacent to the site, including depth of water, a general description of vegetative cover found within the site, a statement of general water quality, and any classification given to the water body by state or federal agencies;

~~f~~4. Location and dimensions of existing stormwater drain systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and setting forth those areas of the unaltered site where stormwater collects or passes;

~~g. A description of the soils on the site, including a map indicating soil types of the areas to be disturbed, containing information on the suitability of the soils for the type of development proposed, potential for erosion, the type of stormwater management system proposed, and any remedial steps to be taken by the developer to render the soils suitable.~~

~~h~~5. Current extent of vegetative cover and a clear delineation of any vegetation proposed for removal; and

~~i. The current land use of the area in which the site is located; and~~

~~j~~6. The 100-year flood plain~~s, flood fringes,~~ and floodway~~s~~. as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by a site specific analysis.

~~2. Site Construction Plan. A Site Construction Plan shall be provided, including:~~

~~a. Locations and dimensions of all proposed land disturbing activities and any phasing or scheduling of those activities;~~

~~b. Approximate locations of all temporary soil or dirt stockpile areas;~~

~~c. Location and description of all construction site erosion control measures necessary to meet the requirements of this ordinance;~~

~~d. A schedule of anticipated starting and completion dates for each land disturbing activity, including the installation of construction site erosion control measures needed to meet the requirements of this ordinance; and~~

~~e. Provisions for maintaining the construction site erosion control measures prior to, during, and after construction.~~

~~3~~iii. ~~Plans of~~ Final Site Conditions Map. A ~~P~~plan of ~~F~~final ~~S~~site ~~C~~conditions on the same scale as the existing site conditions map showing the proposed site changes shall be provided, including:

~~a~~1. The proposed final grading plan shown at contours at the same interval as provided above or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features. This grading plan should also indicate areas of cut and fill activity greater than three (3) feet;

~~b. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of proposed landscape materials which will be added to the site as part of the development;~~

2. A watershed boundary map illustrating the proposed subwatershed(s) within the site or development;

~~C~~3. A drainage plan of the developed site delineating the direction ~~and at what rate~~ of stormwater runoff and how it will be conveyed from the site and setting forth the areas of the site where stormwater will be collected along with the method of collection including ponds, storm sewer or channels;

~~D~~4. The proposed size, alignment, and intended use of any structures to be erected on the site;

~~E~~5. A clear delineation ~~and tabulation~~ of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

~~F~~6. Any other information pertinent to the particular project which~~, in the opinion of the applicant,~~ is necessary for the review of the project.

c. Erosion and Sediment Control Plan. The erosion and sediment control plan shall include a report and map containing information as outlined in the Design Standards Manual and the following information:

i. The locations and dimensions of all proposed land disturbing activities as they relate to the specified phases detailed in the Design Standards Manual.

ii. Approximate locations of all stockpile areas;

iii. Location and detailed description of all construction site best management practices (BMPs) necessary to meet the requirements of this Title;

iv. A schedule of anticipated starting and completion dates for each phase of activity, including the installation of construction site best management practices (BMPs) needed to meet the requirements of this Title; and

v. Provisions for maintaining the construction site best management practices (BMPs) throughout all phases of construction including prior to, during, and after construction. This shall include the installation of permanent control measures and the removal of temporary BMPs.

~~4. Stormwater Management Plan Report. A written report discussing pre and post development hydrology and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns. The contents of the report shall be in accordance with the recommended format in the City's Stormwater Design Standards Manual (Manual).~~

3. Certification. All stormwater management plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall contain a validated seal and be signed by a Professional Engineer registered in the State of North Dakota. This requirement will be met as part of the properly completed stormwater management plan, as described in the Design Standards Manual.
(Ord. 4817, 02-25-97)

~~14.1-02-03~~4. Fees. All applications for ~~S~~stormwater ~~M~~management ~~P~~plan approval shall be accompanied by a processing and approval fee established by the City Engineer. In the case of complex applications or regional stormwater facilities, a secondary fee schedule will be used as established by the City Engineer. All fees under this ~~t~~Title shall be reviewed and approved by the Board of City Commissioners.
(Ord. 4817, 02-25-97)

~~CHAPTER 14.1-03 - STORMWATER MANAGEMENT PLAN - REVIEW~~

14.1-02-02. Review.

~~14-1-03-01~~. Process. Stormwater ~~M~~management ~~P~~plans meeting the requirements of ~~Chapter~~ Section 14.1-02-01 shall be ~~submitted to the City Engineer for~~ reviewed by the City Engineer for ~~and~~ compliance with the standards of ~~Chapter~~ Section 14.1-042-03. For plans within the City's extraterritorial area, the City Engineer will provide copies of the stormwater management plan to the County Engineer and the Burleigh County Water Resource District for review and comment. After evaluation of the stormwater management plan, t~~T~~he City Engineer shall approve, approve with conditions, or deny the ~~S~~stormwater ~~M~~management ~~P~~plan. For plans within the City's extraterritorial area, the City Engineer will not approve a stormwater management plan without written concurrence of the County Engineer. If a particular stormwater management plan involves a complex application or has the potential for significant controversy, the City Engineer ~~or the applicant~~ may bring the proposed stormwater management plan before the Board of City Commissioners for consideration and public comment.

~~14.1-03-02. Duration. Approval of any plan submitted under the provisions of this ordinance shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the City Engineer may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the City Engineer within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised in the same manner as originally approved. Any denied application may be resubmitted with additional information addressing the concerns contained within the denial. The resubmittal is subject to all applicable fees and shall be considered as a new application.~~

~~14.1-03-032~~. Conditions. A ~~S~~stormwater ~~M~~management ~~P~~plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this ~~ordinance~~ Title are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, require the acquisition of certain lands or easements, and require the conveyance to the City of Bismarck or other public entity of certain lands or interests therein. The City Engineer may specify special requirements for specific watersheds within the City and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed.

Approval of a plan shall bind the applicant to perform all of the conditions and requirements of the plan prior to any land disturbing activities.

~~CHAPTER 14.1-04 - STORMWATER MANAGEMENT PLAN - APPROVAL STANDARDS~~

14.1-02-03. Approval Standards.

~~14.1-04-0~~1. General. This section describes approval standards against which proposed ~~S~~stormwater ~~M~~management ~~P~~plans will be measured. A ~~S~~stormwater ~~M~~management ~~P~~plan which fails to meet the standards contained in this section shall not be approved by the City Engineer or the Board of City Commissioners. Other standards, such as state and federal standards, shall also apply. If two standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the responsibility of the applicant to obtain any required permits from other governmental agencies having jurisdiction over the work to be performed. Typically, such agencies ~~would~~ could include the Burleigh County Water Resource District, the Burleigh County Engineer's Office, the State Water Commission and State Engineer's Office, the State Department of Transportation, the State Health Department, the State Historical Preservation Officer, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and possibly others.

In addition to this Stormwater Management Ordinance, the applicant is responsible for adhering to the requirements of other ordinances contained within the Code of Ordinances for the City of Bismarck, including:

~~1~~a. Zoning ordinance regulations contained under Title 14 which are of special interest to new development projects.

~~2~~b. Conformance with the requirements of the FP-Floodplain District, Title 14, Section 14-04-19.

~~3~~c. Regulations governing the subdivision of land, Title 14, Chapter 14-09.

d. Conformance with the Landscaping and Screening requirements in Title 14, Section 14-03-11.

The following sections describe routine approval standards to be used in evaluating a proposed ~~S~~stormwater ~~M~~management ~~P~~plan.
(Ord. 4817, 02-25-97)

~~14.1-04-02~~. Stormwater Design Standards Manual. The Stormwater Design Standards Manual (~~Manual~~), as adopted and amended by the City of Bismarck, contains the principal standards and design criteria for developing an effective and acceptable ~~S~~stormwater ~~M~~management ~~P~~plan. The Manual contains an overview of the City's Stormwater Management Policy and design objectives as well as a detailed discussion of the contents of ~~S~~stormwater ~~M~~management ~~P~~plans submitted to the City Engineer for approval. The Manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, instructions for the development of an erosion and sedimentation control plan, and requirements for easements and rights-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.
(Ord. 4817, 02-25-97)

~~14.1-04-03~~. Models/Methodologies/Computations. Hydrologic models and design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities shall be approved in advance by the City Engineer. ~~All Stormwater Management Plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall contain a validated seal and be signed by a Professional Engineer registered in the State of North Dakota. This requirement will be met as part of the properly completed Stormwater Management Plan Report, as described in the Stormwater Design Standards Manual.~~
(Ord. 4817, 02-25-97)

~~14.1-04-04~~. Construction Plans and Specifications.

a. Construction Plans and Specifications for Public Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of ~~the~~ public stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

1. Be consistent with the ~~S~~stormwater ~~M~~management ~~P~~plan approved by the City Engineer.
2. Be in conformance with the requirements of the City of Bismarck ~~Municipal~~ Construction Specifications for Municipal Public Works Improvements, current special provisions, and any other necessary permits issued by other governmental agencies.
3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.
4. Be submitted to the City Engineer for approval.

5. Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations.

~~5. No construction may commence until approval of the construction plans and specifications has been received.~~

~~The set of construction plans, in a format acceptable to the City Engineer, shall contain a drawing or drawings delineating the erosion and sedimentation management plan, including details of silt fences, storm drain inlet protection, and other construction erosion control facilities. The construction specifications shall contain technical specifications describing erosion, sedimentation, and water control requirements during and after construction operations.~~

No construction may commence until the construction plans and specifications have been approved by the City Engineer and all other applicable permits and approvals are received from outside agencies.
(Ord. 4817, 02-25-97)

~~5~~b. Construction Plans and Specifications for Private Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of private stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

~~a~~1. Be consistent with the stormwater management plan approved by the City Engineer.

~~b~~2. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

~~c~~3. Be submitted to the City Engineer for approval.

~~d~~4. Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations.

No construction may commence until all applicable permits and approvals are received from the City and outside agencies.

c. Construction Plans and Specifications for Public Facilities within the Extraterritorial Area. The construction plans and specifications prepared for the construction of public stormwater management facilities within the extraterritorial areas must:

1. Be consistent with the stormwater management plan approved by the City Engineer.

2. Be in conformance with the requirements of Burleigh County any other necessary permits issued by other governmental agencies.

3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4. Be submitted to the County Engineer for approval.

5. Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations.

No construction may commence until the construction plans and specifications have been approved by the County Engineer and all other applicable permits and approvals are received from outside agencies.

~~14.1-04-05~~. Construction Activities. Construction operations must at a minimum comply with the following requirements~~;~~:

~~1~~a. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site; the receiving channels; or any wetland.

~~2~~b. Waste and Material Disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff or wind into a receiving channel, storm sewer system, or wetland.

~~3~~c. Tracking Management. Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to prevent sediment from being tracked onto public or private roadways prior to any land disturbing activities. Any material reaching or placed on a public or private road shall be removed (not by flushing) before the end of each work day or more frequently as needed.

4d. ~~Water Quality Protection~~ Chemical Contamination. The construction contractor shall be required to control oil and fuel spills, and the discharge of any chemicals to prevent such spills or discharges from entering any water course, sump, sewer system, water body, or wetland.

~~5~~e. Site Erosion and Sedimentation Control. Construction operations must include erosion and sedimentation control measures meeting accepted design criteria for wind and water erosion, standards and specifications contained in the Stormwater Design Standards Manual.

f. Concrete Wash Out Area. The developer or his construction contractor shall identify and construct a concrete wash out area to standards and specifications contained in the Design Standards Manual. The party responsible for the installation of the concrete wash out area is responsible for maintenance and removal.

(Ord. 4817, 02-25-97)

~~14.1-04-06~~. Stormwater Management Criteria for Permanent Facilities. Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the ~~S~~stormwater ~~M~~management ~~P~~plan and shall meet the following criteria:

~~1~~a. Pre-versus Post Hydrological Response of Site. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to manage increased runoff so that the two (2) year, ten (10) year and one hundred (100) year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. ~~In lieu of the installation or construction of stormwater management facilities, an applicant may make an in-kind or monetary contribution for the development and maintenance of regional stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant. The City Engineer shall establish this fee based upon an approved master plan and an analysis of drainage and flood protection benefits provided to property directly impacted by the regional stormwater management facilities.~~

~~2~~b. Natural Features of the Site. The applicant shall ~~give consideration to reducing~~ reduce the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of these natural features.

~~3~~c. Stormwater Management Strategies. The following stormwater management practices shall be investigated in developing a ~~S~~stormwater ~~M~~management ~~P~~plan:

~~a~~i. Natural infiltration of precipitation and runoff on-site, if suitable soil and geological conditions are available. The purpose of this strategy is to encourage the development of a ~~S~~stormwater ~~M~~management ~~P~~plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches. This shall include the identification of areas with known high water tables, natural springs and other areas with ground water implications.

~~b~~ii. The flow attenuation by use of open vegetated swales and natural depressions.

~~c~~iii. Stormwater detention facilities.

~~d~~iv. Stormwater retention facilities (on a case by case basis).

v. Storm sewer facilities.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified in the above ~~four~~ strategies. Justification shall be provided by the applicant for the method selected.

4d. Adequacy of Outlets. The adequacy of any outlet used as a discharge point for proposed stormwater management facilities must be assessed and documented to the satisfaction of the City Engineer. The hydraulic capacities of downstream natural channels, reaches, storm sewer systems, or streets shall be sufficient to receive post-development runoff discharges and volumes without causing increased property damages, ~~or~~ any increase in the established base flood~~plain~~ elevation (BFE), or a change in the conveyance of the base flood. If a floodplain or

floodway has not been established by the Federal Emergency Management Agency, then the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a Professional Engineer registered in the State of North Dakota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the City Engineer are approved and installed as part of the ~~S~~stormwater ~~M~~management ~~P~~plan. The assessment of outlet adequacy shall be included in the ~~S~~stormwater ~~M~~management ~~P~~plan and shall be certified by a Professional Engineer registered in the State of North Dakota.

~~5~~e. Stormwater Detention/Retention Facilities. Stormwater detention or retention facilities proposed to be constructed in the ~~S~~stormwater ~~M~~management ~~P~~plan shall be designed according to the most current technology as reflected in the ~~Stormwater~~ Design Standards Manual.

(Ord. 4817, 02-25-97)

~~14.1-04-0~~7. Operation, Maintenance and Inspection. All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The City Engineer or Stormwater Program Coordinator may inspect all stormwater management facilities at any time. Inspection records will be kept on file ~~at the City Engineering Department~~ with the Stormwater Program Coordinator. It shall be the responsibility of the applicant to obtain any necessary public easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purposes. The City Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions and penalties for noncompliance orders.

(Ord. 4817, 02-25-97)

~~14.1.04-0~~8. Easements and Bonds. Easements or bonds may be required as conditions to the issuance of a permit.

(Ord. 4817, 02-25-97)

~~14.1-04-0~~9. Management of Site Vegetation. The applicant shall provide for the installation and maintenance of vegetation on development property in accordance with the following criteria:

~~1~~a. Use of Impervious Surfaces. No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative materials on

impervious surfaces, or within stormwater drainage systems with impervious liners or conduits including streets and gutters.

~~2~~b. Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved, all areas shall be covered by plants, or an approved vegetative ~~growth~~ cover or non-erosive pervious surface.

~~3~~c. Use of Pervious Surfaces. No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade drainageways, wetlands, or within wetland buffer areas.

(Ord. 4817, 02-25-97)

~~14.1-04-~~10. Plan Applicability. A plan issued under this ~~t~~Title runs with the land and is a condition of plat approval. Any owner or subsequent owner of any parcel within the plat must comply with the plan or any approval, revision or modification of the plan. Any owner or subsequent owner shall be aware of and responsible for continued implementation of this plan.

(Ord. 4817, 02-25-97)

11. Duration. Approval of any plan submitted under the provisions of this Title shall expire one (1) year after the date of approval unless a stormwater permit is issued and construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the City Engineer may grant one extension of not greater than one (1) year. Receipt of any request for an extension shall be acknowledged by the City Engineer within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt.

12. Revisions and Resubmittals. Any plan may be revised in the same manner as originally approved and resubmitted. Any denied application may be resubmitted with additional information addressing the concerns contained within the denial. The resubmittal is subject to all applicable fees and shall be considered as a new application.

~~CHAPTER 14.1-05 - STORMWATER MANAGEMENT PERMITS~~

14.1-02-04. Stormwater ~~Management~~ Permits.

~~14-01-05-0~~1. Stormwater Management. It is unlawful to initiate land development, land disturbing, or other activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement,

water body, or wetland outlet within the jurisdiction of the City, without having first complied with the terms of this ~~t~~Title.
(Ord. 4817, 02-25-97)

~~14.1-05-~~02. Stormwater ~~Management~~ Permits.

~~1~~a. Mandatory Permits. Any person proposing a development or project which involves land development, land disturbing, or other activities as defined in this ~~t~~Title, shall obtain a stormwater ~~management~~ permit before initiating those activities. If the stormwater management plan submittal requirement is waived or deemed exempt by the City Engineer, a stormwater permit must be obtained in accordance with this section.

~~2~~b. Permit Application. All persons subject to meeting the requirements for a mandatory stormwater permit shall complete and file with the City Engineer an application in the form prescribed by the City Engineer~~ing Department~~ and accompanied by a fee established by the City Engineer and adopted by the Board of City Commissioners. The permit application shall be accompanied by ~~a~~ the following:

i. A phased erosion and sediment control plan;
ii. A final grading plan;
iii. An approved~~,~~ or revised ~~S~~stormwater ~~M~~management ~~P~~plan as prescribed under ~~Chapter~~ Section 14.1-02-01 of this ~~t~~Title~~.~~ or a waiver of this requirement;
iv. Verification that all best management practices (BMPs) have been installed; and
v. The applicable fee.

The City Engineer will evaluate the data furnished as part of the ~~S~~stormwater ~~M~~management ~~P~~plan and may require additional information. For permit applications within the City's extraterritorial area, the City Engineer will provide copies of the permit application to the County Engineer for review and comment. After evaluation and acceptance of the ~~S~~stormwater ~~M~~management ~~P~~plan, the City Engineer may issue a stormwater ~~management~~ permit subject to any terms and conditions deemed necessary. For permit applications within the City's extraterritorial area, the City Engineer will not approve a stormwater permit without written concurrence of the County Engineer.

~~3~~c. Permit Conditions. Stormwater ~~management~~ permits are issued subject to all provisions of this ~~t~~Title and all other applicable regulations, user charges and fees established by the City. Permits may contain any of the following conditions:

~~a~~i. ~~The user fee for a stormwater outlet utilizing a regional stormwater management facility.~~

~~b~~ii. Limits on the maximum rate of stormwater discharge;

~~c~~iii. Limits on water quality degradation of stormwater discharge;

~~d~~iv. Requirements for the installation, operation and maintenance of stormwater detention/retention facilities;

~~e~~v. Compliance schedule;

~~f~~vi. Requirements for notification to and acceptance by the City Engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality; and

~~g~~vii. Other conditions as deemed appropriate by the City Engineer to insure compliance with this ~~t~~Title.

4d. Permit Duration. Permits must be issued for a time period specified by the City Engineer. The applicant shall apply for permit renewal a minimum of ~~ninety (90)~~ thirty (30) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the City Engineer during the term of the permit as set forth ~~in paragraph five (5)~~ herein. Failure to renew the permit prior to the expiration date will require the permittee to pay a late fee as prescribed by the City Engineer. While the permit may have expired, the permittee remains responsible for the activities and site governed under the permit until the permit is terminated.

~~5~~e. Permit Modification. Permits may be modified by the City Engineer for just cause upon thirty (30) calendar days' notice. Just cause shall include but not be limited to:

~~a~~i. Promulgation of a new applicable nationwide ~~and~~ or statewide permit standards;

~~b~~ii. Changes in the requirements of this ~~ordinance~~ Title;

~~c~~iii. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and

~~d~~iv. Changes in the design or capability of receiving stormwater facilities.

The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

~~6~~f. Permit Amendments. Stormwater permits may be amended only by a written request submitted by the Permittee to the City Engineer. This request shall contain the reason for the change, ~~and~~ documentation related to any additional impacts which may result from amendment approval, and shall include an amendment to the approved stormwater management plan. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines as used for ~~the~~ a new stormwater permit applications under this tTitle.

~~7~~g. Permit Transfer. A permit runs with the property it covers and is transferable to new owners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. A Notice of Transfer is required in conjunction with the transfer of a parcel of land. The current permittee is responsible for submitting the required Notice of Transfer to the Stormwater Program Coordinator within ten (10) business days of the transfer of a parcel of land.

~~8~~h. Monitoring Facilities. The City Engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater facility component. Where at all possible, the monitoring facility shall be located on the property of the applicant as opposed to on public rights-of-way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

~~9~~i. Inspection. The City Engineer or Stormwater Program Coordinator may inspect the stormwater management facilities of any permittee to determine compliance with the requirements of this tTitle. A permittee shall allow the City Engineer or Stormwater Program Coordinator to enter upon the premises at all reasonable hours for the purposes of inspection, sampling or record examination. The City Engineer or Stormwater Program Coordinator shall be allowed to set up equipment on the permittee's premises as required for the purpose of collecting samples and flow recording.

j. Termination. A stormwater permit shall be terminated after a review by the City Engineer has determined that a development site has

been fully constructed and is reasonably protected from erosion based on constructed conditions. A termination review shall be requested by the permittee or may be initiated by the City Engineer after the expiration date of the permit.

Prior to termination of the stormwater permit an amended stormwater management plan must be submitted to the City Engineer documenting any changes to the original stormwater management plan. The amended stormwater management plan shall be certified by a Professional Engineer registered in the State of North Dakota.

(Ord. 4817, 02-25-97)

~~14.1-05-03. Final Stormwater Management Plan. Upon completion of all required construction activities, the permit applicant shall submit to the City Engineer the final Stormwater Management Plan to document any change to the original Stormwater Management concept. The final Stormwater Management Plan shall contain Record Drawings showing the final configuration for all improvements as constructed. The final Stormwater Management Plan and Record Drawings shall be certified by a Professional Engineer registered in the State of North Dakota.~~

(Ord. 4817, 02-25-97)

CHAPTER 14.1-063 - ENFORCEMENT

14.1-063-01. Remedies and Enforcement Powers. The City shall have the following remedies and enforcement powers:

1. Withhold Permits. The City may deny or withhold all permits, certificates or other forms of authorization as to any applicant for a stormwater permit. Instead of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question. The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this Title or of a condition or qualification of a permit, certificate, approved stormwater management plan or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the stormwater permit or other approval is sought is the property in violation.

2. Revocation of Stormwater Permits. A stormwater permit may be revoked when the City Engineer determines that:

a. There is departure from the plans, specifications, or conditions as required under terms of a stormwater permit or approved stormwater management plan;

b. The plans, specifications, or conditions were obtained by false representation or the stormwater permit was issued by mistake; or

c. Any of the provisions of this Title are being violated as to the project under the stormwater permit.

3. Revocation of Stormwater Management Plan or Other Approval. When a violation of this Title involves a failure to comply with an approved stormwater management plan or conditions to which the approval of such plan was made subject, the City Engineer may, upon giving proper notice, revoke the plan approval or other approval, allow work to continue on condition of strict compliance with all applicable rules and regulations, or impose such other conditions as the City Engineer deems appropriate and necessary.

4. Suspension of Stormwater Management Plan or Stormwater Permit. The City Engineer shall have authority to suspend a stormwater management plan or a stormwater permit upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of suspension notice and order, all work in the area covered by the plan and/or permit, shall cease immediately. If any person fails to comply with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the suspension order upon proof of compliance with all stormwater management plan or stormwater permit conditions.

Whenever the City Engineer orders the suspension of a stormwater management plan or stormwater permit and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the permittee personally, or by registered or certified mail. The permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

5. Stop Work Order. The City Engineer shall have authority to issue a stop work order, ordering suspension of all work and activity at the site, upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, the environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of a stop work

order, all work in the area covered by the stormwater permit, if a permit has been issued, shall cease immediately. If any person notified of such stop work order fails to comply, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the stop work order upon proof of compliance with all plan or permit requirements and conditions.

Whenever the City Engineer issues a stop work order and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the person performing the work personally, or by registered or certified mail. The person performing the work, owner or permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

6. Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Title or of a stormwater permit, stormwater management plan, certificate or other form of authorization granted hereunder.

7. Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

8. Restitution. The City may seek an order requiring restitution as a condition to be met by a person before the person's stormwater permit is restored, before the person is allowed to lawfully discharge into the sewer system, or before other action may be taken by the person as determined by an appropriate order.

9. Costs of Damage. Any person violating any of the provisions of this Title or who initiates an activity that causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this Title the costs of any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property.

10. City Attorney's Fees and Costs. In addition to the fees and penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this Title or the orders, rules, regulations and permits issued hereunder.

11. Other Remedies. The City shall have such other remedies as are and as may be from time to time provided by North Dakota law and municipal codes for the violation of this Chapter or related provisions.

12. Remedies Cumulative. The remedies and enforcement powers established in this Chapter are cumulative.

~~14.1-06-01. Emergency Suspension of Permits. The City Engineer may for cause order the suspension of the stormwater management permit of a person or parcel owner when it appears to the City Engineer that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, substantial danger to the environment, or a violation of any permit conditions imposed by this title. If any person is notified of the suspension of a stormwater management permit and/or a person fails to comply voluntarily with the suspension order, the City Engineer shall commence whatever steps are necessary to obtain compliance, including judicial proceedings. The City Engineer may reinstate the stormwater management permit upon proof of compliance with all permit conditions.~~

~~Whenever the City Engineer orders the suspension of a stormwater management permit pursuant to the emergency provisions of this section, the City Engineer shall serve notice on the permittee personally, or by registered or certified mail. The permittee has the right to an informal hearing before the City Engineer upon request made in writing and filed with the City Engineer. The informal hearing must be held within five (5) days of the request. Following the hearing, the City Engineer may affirm, modify or rescind the order.~~

~~Any applicant dissatisfied with an order the City Engineer issued pursuant to this section may request a hearing before the Board of City Commissioners by filing a written request for a hearing with the City Engineer, within fifteen (15) days of receipt of the order, who shall inform City Administration. The hearing must be held within thirty (30) days of receipt of the request, or as subject to the current meeting schedule, whereupon the Board of City Commissioners may affirm, modify or rescind the order. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending.~~
~~*(Ord. 4817, 02-25-97)*~~

14.1-03-02. Administrative Search Warrant. Whenever the City Engineer is denied access to a property to inspect for compliance with this Title, he/she may secure an administrative search warrant from the municipal judge in accordance with Chapter 29-29.1, N.D.C.C.

~~14.1-06-02. Revocation of a Permit. A stormwater management permit may be revoked following notice and an opportunity for a hearing in accordance with Sections 14.1-06-03 and 14.1-06-04. The Board of City Commissioners may revoke a stormwater management permit for cause, including but not limited to:~~

~~a. Violation of any terms or conditions of the stormwater management permit;~~

~~b. False statements on any required reports;~~

~~c. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or~~

~~d. Any other violation of this title or related ordinance.~~

~~The Board of City Commissioners may suspend a stormwater management permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing provided in accordance with Sections 14.1-06-03 and 14.1-06-04.~~
~~*(Ord. 4817, 02-25-97)*~~

14.1-06~~3~~-03. ~~Notification~~ Notice and Order. Except for emergency orders under Section 14.1-06~~4~~-01(4) and (5), ~~W~~whenever the City Engineer finds that any person has violated or is violating this Title, a stormwater ~~discharge~~ permit and/or its conditions, an approved stormwater management plan, or any prohibition, limitation or requirement contained herein, the City Engineer shall serve upon such person a written notice and order stating the nature of the violation. Within thirty (30) days of the date of the notice, unless a ~~shorter~~ different time frame is set by the City Engineer due to the nature of the violation, ~~a plan for~~ the ~~satisfactory~~ correction thereof must be ~~submitted to~~ completed to the satisfaction of the City Engineer.
(Ord. 4817, 02-25-97)

14.1-06~~3~~-04. Appeal. All decisions of the City Engineer dealing with violations of a stormwater permit or this Title or the issuance or non-issuance of the permits required by this Title are subject to appeal to the Board of City Commissioners upon written notice of appeal filed within fifteen (15) days of issuance of the decision. If no appeal is filed within the time period specified, the decision of the City Engineer is final. An appeal stays the City Engineer's decision unless the City Engineer declares the order to be an emergency and certifies to the board that a stay would cause imminent danger to life and property in which case the decision may be stayed only by a restraining order from the Board of City Commissioners or a court of record.

14.1-06~~3~~-05. Hearing. Upon receiving the notice of appeal the Board of City Commissioners shall set a date for a hearing within thirty (30) days of receipt of the notice of appeal. Notice of the time and place for the hearing must be served upon the appellee by certified mail or in person not less than five (5) days prior to the hearing.

~~14.1-06-04. Hearing. If the violation if not corrected by timely compliance, the City Engineer may order any permittee who causes or allows a violation to a stormwater permit to show cause before the Board of City Commissioners why the order of the City Engineer should not be upheld. A notice of hearing must be served on the permittee specifying the time and place of a hearing to be held by the Board regarding the order of~~

~~the City Engineer, and directing the permittee to show cause before the Board why the order of the City Engineer should not be upheld. The notice must be served personally or by registered or certified mail at least ten (10) days before the hearing. The evidence submitted at the hearing shall be considered by the Board which shall then either uphold, modify or rescind the order of the City Engineer. An appeal of the Board's decision may be taken according to law.~~
~~(Ord. 4817, 02-25-97)~~

~~14.1-06-05. Legal Action. The discharge of deposited or eroded materials onto public rights-of-way or public storm sewer systems within the City of Bismarck shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the owners expense based on the properties from which they originated. The owner shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed they may be removed under the City Engineer's direction and any associated costs shall be the responsibility of the owner.~~

~~If any person commences any land disturbing activities which result in increased stormwater quantity or stormwater quality degradation into the City stormwater management system contrary to the provisions of this title, federal or state requirements or any order of the City, the City Attorney may, following the authorization of such action by the Board of City Commissioners, commence action for appropriate legal and/or equitable relief.~~
~~(Ord. 4817, 02-25-97)~~

CHAPTER 14.1-07~~4~~ - PENALTIES

14.1-07~~4~~-01. Penalty. ~~Any person who is found to have violated an order of the Board of City Commissioners made in accordance with this title, or who has failed to comply with any provision of this title and the orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.~~ Any person who fails to comply with a final or un-stayed decision of City Engineer or a decision of the Board of City Commissioners after a hearing or who has failed to comply with any provision of this Title and the orders, rules, regulations and permits issued hereunder, is guilty of an ordinance violation and subject to the provisions of Chapter 1-02 of the City Code (Penalties). Each day the violation continues constitutes a separate offense.
(Ord. 4817, 02-25-97)

14.1-04-02. Abatement. The imposition of a penalty provided by the provisions of this Title shall not preclude the City from instituting proceedings to restrain, correct or abate a continuing violation of this Title. If any person violates any of the provisions of this Title or initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system and within ten days of a final order issued under this Chapter, fails to obey that order, the City Engineer is hereby authorized to restrain, correct or abate the violation and have the costs incurred assessed against the property.

~~14.1-07-02. Costs of Damage. Any person violating any of the provisions of this title or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this title the costs for any cleaning, repair or replacement work caused by the violation of stormwater discharge.~~
~~*(Ord. 4817, 02-25-97)*~~

~~14.1-07-03. City Attorney's Fees and Costs. In addition to the civil penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this title or the orders, rules, regulations and permits issued hereunder.~~
~~*(Ord. 4817, 02-25-97)*~~

14.1-07~~4~~-04~~3~~. Falsifying Information. Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, or other document filed or required to be maintained pursuant to this Title, or storm~~-~~water ~~management~~ permit, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this ~~c~~Chapter, shall be guilty of an offense.
(Ord. 4817, 02-25-97)

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage and adoption.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

I, Keith J. Hunke, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of City Commissioners at its regular meeting of November 22, 2011.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 23rd day of November, 2011.

(SEAL)

Keith J. Hunke, Assistant City Administrator

CITY OF BISMARCK
Ordinance No. 6270

First Reading	July 25, 2017
Second Reading	August 22, 2017
Final Passage and Adoption	August 22, 2017
Publication Date	July 25, 2017

AN ORDINANCE TO AMEND AND RE-ENACT TITLE 14.1 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO STORMWATER MANAGEMENT.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Title 14.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Stormwater Management is hereby amended and re-enacted to read as follows:

CHAPTER 14.1-01 - GENERAL PROVISIONS

14.1-01-01. Purpose and ~~Policy~~ Need. This Title sets forth uniform requirements for stormwater management systems within the City and its extraterritorial jurisdiction. It is the intent of the Board of City Commissioners that the requirements and standards contained in this Title comply with all applicable state and federal laws. In the event of any conflict between the provisions of this Title and the provisions of any erosion control, shoreland protection, ~~or~~ floodplain ordinance, or other regulations adopted by the City, County, State or Federal authorities, the more restrictive standard prevails.

The objectives of this Title are:

1. To promote, preserve, and enhance the natural resources within the City of Bismarck and its extraterritorial jurisdiction;

2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater management practices;

3. To protect the City and surrounding area's natural resources from adverse impacts caused by development or other activities;

4. To regulate land development, land disturbing, or other activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

5. To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);

6. To require detailed review standards and procedures for land development activities proposed throughout the City, and its extraterritorial jurisdiction, thereby achieving a balance between growth and development, and the protection of water quality;

7. To provide for the protection of surrounding or adjacent properties from water and wind erosion through the use of best management practices that meet the intended use; ~~and~~

8. To provide for adequate stormwater system analysis and appropriate stormwater system design as necessary to protect public and private property, water quality, and existing natural resources~~.~~; and ~~This Title establishes and provides for the following stormwater management criteria:~~

~~a. The regulation of development through the issuance of stormwater permits and through the enforcement of general stormwater drainage requirements throughout the City and its extraterritorial jurisdiction. It also authorizes monitoring and enforcement activities, and provides for the setting of applicable fees for the equitable distribution of costs associated with the administration of the stormwater management program established herein.~~

~~b. The regulation of, and the establishment of criteria for, public underground storm sewers, artificial and natural open channel drainage systems, stormwater detention and retention ponds, and private stormwater drainage systems ultimately discharging into the public system.~~

~~c. The regulation of development activities as they relate to managing stormwater volumes, rates of runoff, flow duration, and their subsequent impacts to downstream property, water quality, and stormwater management facilities.~~

~~d. Provides for a stormwater management system user charge and the method for calculating charges for each user classification. Procedures for rate adjustments and annual review criteria are established.~~

~~e. Penalties for violating the provisions of this Title, and the orders, rules, regulations and permits issued hereunder.~~

~~f. Applies in the City of Bismarck, North Dakota, and its extraterritorial jurisdiction, and to persons outside the City who are, by contract or agreement with the City, users of the City stormwater management system. Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this Title.~~

9. To comply with the requirements of the Municipal Separate Storm Sewer System (MS4) under the North Dakota Pollutant Discharge Elimination System (NDPDES).

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-01-02. Transfer of Authority. The City may, through the use of a joint powers agreement, transfer the authority for the administration and/or enforcement of this Title in the City's extraterritorial area to another entity.

(Ord. 5853, 11-22-11)

14.1-01-03. Definitions. For the purpose of this Title, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

Agricultural Land Use: The use of land for planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or yarding of livestock.

Applicant: Any person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision wishing to engage in a land disturbance and/or land development activity or obtain a building permit, special use permit, zoning change, or subdivision approval, ~~or stormwater permit~~ that requires a mandatory stormwater management permit.

~~Base Flood or 100-year flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.~~

~~Base Flood Elevation (BFE): The height of the base flood or 100-year flood, usually in feet above mean sea level, as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by the stormwater management plan prepared for the area in which the property is located.~~

Basis of Design Report: A refinement report required to document conformance with an approved stormwater management plan. A basis of design report is a required submittal for a post-construction stormwater management permit.

Best Management Practices or "BMPs": A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce increases in run-off rates and/or the pollution of downstream waters.

Board of City Commissioners: The Board of City Commissioners of the City of Bismarck.

Catchment: The area of a development project that collects stormwater to a discrete point of discharge or point of analysis.

Certification Report: The required analysis documenting that the facilities identified in an approved stormwater management plan have been constructed and function as intended. A certification report is a required submittal for a post-construction stormwater management permit.

City: The City of Bismarck.

City Engineer: The City Engineer of the City of Bismarck or a duly authorized representative of the City Engineer.

~~Control Measure: A practice or combination of practices to control erosion and attendant pollution.~~

Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan, such as a phased housing development.

Conditional Approval: Tentative approval of a post-construction storm water management plan issued by the City Engineer prior to submittal of construction plans and specifications.

Construction Activity: As defined by the current North Dakota stormwater discharge General Construction Permit NDR10-0000, including, but not limited to, a disturbance to the land that results in a change in topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater run-off, 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 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 routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Construction Plans: Engineered drawings detailing the size and character of post-construction stormwater management facilities and site development. Constructions plans are a required submittal for a post-construction stormwater management permit.

Construction Stormwater Management: The implementation of appropriate temporary BMPs to minimize soil sediment or pollutants carried in run-off from construction activities. Also included is the management of run-on and run-off of stormwater from the construction activities.

Construction Stormwater Management Permit: A permit requiring the implementation of construction BMPs during development and land disturbing activities so as to protect

the Public Storm Sewer System and ensure that development activities are in conformance with the requirements of the MS4 General Permit and this Title.

~~Conveyance Structure: A pipe, open channel, or other facility that transports runoff from one location to another.~~

County: The County of Burleigh.

County Engineer: The County Engineer of Burleigh County or a duly authorized representative of the County Engineer.

~~Design Standards Manual: The Stormwater Design Standards Manual, as originally adopted by the Board of City Commissioners and as subsequently amended by technical amendments by the City Engineer, which contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan.~~

~~Detention Facility: A natural or manmade structure, including wetlands, ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, or other structures, used for the temporary storage and controlled release of runoff. Such facilities are used to delay or attenuate flow, may contain a pool of water during times of storage, and may be dry during times of no runoff.~~

Development: Any ~~man-made change to improved or unimproved property, including any land disturbing activity, construction or the subdivision of land~~ of the following activities:

a. Structural development, including construction or demolition of a new building or other structure;

b. Non-structural development including the creation or paving of roads, parking lots, storage areas or similar activities;

c. Expansion or alteration of an existing structure that results in an increase in the ground surface dimensions of the building or structure;

d. Redevelopment of a previously developed site;

e. Land disturbing activities; or

f. Creation or expansion of impervious surfaces.

~~Development Properties: Lands and properties located within an approved stormwater permit boundary.~~

~~Developer: A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.~~

~~E.P.A.: The United States Environmental Protection Agency.~~

Erosion: Any process that wears away at the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

~~Erosion and Sediment Control Plan: A written description of the number, locations, sizes, and other pertinent information about best management practice methods designed to meet the requirements of this Title.~~

Extraterritorial Jurisdiction: The ~~territorial~~ zoning and subdivision authority of the City which extends to all unincorporated land located within four (4) miles of the corporate limits of the City, or as amended by agreement, as authorized by Section 40-47-01.1 of the North Dakota Century Code.

FEMA: The Federal Emergency Management Agency.

Fill: Any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved to a new location, and shall include the resulting conditions.

Final Stabilization: ~~Activities following rough grading of the site to permanently make the site steadfast or firm, minimizing soil movement by establishing a perennial vegetative grass cover by mulching and seeding, sodding, landscaping, concrete, gravel, or other permanent best management practices. The density of the vegetative cover shall be as required in the Design Standards Manual.~~ The permanent cover of soils exposed or disturbed during development activities.

~~Floodplain or Flood-prone Area: Any land area susceptible to partial or complete inundation by water from any source.~~

~~Floodplain Administrator: The person designated by the City of Bismarck to administer the City's floodplain regulations.~~

~~Floodplain Management: The regulation of the nature and location of construction on (or other occupancy of) lands subject to inundation by flood waters, so that foreseeable (probable) flooding damages will have an average annual risk smaller than some preselected amount. Floodplain management consists of technical and nontechnical studies, policies, management strategies, statutes and ordinances that collectively manage floodplains along rivers, streams, major drainageways, outfalls, or other conveyances. The federal government normally plays a major role in floodplain planning and management, whereas in urban stormwater management and design, local governments dominate the decision-making process.~~

~~Floodway or Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.~~

~~Hydric Soils: Soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.~~

~~Hydrophytic Vegetation: Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.~~

Illicit Connection: A physical connection to the City's MS4 that primarily conveys non-stormwater discharges other than uncontaminated groundwater into the MS4; or a physical connection not authorized or permitted by the City of Bismarck, where a local authority requires authorization or a permit for physical connections.

Illicit Discharge: Any discharge to, or seepage into, the City's MS4 that is not composed entirely of stormwater or uncontaminated groundwater except discharges pursuant to an NPDES permit. Examples include, but are not limited to, construction material discharges, discharging of sanitary sewers and run-off of spilled chemicals, fuels or lubricants. Exceptions to illicit discharges are included in the City's current MS4 General Permit.

~~Impervious Area: Impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil.~~

Impervious Surface: Any land cover that prevents rain or melting snow from soaking into the ground, such as roofs (including overhangs), streets, sidewalks, patios, driveways and parking lots. For the purposes of mandatory stormwater permits, all road, driveway or parking surfaces, including gravel surfaces, shall be considered impervious.

~~Land Development Activity: The construction or demolition of buildings, roads, parking lots, paved storage areas, and similar facilities.~~

Land Disturbing Activity: Any ~~manmade change of the land surface~~ land alteration or disturbance that may result in erosion, sedimentation, or change in run-off including, but not limited to, ~~removing vegetative cover, excavating, filling and grading~~ removal of ground cover, grading, excavating or filling of land, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops~~;~~, growing and tending of gardens~~;~~, and harvesting trees.

~~Landowner: Any person holding title to or having an interest in land.~~

~~Land User: Any person operating, leasing, renting, or having made other arrangements with a landowner by which the landowner authorizes use of their land.~~

~~Local Detention: Detention provided to serve only the developing area in question and no areas outside of the development boundaries. This is also known as on-site detention.~~

~~Local Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system serving only the property within the development boundaries. This is also known as the on-site drainage system.~~

~~Major Stormwater System: The portion of the total stormwater system that collects, stores, and conveys runoff that exceeds the capacity of the minor system. The major drainageways are readily recognizable as natural or improved channels that convey runoff that exceeds the capacity of the minor drainage system, including emergency overflow facilities. It transports the minor and major stormwater runoff and serves more than the area within the development boundaries. The major system is usually less controlled than the minor system, and will function regardless of whether or not it has been deliberately designed and/or protected from encroachment, including when the minor system is blocked or otherwise inoperable. The major stormwater system is usually evaluated for the one hundred (100) year runoff event.~~

~~Management Practice: A practice or combination of practices to control erosion and water quality degradation.~~

~~Minor Stormwater System: The portion of the total drainage system that collects, stores and conveys frequently occurring runoff, and provides a relief from nuisance and inconvenience. This system has traditionally been carefully planned and constructed, and normally represents the major portion of the urban drainage infrastructure investment. The degree of inconvenience the public is willing to accept, balanced against the price it is willing to pay, typically establishes the drainage capacity or design recurrence frequency of a minor system. Minor systems include roof gutters and on-site drainage swales, curbed or side-swale streets, stormwater inlets, underground storm sewers, open channels and street culverts. Generally, the minor stormwater system is designed to accommodate the minor (or ordinary) storm recurring at regular intervals, generally from two (2) to ten (10) years.~~

~~Multiple-Purpose Facility: An urban stormwater facility that fulfills multiple functions, such as enhancement of runoff quality, erosion control, wildlife habitat, or public recreation, in addition to its primary purpose of conveying or controlling runoff.~~

Municipal Separate Storm Sewer System or "MS4": A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditched, man-made channels or storm drains:

a. Owned or operated by a state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to state law) having jurisdiction over the 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 tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act, that discharges to waters of the United States;

b. Designed or used for collecting or conveying stormwater;

c. Which is not a combined sewer; and

d. Which is not part of a publicly owned treatment works (POTW) as defined by 40 CFR 122.2.

National Pollution Discharge Elimination System (NPDES) Permit: Any permit or requirement enforced by the North Dakota State Department of Health pursuant to the Clean Water Act as amended for the purposes of regulating stormwater discharge.

NDDoH: The North Dakota Department of Health, Division of Water Quality.

Notice of Termination (NOT): Notification to the City and/or the NDDoH that all construction activities for a project have been completed and exposed soils have achieved final stabilization.

Notice of Transfer ~~(NOT)~~: ~~Documentation~~ Notification to the City and/or the NDDoH indicating that the responsibilities of the mandatory stormwater management permit have been transferred along with the transfer of a parcel of land.

~~On-Site Detention: Detention provided to serve only the developing area in question and no significant areas outside~~

~~of the development boundaries. This is also referred to as local detention.~~

~~Outfall Facility: Any channel, storm sewer, or other conveyance receiving water into which a storm drain or storm drainage system discharges.~~

~~Outlet: Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.~~

Owner ~~or Occupant~~: Any person, firm, corporation, sole proprietorship, or partnership owning ~~or using~~ a lot, parcel of land, or premises connected to and discharging stormwater into the City's stormwater system~~, and who pays for and is legally responsible for the payment of stormwater rates, special assessments or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment~~.

~~Permanent Development: Any buildings, structures, landscaping and related features constructed as part of a development project approved under a stormwater permit.~~

~~Permanent Facilities: Those features of a stormwater management plan which are part of any natural or constructed stormwater system that require periodic or minimal maintenance to retain their operational capabilities. This includes but is not limited to storm sewers, infiltration areas, detention areas, channels, streets, etc.~~

Permittee: Any person who applies for and receives a stormwater or other permit under this Title.

~~Person: Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency - public or private.~~

Pervious Surface: Any land cover that generally permits absorption of stormwater or snowmelt into the ground.

Point of Analysis: The location where run-off from development will be evaluated for compliance with the requirements of this Title. In general, this will be the location where post development flow rates must meet the existing conditions rates and water quality BMPs have been

provided. The point of analysis may be located downstream of the point of discharge(s). The point of analysis will be determined by the City Engineer. In practicality, there may be more than one point of analysis on a site or for a project.

Point of Discharge: A location where stormwater discharges from development into the public storm sewer system or other receiving waters. In practicality, there may be more than one point of discharge on a site or for a project.

Post Construction Facilities: Permanent structural and non-structural best management practices to mitigate adverse impacts to stormwater quality and water quantity, identified in the approved storm water management plan, which are part of any natural or constructed stormwater system that require periodic or minimal maintenance to retain their operations capabilities. This includes, but is not limited to, storm sewers, infiltration areas, detention areas, channels, streets, etc.

Post Construction Stormwater Management: The implementation of appropriate permanent BMPs to address the stormwater quantity, quality and conveyance for development projects.

Post Construction Stormwater Management Permit: A permit requiring the implementation of permanent BMPs so as to protect the Public Storm Sewer System and ensure that development activities are in conformance with the requirements of the MS4 General Permit and this Title.

~~Private Drainage Channel: A drainage channel on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.~~

~~Private Storm Sewer: A storm sewer on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.~~

Private Storm Sewer System: A system of conveyances designed or used for collecting or conveying stormwater on privately-owned land or easements which eventually discharges into the public storm sewer system. The private storm sewer system consists of both open and enclosed drainage systems (including roads with drainage systems, parking lots, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that are owned and operated by private entities.

~~Public Drainage Channel: A drainage channel located entirely within a naturally occurring or constructed watercourse located on public lands or within a dedicated public easement.~~

Public Storm Sewer System: ~~A storm sewer located entirely within publicly owned land or easements.~~ A system of conveyances designed or used for collecting or conveying stormwater, owned or operated by the City and included in the City's municipal separate storm sewer system (MS4). The public storm sewer system consists of both open and enclosed drainage systems (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that are owned or operated by the City and are designed to collect and convey stormwater and discharge, either directly to an MS4 owned or operated by another public body, or to other receiving waters.

~~Regional Detention: Detention facilities provided to serve an area outside the development boundaries. A regional detention site generally receives runoff from multiple stormwater sources.~~

~~Regional Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system generally serving multiple sources or developments.~~

~~Retention Facility: A natural or manmade structure that provides for the storage of stormwater runoff by means of a pool of stored water. Such facilities are designed to eliminate subsequent surface discharge and, where applicable, provide for the treatment of stormwater runoff. Wet ponds are the most common type of retention facility (although a wet pond may also be used as a detention facility).~~

Run-off: The rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface and into ~~open channels, underground storm sewers, and detention or retention ponds~~ a public or private stormwater system.

Sediment: Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

Site: The entire area included in the legal description of the parcel or other land division on which the ~~land~~ development or land disturbing activity is proposed in the permit application.

~~Stabilize: To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel, or other measures.~~

State: The State of North Dakota.

~~Storm Sewer: A pipe or conduit for carrying storm waters, surface runoff, street and wash waters, and drainage, excluding sewage and industrial wastes.~~

Stormwater: ~~The flow of water which results from precipitation and which occurs during or immediately following rainfall or a snowmelt.~~ Stormwater run-off, snowmelt run-off, surface run-off and drainage.

Stormwater Design Standards Manual: The current edition of the "Stormwater Design Standards Manual, Bismarck, North Dakota" available from the office of the City Engineer, which contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan.

~~Stormwater Easement: An easement dedicated for the purpose of conveying, detaining or retaining stormwater. This may be accommodated by installing storm sewer, or for conveying surface water by means of utilizing natural topography or constructing a drainage channel. Certain uses within this easement are prohibited, including but not limited to, structures, trees, fences, and other elements or uses that may result in any obstruction to flows within this easement, or other incompatible uses, such as any portion of a private sewage disposal system.~~

Stormwater Management: ~~The planned set of public policies and activities undertaken to regulate runoff under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and~~

~~environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.~~ The application of Best Management Practices (BMPs) to mitigate adverse impacts to stormwater quality and quantity, prevent sediments and other pollutants from entering surface or ground water; source controls; and treatment of run-off to reduce pollution.

~~Stormwater Management Criteria: Specific guidance provided to the engineer/designer in the Design Standards Manual to carry out drainage and stormwater management policies. An example might be the specification of local design hydrology - the design storm.~~

Stormwater Management Plan (SWMP): A written document detailing stormwater run-off characteristics for a defined area and the management of that run-off to mitigate adverse impact to stormwater quality and quantity. A stormwater management plan is a required submittal for a post-construction stormwater management permit.

~~Stormwater Management System: Physical facilities that collect, store, convey, and treat stormwater runoff in areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.~~

Stormwater Permit: A permit allowing ~~land~~ development and land disturbing activities so as to protect the ~~p~~Public ~~s~~Storm~~water~~ Sewer ~~s~~System such that development activities are in conformance with the MS4 General Permit requirements and this Title.

Stormwater Program Coordinator: The person designated by the City of Bismarck to administer the NDPDES (MS4) permit and oversee the compliance and regulation of stormwater permits issued by the City or a duly authorized representative of the Stormwater Program Coordinator.

Structure: Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

~~Urban Area: Land associated with, or part of, a defined municipality.~~

~~User: Any person who discharges, causes or permits the discharge of stormwater into the public stormwater management system.~~

~~User Fee: A fee levied on users of a stormwater management system for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works. *(not used in ordinance)*~~

Watershed: An area of land where all surface water from rain, melting snow or ice converges to a single point at a lower elevation where the waters join another body of water, such as a river or lake.

Watershed Stormwater Master Plan: ~~The plan that an engineer/designer formulates to manage urban and/or rural stormwater runoff for a particular development project or drainage area. It typically addresses such subjects as the characterization of the site development and grading plan; existing and projected conditions; peak rates of runoff, flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to the Board of City Commissioners for their review and acceptance or adoption.~~ A stormwater management plan that characterizes and addresses run-off from a defined drainage area and makes recommendations for the implementation of regional facilities or BMPs to address peak flow and water quality compliance and/or regional drainage and conveyance systems. Watershed stormwater management plans that are adopted by the Board of City Commissioners are planning documents that provide drainage area specific refinements to stormwater management and performance requirements and design standards.

Wetlands: ~~Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes.~~ Areas that are inundated or saturated by surface 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.

~~a. A predominance of hydric soils;~~

~~b. Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and~~

~~c. Under normal circumstances support the prevalence of such vegetation.~~

(Ord. 4817, 02-25-97; Ord. 5278, 09-23-03; Ord. 5853, 11-22-11)

14.1-01-04. Scope. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities for an approved development must ~~submit a stormwater management plan including an erosion and sediment control plan to the City Engineer~~ comply with the provisions of this Title and the Stormwater Design Standards Manual. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until ~~approval of the stormwater management plan or a waiver of the approval requirement has been obtained in strict conformance~~ the mandatory stormwater permits have been issued in accordance with the provisions of this Title. In addition, no land disturbing activities shall occur until ~~all initial best management practices (BMPs) have been implemented~~ the Construction Stormwater Management Permit is issued and the necessary construction BMPs have been installed at the project site. ~~A waiver of the stormwater management plan does not relieve the applicant from the stormwater permit requirements, including permit fees and an approved erosion and sediment control plan.~~

Exemptions to the requirements of this Title include:

~~1. Any part of a subdivision if a plat of the subdivision has been approved by the Board of City Commissioners and recorded with the County Recorder on or before the effective date of this Title (January 1, 1998). A stormwater permit for land disturbing activities on such properties may still be required in accordance with this Title;~~

~~2. Land disturbing activity involving the construction of a single-family or a two-family dwelling;~~

~~3. A parcel for which a building permit has been approved on or before the effective date of this Title;~~

~~4~~1. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or

~~5~~2. Emergency work to protect life, limb, or property.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

CHAPTER 14.1-02 - STORMWATER MANAGEMENT ~~PLAN~~ PROGRAM

~~***14.1-02-01. Application.***~~

~~1. Application Procedure.~~

~~a. Written Application. A written application for stormwater management plan approval, along with the proposed stormwater management plan, shall be filed with the City Engineer. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this Title. Prior to applying for approval of a stormwater management plan, it is recommended that the applicant have the stormwater management plan reviewed by all affected public agencies.~~

~~b. Copies. The number of sets of legible copies of the drawings as indicated by the City Engineer and required information shall be submitted to the City Engineer and shall be accompanied by a receipt from the City to document the payment of all required fees for processing and approval as set forth herein. Plans shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.~~

~~c. Waiver. The City Engineer may waive any requirement of this Title upon making a finding that compliance with the requirement will involve an unnecessary non-economic hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in Chapter 14.1-05. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. At the City Engineer's~~

~~discretion, a waiver request may, or at the request of a City Commissioner a waiver request shall, be brought before the Board of City Commissioners for consideration, and approval or denial.~~

~~2. Contents of Stormwater Management Plan. At a minimum, the stormwater management plan shall contain the following information:~~

~~a. Written Report. A written report discussing pre- and post-development hydrology and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns. The contents of the report shall be in accordance with the recommended format in the city's Design Standards Manual and shall contain the following additional information:~~

~~i. The name and address of the applicant;~~

~~ii. The section, township, and range;~~

~~iii. The acreage of the development and the acreage of the disturbed area;~~

~~iv. A description of the existing soils on the site, if necessary, including a map indicating soil types of the areas to be disturbed, information on the suitability of the soils for the type of development proposed, potential for erosion, the type of stormwater management system proposed, and any remedial steps to be taken by the developer to render the soils suitable; and~~

~~v. The current land use of the area in which the site is located.~~

~~b. Maps. The following maps shall be included with the written report. Each map shall contain a north point indicator, date, scale of drawing, and the datum.~~

~~i. Location Map. The location of the tract at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, districts or other defining landmarks, and a~~

~~watershed boundary map illustrating the project site location as a subwatershed within the watershed of the larger or major drainage basin.~~

~~ii. Existing Site Conditions Map. A map of existing site conditions showing the site and immediately adjacent areas, including:~~

~~1. Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two (2) feet;~~

~~2. A watershed boundary map illustrating the subwatersheds within the site or development;~~

~~3. A delineation of streams, rivers, public waters and the presence or absence of wetlands located on and immediately adjacent to the site, including depth of water, a general description of vegetative cover found within the site, a statement of general water quality, and any classification given to the water body by state or federal agencies;~~

~~4. Location and dimensions of existing stormwater drain systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and setting forth those areas of the unaltered site where stormwater collects or passes;~~

~~5. Current extent of vegetative cover and a clear delineation of any vegetation proposed for removal; and~~

~~6. The 100-year flood plain and floodway as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by a site specific analysis.~~

~~iii. Final Site Conditions Map. A plan of final site conditions on the same scale as the~~

~~existing site conditions map showing the proposed site changes shall be provided, including:~~

~~1. The proposed final grading plan shown at contours at the same interval as provided above or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features. This grading plan should also indicate areas of cut and fill activity greater than three (3) feet;~~

~~2. A watershed boundary map illustrating the proposed subwatershed(s) within the site or development;~~

~~3. A drainage plan of the developed site delineating the direction of stormwater runoff and how it will be conveyed from the site and setting forth the areas of the site where stormwater will be collected along with the method of collection including ponds, storm sewer or channels;~~

~~4. The proposed size, alignment, and intended use of any structures to be erected on the site;~~

~~5. A clear delineation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and~~

~~6. Any other information pertinent to the particular project which is necessary for the review of the project.~~

~~c. Erosion and Sediment Control Plan. The erosion and sediment control plan shall include a report and map containing information as outlined in the Design Standards Manual and the following information:~~

~~i. The locations and dimensions of all proposed land disturbing activities as they relate to the specified phases detailed in the Design Standards Manual;~~

~~ii. Approximate locations of all stockpile areas;~~

~~iii. Location and detailed description of all construction site best management practices (BMPs) necessary to meet the requirements of this Title;~~

~~iv. A schedule of anticipated starting and completion dates for each phase of activity, including the installation of construction site best management practices (BMPs) needed to meet the requirements of this Title; and~~

~~v. Provisions for maintaining the construction site best management practices (BMPs) throughout all phases of construction including prior to, during, and after construction. This shall include the installation of permanent control measures and the removal of temporary BMPs.~~

~~3. Certification. All stormwater management plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall contain a validated seal and be signed by a Professional Engineer registered in the State of North Dakota. This requirement will be met as part of the properly completed stormwater management plan, as described in the Design Standards Manual.~~

~~4. Fees. All applications for stormwater management plan approval shall be accompanied by a processing and approval fee established by the City Engineer. In the case of complex applications or regional stormwater facilities, a secondary fee schedule will be used as established by the City Engineer. All fees under this Title shall be reviewed and approved by the Board of City Commissioners.~~

~~(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)~~

~~14.1-02-02. Review.~~

~~1. Process. Stormwater management plans meeting the requirements of Section 14.1-02-01 shall be reviewed by the City Engineer for compliance with the standards of Section 14.1-02-03. For plans within the City's extraterritorial area, the City Engineer will provide copies of the stormwater management plan to the County Engineer and the Burleigh County Water Resource District for review and comment. After evaluation of the stormwater management plan, the City~~

Engineer shall approve, approve with conditions, or deny the stormwater management plan. For plans within the City's extraterritorial area, the City Engineer will not approve a stormwater management plan without written concurrence of the County Engineer. If a particular stormwater management plan involves a complex application or has the potential for significant controversy, the City Engineer may bring the proposed stormwater management plan before the Board of City Commissioners for consideration and public comment.

2. Conditions. A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this Title are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, require the acquisition of certain lands or easements, and require the conveyance to the City of Bismarck or other public entity of certain lands or interests therein. The City Engineer may specify special requirements for specific watersheds within the City and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed. Approval of a plan shall bind the applicant to perform all of the conditions and requirements of the plan prior to any land disturbing activities.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-02-03. Approval Standards.

1. General. This section describes approval standards against which proposed stormwater management plans will be measured. A stormwater management plan which fails to meet the standards contained in this section shall not be approved by the City Engineer or the Board of City Commissioners. Other standards, such as state and federal standards, shall also apply. If two standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the responsibility of the applicant to obtain any required permits from other governmental agencies having jurisdiction over the work to be performed. Typically, such agencies could include the Burleigh County Water Resource

~~District, the Burleigh County Engineer's Office, the State Water Commission and State Engineer's Office, the State Department of Transportation, the State Health Department, the State Historical Preservation Officer, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and possibly others.~~

~~In addition to this stormwater management ordinance, the applicant is responsible for adhering to the requirements of other ordinances contained within the Code of Ordinances for the City of Bismarck, including:~~

~~a. Zoning ordinance regulations contained under Title 14 which are of special interest to new development projects.~~

~~b. Conformance with the requirements of the FP-Floodplain District, Title 14, Section 14-04-19.~~

~~c. Regulations governing the subdivision of land, Title 14, Chapter 14-09.~~

~~d. Conformance with the Landscaping and Screening requirements in Title 14, Section 14-03-11.~~

~~The following sections describe routine approval standards to be used in evaluating a proposed stormwater management plan.~~

~~2. Stormwater Design Standards Manual. The Stormwater Design Standards Manual, as adopted and amended by the City of Bismarck, contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan. The Manual contains an overview of the City's Stormwater Management Policy and design objectives as well as a detailed discussion of the contents of stormwater management plans submitted to the City Engineer for approval. The Manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, instructions for the development of an erosion and sedimentation control plan, and requirements for easements and rights-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.~~

~~3. Models/Methodologies/Computations. Hydrologic models and design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities shall be approved in advance by the City Engineer.~~

4. ~~Construction Plans and Specifications~~.

~~a. Construction Plans and Specifications for Public Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of public stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:~~

~~1. Be consistent with the stormwater management plan approved by the City Engineer.~~

~~2. Be in conformance with the requirements of the City of Bismarck Construction Specifications for Municipal Public Works Improvements, current special provisions, and any other necessary permits issued by other governmental agencies.~~

~~3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.~~

~~4. Be submitted to the City Engineer for approval.~~

~~5. Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations.~~

~~No construction may commence until the construction plans and specifications have been approved by the City Engineer and all other applicable permits and approvals are received from outside agencies.~~

~~b. Construction Plans and Specifications for Private Facilities within the Corporate Limits. The~~

~~construction plans and specifications prepared for the construction of private stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:~~

~~1. Be consistent with the stormwater management plan approved by the City Engineer.~~

~~2. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.~~

~~3. Be submitted to the City Engineer for approval.~~

~~4. Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations. No construction may commence until all applicable permits and approvals are received from the City and outside agencies.~~

~~c. Construction Plans and Specifications for Public Facilities within the Extraterritorial Area. The construction plans and specifications prepared for the construction of public stormwater management facilities within the extraterritorial areas must:~~

~~1. Be consistent with the stormwater management plan approved by the City Engineer.~~

~~2. Be in conformance with the requirements of Burleigh County and any other necessary permits issued by other governmental agencies.~~

~~3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.~~

~~4. Be submitted to the County Engineer for approval.~~

~~5. Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet~~

protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations. No construction may commence until the construction plans and specifications have been approved by the County Engineer and all other applicable permits and approvals are received from outside agencies.

5. Construction Activities. Construction operations must at a minimum comply with the following requirements:

a. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site; the receiving channels; or any wetland.

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

c. Tracking Management. Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to prevent sediment from being tracked onto public or private roadways prior to any land disturbing activities. Any material reaching or placed on a public or private road shall be removed (not by flushing) before the end of each work day or more frequently as needed.

d. Chemical Contamination. The construction contractor shall be required to control oil and fuel spills, and the discharge of any chemicals to prevent such spills or discharges from entering any water course, sump, sewer system, water body, or wetland.

e. Site Erosion and Sedimentation Control. Construction operations must include erosion and

~~sedimentation control measures meeting accepted design criteria, for wind and water erosion, standards and specifications contained in the Stormwater Design Standards Manual.~~

~~f. Concrete Wash out Area. The developer or his construction contractor shall identify and construct a concrete wash out area to standards and specifications contained in the Design Standards Manual. The party responsible for the installation of the concrete wash out area is responsible for maintenance and removal.~~

~~6. Stormwater Management Criteria for Permanent Facilities. Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the stormwater management plan and shall meet the following criteria:~~

~~a. Pre-versus Post Hydrological Response of Site. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to manage increased runoff so that the two (2) year, ten (10) year and one hundred (100) year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity.~~

~~b. Natural Features of the Site. The applicant shall reduce the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of these natural features.~~

~~c. Stormwater Management Strategies. The following stormwater management practices shall be investigated in developing a stormwater management plan:~~

~~i. Natural infiltration of precipitation and runoff on-site, if suitable soil and geological conditions are available. The purpose of this strategy is to encourage the development of a stormwater management plan that encourages natural~~

~~infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches. This shall include the identification of areas with known high water tables, natural springs and other areas with ground water implications.~~

~~ii. The flow attenuation by use of open vegetated swales and natural depressions.~~

~~iii. Stormwater detention facilities.~~

~~iv. Stormwater retention facilities (on a case by case basis).~~

~~v. Storm sewer facilities.~~

~~A combination of successive practices may be used to achieve the applicable minimum control requirements specified in the above strategies. Justification shall be provided by the applicant for the method selected.~~

~~d. Adequacy of Outlets. The adequacy of any outlet used as a discharge point for proposed stormwater management facilities must be assessed and documented to the satisfaction of the City Engineer. The hydraulic capacities of downstream natural channels, reaches, storm sewer systems, or streets shall be sufficient to receive post-development runoff discharges and volumes without causing increased property damages, an increase in the established base flood elevation (BFE), or a change in the conveyance of the base flood. If a floodplain or floodway has not been established by the Federal Emergency Management Agency, then the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a Professional Engineer registered in the State of North Dakota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the City Engineer are approved and installed as part of the stormwater management plan. The assessment of outlet adequacy shall be included in the stormwater management plan and shall~~

~~be certified by a Professional Engineer registered in the State of North Dakota.~~

~~e. Stormwater Detention/Retention Facilities. Stormwater detention or retention facilities proposed to be constructed in the stormwater management plan shall be designed according to the most current technology as reflected in the Design Standards Manual.~~

~~7. Operation, Maintenance and Inspection. All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The City Engineer or Stormwater Program Coordinator may inspect all stormwater management facilities at any time. Inspection records will be kept on file with the Stormwater Program Coordinator. It shall be the responsibility of the applicant to obtain any necessary public easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purposes. The City Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions and penalties for noncompliance orders.~~

~~8. Easements and Bonds. Easements or bonds may be required as conditions to the issuance of a permit.~~

~~9. Management of Site Vegetation. The applicant shall provide for the installation and maintenance of vegetation on development property in accordance with the following criteria:~~

~~a. Use of Impervious Surfaces. No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative materials on impervious surfaces, or within stormwater drainage systems with impervious liners or conduits including streets and gutters.~~

~~b. Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved, all areas shall be covered by plants, or an approved vegetative cover or non-erosive pervious surface.~~

c. Use of Pervious Surfaces. No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade drainageways, wetlands, or within wetland buffer areas.

10. Plan Applicability. A plan issued under this title runs with the land and is a condition of plat approval. Any owner or subsequent owner of any parcel within the plat must comply with the plan or any approval, revision or modification of the plan. Any owner or subsequent owner shall be aware of and responsible for continued implementation of this plan.

11. Duration. Approval of any plan submitted under the provisions of this Title shall expire one (1) year after the date of approval unless a stormwater permit is issued and construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the City Engineer may grant one extension of not greater than one (1) year. Receipt of any request for an extension shall be acknowledged by the City Engineer within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt.

12. Revisions and Resubmittals. Any plan may be revised in the same manner as originally approved and resubmitted. Any denied application may be resubmitted with additional information addressing the concerns contained within the denial. The resubmittal is subject to all applicable fees and shall be considered as a new application.

14.1-02-04. Stormwater Permits.

1. Stormwater Management. It is unlawful to initiate land development, land disturbing, or other activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body, or wetland outlet within the jurisdiction of the City, without having first complied with the terms of this Title.

2. Stormwater Permits.

~~a. Mandatory Permits. Any person proposing a development or project which involves land development, land disturbing, or other activities as defined in this Title, shall obtain a stormwater permit before initiating those activities. If the stormwater management plan submittal requirement is waived or deemed exempt by the City Engineer, a stormwater permit must be obtained in accordance with this section.~~

~~b. Permit Application. All persons subject to meeting the requirements for a mandatory stormwater permit shall complete and file with the City Engineer an application in the form prescribed by the City Engineer and accompanied by a fee established by the City Engineer and adopted by the Board of City Commissioners. The permit application shall be accompanied by the following:~~

~~i. A phased erosion and sediment control plan;~~

~~ii. A final grading plan;~~

~~iii. An approved or revised stormwater management plan as prescribed under Section 14.1-02-01 of this Title or a waiver of this requirement.~~

~~iv. Verification that all best management practices (BMPs) have been installed; and~~

~~v. The applicable fee.~~

~~The City Engineer will evaluate the data furnished as part of the stormwater management plan and may require additional information. For permit applications within the City's extraterritorial area, the City Engineer will provide copies of the permit application to the County Engineer for review and comment. After evaluation and acceptance of the stormwater management plan, the City Engineer may issue a stormwater permit subject to any terms and conditions deemed necessary. For permit applications within the City's extraterritorial area, the City Engineer will not approve a stormwater permit without written concurrence of the County Engineer.~~

~~c. Permit Conditions. Stormwater permits are issued subject to all provisions of this Title and all~~

~~other applicable regulations, user charges and fees established by the City. Permits may contain any of the following conditions:~~

~~i. Limits on the maximum rate of stormwater discharge;~~

~~ii. Limits on water quality degradation of stormwater discharge;~~

~~iii. Requirements for the installation, operation and maintenance of stormwater detention/retention facilities;~~

~~iv. Compliance schedule;~~

~~v. Requirements for notification to and acceptance by the City Engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality; and~~

~~vi. Other conditions as deemed appropriate by the City Engineer to insure compliance with this Title.~~

~~d. Permit Duration. Permits must be issued for a time period specified by the City Engineer. The applicant shall apply for permit renewal a minimum of thirty (30) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the City Engineer during the term of the permit as set forth herein. Failure to renew the permit prior to the expiration date will require the permittee to pay a late fee as prescribed by the City Engineer. While the permit may have expired, the permittee remains responsible for the activities and site governed under the permit until the permit is terminated.~~

~~e. Permit Modification. Permits may be modified by the City Engineer for just cause upon thirty (30) calendar days' notice. Just cause shall include but not be limited to:~~

~~i. Promulgation of a new applicable nationwide or statewide permit standard;~~

~~ii. Changes in the requirements of this Title;~~

~~iii. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and~~

~~iv. Changes in the design or capability of receiving stormwater facilities. The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.~~

~~f. Permit Amendments. Stormwater permits may be amended only by a written request submitted by the Permittee to the City Engineer. This request shall contain the reason for the change, documentation related to any additional impacts which may result from amendment approval, and shall include an amendment to the approved stormwater management plan. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines as used for a new stormwater permit application under this Title.~~

~~g. Permit Transfer. A permit runs with the property it covers and is transferable to new owners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. A Notice of Transfer is required in conjunction with the transfer of a parcel of land. The current permittee is responsible for submitting the required notice of Transfer to the Stormwater Program Coordinator within ten (10) business days of the transfer of a parcel of land.~~

~~h. Monitoring Facilities. The City Engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater facility component. Where at all possible, the monitoring facility shall be located on the property~~

~~of the applicant as opposed to on public rights-of-way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.~~

~~i. Inspection. The City Engineer or Stormwater Program Coordinator may inspect the stormwater management facilities of any permittee to determine compliance with the requirements of this Title. A permittee shall allow the City Engineer or Stormwater Program Coordinator to enter upon the premises at all reasonable hours for the purposes of inspection, sampling or record examination. The City Engineer or Stormwater Program Coordinator shall be allowed to set up equipment on the permittee's premises as required for the purpose of collecting samples and flow recording.~~

~~j. Termination. A stormwater permit shall be terminated after a review by the City Engineer has determined that a development site has been fully constructed and is reasonably protected from erosion based on constructed conditions. A termination review shall be requested by the permittee or may be initiated by the City Engineer after the expiration date of the permit.~~

~~Prior to termination of the stormwater permit an amended stormwater management plan must be submitted to the City Engineer documenting any changes to the original stormwater management plan. The amended stormwater management plan shall be certified by a Professional Engineer registered in the State of North Dakota.~~

~~*(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)*~~

14.1-02-01. Municipal Separate Storm Sewer System. The City of Bismarck is a designated Municipal Separate Storm Sewer System (MS4) under the Environmental Protection Agency's Stormwater Phase II Final Rule published on December 8, 1999 and is regulated under the North Dakota Pollutant Discharge Elimination System (NDPDES) by the North Dakota Department of Health. In order to demonstrate compliance with the requirements of the MS4 General Permit, all development activities within the City's zoning jurisdiction must comply with the provisions contained herein related to construction stormwater management permits and post-construction stormwater management permits.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-02-02. Conformance with Local, State and Federal Regulations. In addition to the requirements contained herein, it is the responsibility of the applicant to obtain all required approvals from local, state and federal agencies for the proposed project. Agencies that may require consultation or permits include the Burleigh County Highway Department, the Burleigh County Water Resource District, the North Dakota Department of Transportation, the North Dakota State Water Commission, the North Dakota Department of Health, the North Dakota State Historic Preservation Officer, the United States Army Corps of Engineers, the Federal Emergency Management Agency or the United States Environmental Protection Agency.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-02-03. Stormwater Design Standards Manual. The Stormwater Design Standards Manual, as adopted and amended by the City of Bismarck, contains the principal standards and design criteria for complying with the City's stormwater management program. The Manual details criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, and requirements for easements and rights-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-02-04. Waiver. The City Engineer may waive any requirement of this Title upon making a finding that compliance with the requirement will involve an unnecessary non-economic hardship, and the waiver of such requirement will not adversely affect the standards and requirements contained herein. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. The City Engineer may not waive any requirement within the City's extraterritorial area without written concurrence of the County Engineer.

14.1-02-05. Illicit Discharges Prohibited. Illicit discharges, including dumping, into the public storm sewer system within the City of Bismarck or its extraterritorial area is prohibited.

CHAPTER 14.1-03 - ~~ENFORCEMENT~~ CONSTRUCTION STORMWATER MANAGEMENT PERMITS

~~14.1-03-01. Remedies and Enforcement Powers. The City shall have the following remedies and enforcement powers:~~

~~1. Withhold Permits. The City may deny or withhold all permits, certificates or other forms of authorization as to any applicant for a stormwater permit. Instead of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question. The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this Title or of a condition or qualification of a permit, certificate, approved stormwater management plan or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the stormwater permit or other approval is sought is the property in violation.~~

~~2. Revocation of Stormwater Permits. A stormwater permit may be revoked when the City Engineer determines that:~~

~~a. There is departure from the plans, specifications, or conditions as required under terms of a stormwater permit or approved stormwater management plan;~~

~~b. The plans, specifications, or conditions were obtained by false representation or the stormwater permit was issued by mistake; or~~

~~c. Any of the provisions of this Title are being violated as to the project under the stormwater permit.~~

~~3. Revocation of Stormwater Management Plan or Other Approval. When a violation of this Title involves a failure to comply with an approved stormwater management plan or conditions to which the approval of such plan was made subject, the City Engineer may, upon giving proper notice, revoke the plan approval or other approval, allow work to continue on condition of strict compliance with all applicable rules and regulations, or impose such other conditions as the City Engineer deems appropriate and necessary.~~

~~4. Suspension of Stormwater Management Plan or Stormwater Permit. The City Engineer shall have authority to suspend a stormwater management plan or a stormwater permit upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of suspension notice and order, all work in the area covered by the plan and/or permit, shall cease immediately. If any person fails to comply with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the suspension order upon proof of compliance with all stormwater management plan or stormwater permit conditions.~~

~~Whenever the City Engineer orders the suspension of a stormwater management plan or stormwater permit and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the permittee personally, or by registered or certified mail. The permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.~~

~~5. Stop Work Order. The City Engineer shall have authority to issue a stop work order, ordering suspension of all work and activity at the site, upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, the environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of a stop work order, all work in the area covered by the stormwater permit, if a permit has been issued, shall cease immediately. If any person notified of such stop work order fails to comply, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the stop work order upon proof of compliance with all plan or permit requirements and conditions.~~

~~Whenever the City Engineer issues a stop work order and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the person performing the work personally, or by registered or certified mail. The person performing the work, owner or permittee has the right~~

~~to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.~~

~~6. Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Title or of a stormwater permit, stormwater management plan, certificate or other form of authorization granted hereunder.~~

~~7. Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.~~

~~8. Restitution. The City may seek an order requiring restitution as a condition to be met by a person before the person's stormwater permit is restored, before the person is allowed to lawfully discharge into the sewer system, or before other action may be taken by the person as determined by an appropriate order.~~

~~9 Costs of Damage. Any person violating any of the provisions of this Title or who initiates an activity that causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this Title the costs of any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property.~~

~~10. City Attorney's Fees and Costs. In addition to the fees and penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this Title or the orders, rules, regulations and permits issued hereunder.~~

~~11. Other Remedies. The City shall have such other remedies as are and as may be from time to time provided by North Dakota law and municipal codes for the violation of this Chapter or related provisions.~~

~~12. Remedies Cumulative. The remedies and enforcement powers established in this Chapter are cumulative.~~
~~*(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)*~~

~~14.1-03-02. Administrative Search Warrant. Whenever the City Engineer is denied access to a property to inspect for compliance with this Title, he/she may secure an administrative search warrant from the municipal judge in accordance with Chapter 29-29.1, N.D.C.C.~~
~~*(Ord. 5853, 11-22-11)*~~

~~14.1-03-03. Notice and Order. Except for emergency orders under Section 14.1-04-01(4) and (5), whenever the City Engineer finds that any person has violated or is violating this Title, a stormwater permit and/or its conditions, an approved stormwater management plan, or any prohibition, limitation or requirement contained herein, the City Engineer shall serve upon such person a written notice and order stating the nature of the violation. Within thirty (30) days of the date of the notice, unless a different time frame is set by the City Engineer due to the nature of the violation, the correction thereof must be completed to the satisfaction of the City Engineer.~~
~~*(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)*~~

~~14.1-03-04. Appeal. All decisions of the City Engineer dealing with violations of a stormwater permit or this Title or the issuance or non-issuance of the permits required by this Title are subject to appeal to the Board of City Commissioners upon written notice of appeal filed within fifteen (15) days of issuance of the decision. If no appeal is filed within the time period specified, the decision of the City Engineer is final. An appeal stays the City Engineer's decision unless the City Engineer declares the order to be an emergency and certifies to the board that a stay would cause imminent danger to life and property in which case the decision may be stayed only by a restraining order from the Board of City Commissioners or a court of record.~~
~~*(Ord. 5853, 11-22-11)*~~

~~14.1-03-05. Hearing. Upon receiving the notice of appeal the Board of City Commissioners shall set a date for a hearing within thirty (30) days of receipt of the notice of appeal. Notice of the time and place for the hearing must be served upon the appellee by certified mail or in person not less than five (5) days prior to the hearing.~~
~~*(Ord. 5853, 11-22-11)*~~

14.1-03-01. Construction Stormwater Management Permits (CSMP) Required. A construction stormwater permit is required in

order to facilitate implementation of appropriate best management practices (BMPs) and protect water quality during development construction activities in areas within the corporate limits and areas within the extraterritorial area that contribute to the City's MS4. Submittal and review requirements for a CSMP are dependent upon the size and scope of the project.

1. Small Site Construction Stormwater Management Permit. A small site construction stormwater management permit is required for construction activities applied for after January 1, 2018 that meet one or more of the following criteria:

a. Land disturbance greater than or equal to 3,000 square feet and less than 10,000 square feet, occurring on land with slopes of less than 12 percent; or

b. Construction of a one- or two-family residential home if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.

2. Large Site Construction Stormwater Management Permit. A large site construction stormwater management permit is required for construction activities applied for after January 1, 2018, except for the construction of a one- or two-family residential home, that meet one or more of the following criteria:

a. Land disturbance greater than or equal to 10,000 square feet;

b. Construction activity disturbing any amount of land if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

c. Land disturbance greater than or equal to 3,000 square feet and disturbance of any size occurring on land with slopes of 12 percent or more;

d. Land disturbance activities that involves the excavation or filling in excess of 400 cubic yards of material regardless of surface area;

e. Land disturbing activity that disturbs more than 200 feet of road ditch, grassed waterway or other land area where surface drainage flows in a defined open channel. This includes the replacement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel, regardless of the surface area;

f. Land disturbing activity as a result of any new public or private road(s) or access drive(s) longer than 150 feet, regardless of the surface area;

g. When discharges from a construction site violate illicit discharge requirements of this Title, regardless of surface area; or

h. Any other activity, including the construction of a one- or two-family residential home, that the City Engineer determines to have a high risk of soil erosion or water pollution, or that may significantly impact an open waterway, stream or wetland area.

3. City Contracted Projects. Projects contracted by the City of Bismarck shall meet the submittal and approval requirements of a Large Site Construction Stormwater Management Permit.

4. North Dakota Department of Health Construction General Permit. All projects that result in land disturbance activity that meets the minimum threshold outlined in the North Dakota Department of Health Construction General Permit are required to obtain a Construction Stormwater Management Permit from the City and coverage from the North Dakota Department of Health under the Construction General Permit.

5. Exclusions. The following activities are excluded from obtaining a mandatory Construction Stormwater Management Permit:

a. Plowing or tilling for agricultural purposes;

b. Emergency activity that is immediately necessary for the protection of life, property or natural resources;

c. Construction of a one or two-family dwelling within the City's extraterritorial area, with the

understanding that erosion control measures are implemented on-site during construction by the builder;

d. Construction of any project in the City's extraterritorial area, other than a one or two-family dwelling, that does not contribute to the City's MS4, with the understanding that erosion control measures are implemented on-site during construction by the builder; or

e. Other construction activities that are determined by the City Engineer to not have potential for adverse impact on stormwater quality.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-03-02. Small Site Construction Stormwater Management Permits.

1. Application Required. An application for a small site construction stormwater management permit shall be submitted prior to or concurrently with an application for a building permit for one- or two-family dwellings or other projects that meet the thresholds outlined in Section 14.1-03-01. Site development activities shall not commence until said application has been approved and best management practices (BMPs) are in place.

2. Submittal Requirements. The submittal requirements for a small site construction stormwater management permit are outlined in the City's Stormwater Design Standards Manual.

3. Review and Approval Procedures. The review and approval procedures are outlined in the City's Stormwater Design Standards Manual. A building permit will not be issued and no site development activities may commence until the small site construction stormwater management permit has been approved and BMPs are properly installed.

4. Transfer of Permit. Small site construction stormwater management permits cannot be transferred to a subsequent owner.

5. Termination of Permit. During construction, stormwater management best management practices (BMPs) must be installed and remain in place until final stabilization,

as outlined in the City's Stormwater Design Standards Manual, has been achieved on the site. When final stabilization has been achieved, the applicant shall submit a Notice of Termination (NOT) request to the City Engineer. Upon review and approval by the City Engineer, the applicant will be notified that the authorization has been terminated.

(Ord. 5853, 11-22-11)

14.1-03-03. Large Site Construction Stormwater Management Permits.

1. Application Required. An application for a large site construction stormwater management permit shall be submitted concurrently with the submittal of construction drawings or, if review of construction drawings is not required, a minimum of 30 days prior to commencement of construction for projects that meet the thresholds outlined in Section 14.1-03-01. Site development activities shall not commence until the large site construction stormwater management has been approved and best management practices (BMPs) are in place.

2. Submittal Requirements. The submittal requirements for a large site construction storm water permit are outlined in the City's Stormwater Design Standards Manual. The submittal package shall be prepared and sealed by a registered professional engineer.

3. Review and Approval Procedures. The review and approval procedures are outlined in the City's Stormwater Design Standards Manual. A building permit will not be issued and no site development activities may commence until the large site construction stormwater management permit has been approved.

4. Transfer of Permit. Upon a change of ownership of a property subject to a large site construction stormwater management permit, the original permittee must submit a request for permit transfer/modification to the City Engineer. A permit transfer/modification request is not required for the legal transfer, sale or closing on a property between permittees covered by a separate construction stormwater management permit (such as the transfer of a lot from the developer to a builder).

5. Termination of Permit. During construction, stormwater management best management practices (BMPs) must installed and remain in place until final stabilization, as outlined in the Storm Water Design Standards Manual, has been achieved on the site. When final stabilization has been achieved, the applicant shall submit a Notice of Termination (NOT) request to the City Engineer.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

CHAPTER 14.1-04. ~~PENALTIES~~ POST-CONSTRUCTION STORMWATER MANAGEMENT PERMITS.

~~14.1-04-01. Penalty. Any person who fails to comply with a final or un-stayed decision of City Engineer or a decision of the Board of City Commissioners after a hearing or who has failed to comply with any provision of this Title and the orders, rules, regulations and permits issued hereunder, is guilty of an ordinance violation and subject to the provisions of Chapter 1-02 of the City Code (Penalties). Each day the violation continues constitutes a separate offense.~~

~~(Ord. 4817, 02 25 97; Ord. 5853, 11 22 11)~~

~~14.1-04-02. Abatement. The imposition of a penalty provided by the provisions of this Title shall not preclude the City from instituting proceedings to restrain, correct or abate a continuing violation of this Title. If any person violates any of the provisions of this Title or initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system and within ten days of a final order issued under this Chapter, fails to obey that order, the City Engineer is hereby authorized to restrain, correct or abate the violation and have the costs incurred assessed against the property.~~

~~(Ord.5853, 11 22 11)~~

~~14.1-04-03. Falsifying Information. Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, or other document filed or required to be maintained pursuant to this Title, or stormwater permit, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this Chapter, shall be guilty of an offense.~~

~~(Ord. 4817, 02 25 97; Ord. 5853, 11 22 11)~~

14.1-04-01. Post-Construction Stormwater Management Permits. A post construction stormwater management permit addresses the long-term or permanent function of drainage facilities for

development projects. A post-construction stormwater management permit is required for development projects applied for after January 1, 2018 in areas within either the corporate limits or the extraterritorial area that meet one or more of the following criteria:

1. Development projects resulting in a cumulative addition of 20,000 square feet or more of impervious surface;

2. Any development project that results in construction activity disturbing any amount of land if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

3. Land disturbing activity that involves excavating and/or filling in excess of 400 cubic yards of material, regardless of surface area;

4. Any development activity that requires approval of a subdivision under Title 14 of the City Code of Ordinances or any development project that requires approval of a site plan; or

5. Any other activity that the City Engineer determines to have a high risk for water quality or quantity impacts to the public storm sewer system or adjoining property.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-04-02. Review and Approval Procedures. Post-Construction Stormwater Management Permit submittal, review and approval procedures are outlined in the City's Stormwater Design Standards Manual.

(Ord.5853, 11-22-11)

14.1-04-03. Mandatory Stormwater Management Scoping Sheet. Prior to the submittal of an application for a post-construction stormwater management permit, the applicant shall complete a pre-submittal scoping sheet and submit it to the City Engineer. The City Engineer will review the basic project information submitted by the applicant and will add information to the scoping sheet regarding the required point of analysis and level of effort required for the stormwater management application. For projects within the extraterritorial area, the City Engineer shall obtain concurrence from the County Engineer prior to approving the scoping sheet. A copy of the approved scoping sheet is a required

component of the post-construction stormwater management permit application.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-04-04. Conditional Approval. Conditional approval of a post-construction stormwater management permit is required prior to submittal of an application for approval of the associated final plat, minor subdivision final plat or site plan. In order to provide adequate time for review and approval, applications for conditional approval of a post-construction stormwater management permit should be submitted no less than thirty (30) days prior to the submittal of an application for approval of a final plat, a minor subdivision final plat or a site plan. For projects that do not require approval of a site plan or a final plat, the application for conditional approval shall be submitted no less than sixty (60) days prior to construction.

1. Submittal Requirements. The submittal requirements for conditional approval of a post-construction stormwater management permit are outlined in the City's Stormwater Design Standards Manual. The submittal package shall be prepared and sealed by a registered professional engineer.

2. Review and Conditional Approval Procedures. The review and conditional approval procedures for a post-construction stormwater management permit are outlined in the Stormwater Design Standards Manual. For projects within the City's extraterritorial area, the City Engineer will provide copies of the stormwater management plan to the County Engineer for review and comment. For projects within the extraterritorial area, the City Engineer shall obtain written concurrence from the County Engineer prior to granting conditional approval of the post-construction stormwater management permit. Upon conditional approval of the post-construction stormwater management permit, the City Engineer will provide the applicant with the original signed copy of the conditional permit by mail or in person and a copy via e-mail. A copy of the conditional permit shall be submitted with the application for approval of a final plat, minor subdivision final plat or site plan.

3. Expiration of Conditional Approval. If a project receiving conditional approval is not initiated within one (1) year of the date of conditional approval, the conditional approval shall expire.

14.1-04-05. Material Submitted After Conditional Approval. After obtaining conditional approval of a post-construction stormwater management permit, construction plans and specification, geotechnical reports and operation and maintenance plans may be submitted.

1. Construction Plans and Specifications.

a. Construction Plans and Specifications for Public Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of public stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

1. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.

2. Be in conformance with the requirements of the City of Bismarck Construction Specifications for Municipal Public Works Improvements, current special provisions, and any other necessary permits issued by other governmental agencies.

3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4. Be submitted to the City Engineer for approval.

5. Be submitted concurrently with the application for approval of a large site construction management permit.

No construction may commence until the construction plans and specifications have been approved by the City Engineer and all other applicable permits and approvals are received from outside agencies.

b. Construction Plans and Specifications for Private Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of private stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

1. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.

2. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

3. Be submitted to the City Engineer for approval.

4. Be submitted concurrently with the application for approval of a large site construction management permit.

No construction may commence until all applicable permits and approvals are received from the City and outside agencies.

c. Construction Plans and Specifications for Public Facilities within the Extraterritorial Area. The construction plans and specifications prepared for the construction of public stormwater management facilities within the extraterritorial areas must:

1. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.

2. Be in conformance with the requirements of the Burleigh County Highway Department and any other necessary permits issued by other governmental agencies.

3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4. Be submitted to the County Engineer for approval.

5. Be submitted concurrently with the application for approval of a large site construction management permit.

No construction may commence until the construction plans and specifications have been approved by the County Engineer and all other applicable permits and approvals are received from outside agencies.

2. Operations and Maintenance Manual. An operations and maintenance manual shall be submitted in conjunction with construction plans and specifications for public projects within the corporate limits and for private projects within both the corporate limits and the extraterritorial area. An operations and maintenance manual shall be submitted for each post-construction stormwater management control, in accordance with the provisions of the Stormwater Design Standards Manual.

3. Access and Drainage Easements. The City Engineer may require that an easement be recorded to allow for continued access to constructed stormwater management facilities within or adjacent to the corporate limits, to provided cross parcel drainage easements and for other elements that are deemed necessary. All required access and drainage easements shall be prepared by a professional land survey, reviewed by the City Engineer and recorded at the Burleigh County Recorder's Office, with a copy of the recorded document provided to the City Engineer.

14.1-04-06. Completion and Final Approval.

1. Completion and Certification. Upon completion of the project, a Certification Report shall be submitted to the City Engineer. The Certification Report shall certify that installed BMPs are consistent with the conditionally approved Post Construction Stormwater Management Plan (PCSMP), or report that BMPs are not consistent with the conditionally approved PCSMP. The Certification Report requirements are outlined in the Stormwater Design Standards Manual.

2. Record Drawings Required. For public projects, record drawings of the project shall also be submitted to the City Engineer.

3. Final Inspection. Upon submittal of the Certification Report and required record drawings, the City Engineer will perform a final inspection of the site. Upon satisfactory completion of the final inspection, final

approval of the Post Construction Stormwater Management Plan will be issued.

CHAPTER 14.1-05 - ENFORCEMENT

14.1-05-01. Remedies and Enforcement Powers. The City shall have the following remedies and enforcement powers:

1. Withhold Permits. The City may deny or withhold all permits, certificates or other forms of authorization as to any applicant for a construction stormwater management permit. Instead of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question. The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this Title or of a condition or qualification of a permit, certificate, approved stormwater management plan or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the construction stormwater management permit or other approval is sought is the property in violation.

2. Revocation of Construction Stormwater Management Permits. A construction stormwater management permit may be revoked when the City Engineer determines that:

a. There is departure from the plans, specifications, or conditions as required under terms of a construction stormwater management permit or post-construction stormwater management permit;

b. The plans, specifications, or conditions were obtained by false representation or the construction stormwater management permit was issued by mistake; or

c. Any of the provisions of this Title are being violated as to the project under the construction stormwater management permit.

3. Revocation of a Post-Construction Stormwater Management Permit or Other Approval. When a violation of this Title involves a failure to comply with an approved post-

construction stormwater management permit or conditions to which the approval of such permit was made subject, the City Engineer may, upon giving proper notice, revoke the permit approval or other approval, allow work to continue on condition of strict compliance with all applicable rules and regulations, or impose such other conditions as the City Engineer deems appropriate and necessary.

4. Suspension of Post-Construction Stormwater Management Permit or Construction Stormwater Management Permit. The City Engineer shall have authority to suspend a post-construction stormwater management permit or a construction stormwater management permit upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of suspension notice and order, all work in the area covered by the permit, shall cease immediately. If any person fails to comply with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the suspension order upon proof of compliance with all post-construction stormwater management permit or a construction stormwater management permit conditions.

Whenever the City Engineer orders the suspension of a post-construction stormwater management permit or a construction stormwater management permit and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the permittee personally, or by registered or certified mail. The permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

5. Stop Work Order. The City Engineer shall have authority to issue a stop work order, ordering suspension of all work and activity at the site, upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, the environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of a stop work order, all work in the area covered by the construction

stormwater management permit, if a permit has been issued, shall cease immediately. If any person notified of such stop work order fails to comply, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the stop work order upon proof of compliance with all post-construction stormwater management permit or a construction stormwater management permit requirements and conditions.

Whenever the City Engineer issues a stop work order and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the person performing the work personally, or by registered or certified mail. The person performing the work, owner or permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

6. Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Title or of a construction stormwater management permit, a post-construction stormwater management permit, certificate or other form of authorization granted hereunder.

7. Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

8. Restitution. The City may seek an order requiring restitution as a condition to be met by a person before the person's construction stormwater management permit is restored, before the person is allowed to lawfully discharge into the City's MS4, or before other action may be taken by the person as determined by an appropriate order.

9. Costs of Damage. Any person violating any of the provisions of this Title or who initiates an activity that causes a deposit, obstruction, or damage or other impairment to the City's MS4 is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this Title the costs of any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90)

days may result in assessment of such costs against the violator's property.

10. City Attorney's Fees and Costs. In addition to the fees and penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this Title or the orders, rules, regulations and permits issued hereunder.

11. Other Remedies. The City shall have such other remedies as are and as may be from time to time provided by North Dakota law and municipal codes for the violation of this Chapter or related provisions.

12. Remedies Cumulative. The remedies and enforcement powers established in this Chapter are cumulative.

14.1-05-02. Administrative Search Warrant. Whenever the City Engineer is denied access to a property to inspect for compliance with this Title, he/she may secure an administrative search warrant from the municipal judge in accordance with Chapter 29-29.1, N.D.C.C.

14.1-05-03. Notice and Order. Except for emergency orders under Section 14.1-05-01(4) and (5), whenever the City Engineer finds that any person has violated or is violating this Title, a construction stormwater management permit and/or its conditions, an approved post-construction stormwater management permit, or any prohibition, limitation or requirement contained herein, the City Engineer shall serve upon such person a written notice and order stating the nature of the violation. Within thirty (30) days of the date of the notice, unless a different time frame is set by the City Engineer due to the nature of the violation, the correction thereof must be completed to the satisfaction of the City Engineer.

14.1-05-04. Appeal. All decisions of the City Engineer dealing with violations of a construction stormwater management permit or this Title or the issuance or non-issuance of the permits required by this Title are subject to appeal to the Board of City Commissioners upon written notice of appeal filed within fifteen (15) days of issuance of the decision. If no appeal is filed within the time period specified, the decision of the City Engineer is final. An appeal stays the City Engineer's decision unless the City Engineer declares the order to be an emergency and certifies

to the Board that a stay would cause imminent danger to life and property in which case the decision may be stayed only by a restraining order from the Board of City Commissioners or a court of record.

14.1-05-05. Hearing. Upon receiving the notice of appeal the Board of City Commissioners shall set a date for a hearing within thirty (30) days of receipt of the notice of appeal. Notice of the time and place for the hearing must be served upon the appellee by certified mail or in person not less than five (5) days prior to the hearing.

CHAPTER 14.1-06 PENALTIES

14.1-06-01. Penalty. Any person who fails to comply with a final or un-stayed decision of City Engineer or a decision of the Board of City Commissioners after a hearing or who has failed to comply with any provision of this Title and the orders, rules, regulations and permits issued hereunder, is guilty of an ordinance violation and subject to the provisions of Chapter 1-02 of the City Code (Penalties). Each day the violation continues constitutes a separate offense.

14.1-06-02. Abatement. The imposition of a penalty provided by the provisions of this Title shall not preclude the City from instituting proceedings to restrain, correct or abate a continuing violation of this Title. If any person violates any of the provisions of this Title or initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's MS4 and within ten days of a final order issued under this Chapter, fails to obey that order, the City Engineer is hereby authorized to restrain, correct or abate the violation and have the costs incurred assessed against the property.

14.1-06-03. Falsifying Information. Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, or other document filed or required to be maintained pursuant to this Title, or construction stormwater management permit, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this Chapter, shall be guilty of an offense.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect on January 1, 2018 following final passage, adoption and publication.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of City Commissioners at its regular meeting of August 22, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 7th day of September, 2017.

(SEAL)

Jason Tomanek, Assistant City Administrator