THE CITY OF LEXINGTON
ANOKA COUNTY, MINNESOTA

ORDINANCE NO. 23-01
AN ORDINANCE AMENDING CHAPTER 13 – STORMWATER MANAGEMENT REGULATIONS

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LEXINGTON, MINNESOTA, HEREBY ORDAINS AS FOLLOWS:

CHAPTER 13

STORM WATER MANAGEMENT REGULATIONS

CHAPTER 13

STORM WATER MANAGEMENT REGULATIONS

SECTION 13.01. PURPOSE AND INTENT. This chapter is adopted for the following purposes:

A. To promote a more efficient and desirable utilization of land by recognizing special land features, such as topography, soils, vegetation, wetland areas, and wildlife;

B. Conserving and developing natural resources and maintaining a high standard of environmental quality;

C. Minimizing pollution of all types.

SECTION 13.02. DEFINITIONS. The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

A. **"Applicant"** - The owner of land proposed to be subdivided or rezoned, or his/her legal representative.

B. **"Animal"** - Means *a* dog, cat or other animal kept for amusement or companionship.

C. **"Animal Owner/Custodian"** - Any person who harbors, feeds, boards, possesses, keeps or has custody of an animal.

D. **"Best Management Practice or BMP"** - Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

E. **"Control Measure"** - A practice or combination of practices to control erosion and attendant pollution.

F. **"Detention Facility"** - A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

G. **"Discharge"** - Adding, introducing, releasing, leaking, spilling, casting, throwing, or emitting any pollutant, or placing any pollutant in a location where it is likely to pollute public waters.

H. **“Erosion”** - The process by which ground surface is worn away by action of wind, water, ice, or gravity.

I. **“Flood Fringe”** - The portion of the floodplain outside the floodway.

J. **“Flood Plain”** - The land adjacent to a body of water which has been or may be hereafter covered by flood water, including that land covered by the regional flood.

K. **“Floodway”** - The minimum channel of a watercourse and those portions of the floodplain adjoining the channel that is reasonably required to discharge the regional flood.

L. **“Groundwater”** - Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or in rock formations deeper underground.

M. **“Hydric Soils”** - Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

N. **“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.

O. **“Illicit Connection”** - Either of the following:

1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system (including any nonstormwater discharge) including sewage, process wastewater, and wash water and any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

2) Any drain or conveyance connected from a residential, commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

P. **“Illicit Discharge”** - Any direct or indirect nonstormwater discharge to the storm sewer system, except as exempted herein in section 51.24(B).

Q. **“Immediately”** - At once, without delay.

R. **“Land Disturbing or Development Activities”** - Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

S. **“MPCA”** - The Minnesota Pollution Control Agency.

T. **“Municipal Separate Storm Sewer System or MS4”** - The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

U. **“NPDES”** - The National Pollutant Discharge Elimination System, which is the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Section 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Section 1317, 1328, 1342, and 1345 authorizing the discharge of pollutants to water of the United States.

V. **“Person”** - Any individual, firm, corporation, partnership, franchisee, association or governmental entity.

W. **“Pollutant”** - Any substance which, when discharged has potential to or does any of the following:

1) Interferes with state designated water uses;

2) Obstructs or causes damage to public waters;

3) Changes water color, odor, or usability as a drinking water source through causes not attributable to natural stream processes affecting surface water or subsurface processes affecting groundwater;

4) Adds an unnatural surface film on the water;

5) Adversely changes other chemical, biological, thermal, or physical condition, in any surface water or stream channel;

6) Degrades the quality of ground water; or

7) Harms human life, aquatic life, or terrestrial plant and wildlife.

Pollutant includes but is not limited to dredged soil, solid waste, incinerator residue, garbage, wastewater sludge, chemical waste, biological materials,

radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substance, pesticide, herbicide, trace metal, automotive fluid, petroleum-based substance, and oxygen-demanding material.

X. **"Pollute"** - To discharge pollutants into public waters.

Y. **"Pollution"** - The direct or indirect distribution of pollutants into public waters.

Z. **"Public Waters"** - Waters of the state, as defined in Minn. Stat. Sec. 103G. 005, Subd. 15.

AA. **"Regional Flood"** - A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

BB. **"Retention Facility"** - A permanent natural or man-made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

CC. **"Sediment"** - Solid matter carried by water, sewage, or other liquids.

DD. **"Soil/defile"** – To make unclean from excrement.

EE. **"State Designated Water Uses"** - Uses specified in state water quality standards.

FF. **"Structure"** - Anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure.

GG. **"Storm Sewer System"** - A conveyance or system of conveyances that is owned and operated by the city or other entity and designed or used for collecting or conveying stormwater.

HH. **"Stormwater"** - Defined under Minnesota Rule 7077.0105, subpart 41(b), and means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage.

II. **"Surface Waters"** - All public waters other than ground waters, which include ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, and public drainage systems except those designed and used to collect, convey, or dispose of sanitary sewage.

JJ. **"Waste"** – Solid matter expelled from the bowels of the pet; excrement.

KK. **"Wetlands"** - Land which is annually subject to periodic or continuing inundation by water and commonly referred to as a bog, swamp, or marsh.

SECTION 13.03. GENERAL PROVISIONS.

Subd. 1. Applicability. Even applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a storm water management plan to the City. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. The provisions of section 13.40 of this ordinance apply to all land, public or private, located within the City of Lexington.

Subd. 2. Exemptions. The provisions of this ordinance do not apply to:

A. Any part of a subdivision if a plat for the subdivision has been approved by the City Council on or before the effective date of this ordinance;

B. Any land disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this ordinance;

C. A lot for which a building permit has been approved on or before the effective date of this ordinance;

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

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

Subd. 3. Waiver. The City Council, upon recommendation of the Planning Commission, may waive any requirement of this ordinance 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 set forth in Section 13.10. The City Council 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 said standards and requirements.

SECTIONS 13.04. CONSTRUCTION STORMWATER GENERAL PERMIT.

The City of Lexington hereby adopts and incorporates by reference the erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) as now constituted and from time to time amended.

SECTIONS 13.05 THROUGH 13.09, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 13.10. STORM WATER MANAGEMENT PLAN APPROVAL PROCEDURES.

Subd. 1. Application. Prior to the start of construction, a written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the City and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this ordinance. Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plans reviewed by the appropriate departments of the City.

A. Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the City and shall be accompanied by a receipt evidencing the payment of all required fees for processing and approval as set forth in Section 13.20, and a bond when required by Section 13.20 in the amount to be calculated in accordance with that section. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum the scale shall be 1 inch equals 100 feet.

Subd. 2. Storm Water Management Plan. At a minimum, the storm water management plan shall contain the following information.

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

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

   2) 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 landmarks;

3) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than 2 feet;

4) A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;

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

6) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable;

7) Vegetative cover and clearly delineating any vegetation proposed for removal; and

8) 100 year floodplains, flood fringes and floodways.

B. Site construction plan. A site construction plan including:

1) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;

2) Locations and dimensions of all temporary soil or dirt stockpiles;

3) Locations and dimensions of all constructions site erosion control measures necessary to meet the requirements of this ordinance;

4) Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this ordinance; and

5) Provisions for maintenance of the construction site erosion control measures during construction.

C. Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes including:

   1) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

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

   3) A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;

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

   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

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

D. All calculations for the permanent stormwater treatment system.

E. The water quality volume that will be treated through volume reduction practices

F. Rationale and documentation supporting the location of any off-site permanent stormwater treatment projects.

G. If applicable, the amount paid to the City of Lexington for in lieu of off-site treatment under Subd. 8.I.f.iv.

H. All legal mechanisms related to Subd. 8.J (long-term maintenance).

I. Construction Stormwater General Permit (MNR100001). The owner must provide proof of coverage under the most current Minnesota Construction Stormwater General Permit (MNR100001). Cover under the most current Minnesota Construction Stormwater General Permit (MNR100001) is required for all construction activities that result in land disturbances equal to or greater than one (1) acre or if a project is part of a common plan of development or sale that ultimately will disturb greater than (1) acre.

SECTIONS 13.11 THROUGH 13.19, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 13.20. PLAN REVIEW PROCEDURE.

Subd. 1. Process. Storm water management plans meeting the requirements of Section 13.10 shall be submitted by the City to the Planning Commission for review in accordance with the standards of Section 13.30. The Commission shall recommend approval, recommend approval with conditions, or recommend denial of the storm water management plan. Following Planning Commission action, the storm water management plan shall be submitted to the City Council at its next available meeting. City Council action on the storm water management plan must be accomplished within 60-120 days following the date the application for approval is filed and accepted by the City.

Subd. 2. Duration. Approval of a 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 the approval, the applicant makes a written request to the City for an extension of time to commence construction setting forth the reasons for the requested extension, the planning department may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the City within 15 days. The City shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

Subd. 3. Conditions. A storm water 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, and require the conveyance to the City of Lexington or other public entity of certain lands or interests therein.

Subd. 4. Performance Bond. Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with Section 13.20.

The adequacy, conditions and acceptability of any agreement and bond shall be determined by the Lexington City Council or any official of the City of Lexington as may be designated by resolution of the Lexington City Council.

Subd. 5. Fees. All applications for storm water management plan approval shall be accompanied by a processing fee established by the City.

Subd. 6. Documentation. The City shall document all site plan reviews utilizing the site plan review form. The City shall retain all relevant correspondence and justifications for determinations made as part of the site plan review process.

Subd. 7. Notification. The City shall notify all owners and operators proposing construction activity, including projects less than one acre that are part of a larger common plan of development or sale, of the need to apply for and obtain coverage under the construction stormwater general permit. The City shall provide this notification when the application for storm water management plan approval is received.

SECTIONS 13.21 THROUGH 13.29, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 13.30. APPROVAL STANDARDS.

Subd. 1. Approval Standards. No storm water management plan which falls to meet the standards contained within the construction stormwater general permit shall be approved by the City Council.

A. Construction, inspection and testing. All land disturbing activities shall be subject to inspection by the city. Inspection of land disturbance operations and special testing shall be performed by the applicant as set forth in this chapter and the Construction Site Inspection Policy.

B. Inspector. The inspector acting on behalf of the applicant shall be a qualified person who shall demonstrate his competence, to the satisfaction of the city, for inspection of the particular type of land disturbing activity, testing procedure or operation requiring inspection.

Duties and responsibilities of the inspector.

1) The inspector shall observe the work assigned for conformance with the reviewed design drawings and specifications.

2) All discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the proper design authority and to the city.

3) The inspector shall submit inspection reports stating whether the work or test requiring inspection was in conformance with the reviewed plans and specifications. The inspection reports shall be furnished to the city and other designated persons as required in the approved land disturbance plan.

4) Periodic inspection. Some inspections may be made on a periodic basis and satisfy the requirements of continuous inspection, provided this periodic scheduled inspection is performed as outlined in the land disturbance plans and specifications and approved by the city.

C. Storm water pollution prevention plan items shall be inspected as required by this manual. At a minimum, these inspections shall be done weekly by the applicant and within 24 hours after every rainfall event 0.5 inches or greater in 24 hours. Inspection reports shall include , at a minimum, date and time of inspection, name of person conducting inspection, findings of inspection including any recommended corrective actions, corrective actions taken since previous inspection, and the date and amount of rainfall

Subd. 2 Design Standards. Storm water detention facilities constructed in the City of Lexington shall be designed according to the most current technology as reflected in the Environmental Protection Agency's "Nationwide Urban Runoff Program (NURP)" and the MPCA publication "Protecting Water Quality in Urban Areas," as amended, and shall contain, at a minimum, the following design factors:

A. A permanent pond surface area equal to two percent of the impervious area draining to the pond or one percent of the entire area draining to the pond, whichever amount is greater;

B. An average permanent pool depth of four to ten feet;

C. A permanent pool length-to-width ratio of 3:1 or greater;

D. A minimum protective shelf extending ten feet into the permanent pool with a slope of 10:1, beyond which slopes should not exceed 3:1;

E. A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod (16.5 feet);

F. All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;

G. Storm water detention facilities for new development must be sufficient to limit peak flows in each subwatershed to those that existed before the development for the 10-year storm event. All calculations and hydrologic

models/information used in determining peak flows shall be submitted along with the storm water management plan;

H. All storm water detention facilities must have a fore bay to remove coarse grained particles prior to discharge into a watercourse or storage basin.

I. Post Construction Stormwater Management BMPs. Stormwater Management shall require the use of any combination of BMPs, with highest preference given to Green Infrastructure techniques and practices (e.g ., infiltration, evapotranspiration, reuse/harvesting , conservation design, urban forestry, green roofs, etc.), necessary to meet the following conditions on the site of a construction activity to the Maximum Extent Practicable (MEP). Post construction stormwater management BMPs must meet the following criteria:

   a. Designed with accepted engineering practices and in accordance with Subd. 8.K. (Permanent Stormwater Management System Design Criteria)

   b. Treat the water quality volume on any project where the sum of the new impervious surface and the fully reconstructed impervious surface equals one or more acres.

   c. For non-linear projects, water quality volume (calculated as an instantaneous volume) must be calculated as one (1) inch times the sum of the new and the fully reconstructed impervious surface.

   d. For linear projects, water quality volume (calculated as an instantaneous volume) must be calculated as the larger of one (1) inch times the new impervious surface or one-half (0.5) inch times the sum of the new and the fully reconstructed impervious surface. Where the entire water quality volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way, easement, or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first, as described in Subd. 8.I.v. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, easements, or other permission cannot be obtained, the owner/operator of construction activity must maximize the treatment of the water quality volume prior to discharge from City of Lexington’s MS4.

   e. Volume reduction practices (e.g., infiltration or other) to retain the water quality volume on-site must be considered first when designing the permanent stormwater treatment system. Wet sedimentation basins and filtration systems are not considered volume reduction practices. If infiltration is prohibited, as described in Subd. 8.K.a.xv.

(Infiltration System), other volume reduction practices, a wet sedimentation basin, or a filtration basin may be considered.

f. Off-site Treatment

i. For non-linear projects, where the water quality volume cannot cost effectively be treated on the site of the original construction activity, the remaining water quality volume must be addressed through off-site treatment and meet the following requirements (must be selected in the following order of preference):

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

2. Locations within the same DNR catchment area as the original construction activity.

3. Locations in the next adjacent DNR catchment area up-stream.

4. Locations anywhere within the City of Lexington's jurisdiction.

ii. Off-site treatment projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. Routine maintenance of structural stormwater BMPs owned or operated by City of Lexington cannot be used to meet this requirement.

iii. Off-site treatment projects must be completed no later than 24 months after the start of the original construction activity.

iv. The applicant may provide payment to the City of Lexington in lieu of off-site treatment. The city must document all payments received for off-site treatment.

v. The city must document all rationale and correspondence related to review of off-site treatment areas and determinations of approval or denial.

g. Stormwater management prohibitions and restrictions. 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-year, ten-year, and 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. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

J. Long-term maintenance. The owner must enter into a long-term maintenance agreement with the City of Lexington that documents all responsibility for long-term operation and maintenance of stormwater treatment practices that are not owned or operated by the City of Lexington. At a minimum, the long-term maintenance agreement must include provisions that:

   a. Allow the City of Lexington to conduct inspections of structural stormwater BMPs not owned or operated by the City of Lexington, perform necessary maintenance, and assess costs for those structural stormwater BMPs when the City of Lexington determines the owner of that structural stormwater BMP has not ensured proper function

   b. Are designed to preserve the City of Lexington's right to ensure maintenance responsibility, for structural stormwater BMPs not owned or operated by the City of Lexington, when those responsibilities are legally transferred to another party.

   c. Are designed to protect/preserve structural stormwater BMPs. If structural stormwater BMPs change, causing decreased effectiveness, new, repaired, or improved structural stormwater BMPs must be implemented to provide equivalent treatment to the original BMP.

   d. The director of public works, or designated representative, shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter. The inspection records will be kept on file at the public works department for a period of 6 years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.

   e. All owners of stormwater BMPs must submit a declaration of maintenance to the County.

K. Permanent Stormwater Management System Design Criteria. All permanent stormwater management systems must be designed in accordance with the following requirements:

a. Infiltration System

i. Infiltration options include, but are not limited to: infiltration basins, infiltration trenches, rainwater gardens, bioretention areas without underdrains, swales with impermeable check dams, and natural depressions;

ii. To determine if an infiltration system is suitable, either the MPCA's contamination screening checklist must be completed or an assessment must be conducted. The checklist or assessment must be documented in the site plan. For more information and to access the MPCA's "contamination screening checklist" see the Minnesota Stormwater Manual;

iii. Must be designed such that pre-existing hydrologic conditions of wetlands in the vicinity are not impacted (e.g., inundation or breaching a perched water table supporting a wetland);

iv. Must not be excavated to final grade, or within three (3) feet of final grade, until the contributing drainage area has been constructed and fully stabilized unless they provide rigorous erosion prevention and sediment controls (e.g., diversion berms) to keep sediment and runoff completely away from the infiltration area.

v. When excavating to within three (3) feet of final grade, the owner must stake off and mark the area so heavy construction vehicles or equipment do not compact the soil in the infiltration area;

vi. When excavating to within three (3) feet of final grade, the owner must stake off and mark the area so heavy construction vehicles or equipment do not compact the soil in the infiltration area;

vii. A pretreatment device such as a vegetated filter strip, forebay, or water quality inlet (e.g., grit chamber) to remove solids, floating materials, and oil and grease from the runoff, to the maximum extent practicable, must be used before the system routes stormwater to the infiltration system;

viii. Designed to provide a water quality volume as described in Subd. 8.I.c. and d;

ix. Designed to discharge all stormwater (including stormwater in excess of the water quality volume) routed to the system

through the uppermost soil surface or engineered media surface within 48 hours. Additional flows that cannot infiltrate within 48 hours must bypass the system through a stabilized discharge point;

x. Must provide a means to visually verify the infiltration system is discharging through the soil surface or filter media surface within 48 hours or less;

xi. Must provide at least one soil boring, test pit or infiltrometer test in the location of the infiltration practice for determining infiltration rates;

xii. For design purposes, divide field measured infiltration rates by 2 as a safety factor or use soil-boring results with the infiltration rate chart in the Minnesota Stormwater Manual to determine design infiltration rates. When soil borings indicate type A soils, field measurements should be performed to verify the rate is not above 8.3 inches per hour.

xiii. Must employ appropriate on-site testing to ensure a minimum of three (3) feet of separation from the seasonally saturated soils (or from bedrock) and the bottom of the proposed infiltration system;

xiv. Must design a maintenance access, typically eight (8) feet wide;

xv. Infiltration Systems are prohibited in the following areas (See "higher level of engineering review" in the Minnesota Stormwater Manual for more information):

1. Areas that that receive runoff from vehicle fueling and maintenance areas;

2. Areas where infiltrating stormwater may mobilize high levels of contaminants in soil or groundwater;

3. Areas where soil infiltration rates are field measured at more than 8.3 inches per hour unless the soils are amended to slow the infiltration rate below 8.3 inches per hour;

4. Areas with less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock;

5. Areas of predominately Hydrologic Soil Group type D soils (clay);

6. Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, subp. 13, if the system will be located:

    a. In an Emergency Response Area (ERA) within a DWSMA classified as having high or very high vulnerability as defined by the Minnesota Department of Health; or

    b. In an ERA within a DWSMA classified as moderate vulnerability unless a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater has been approved by the City of Lexington; or

    c. Outside of an ERA within a DWSMA classified as having high or very high vulnerability unless a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater has been approved by the City of Lexington.

7. Areas within 1,000 feet upgradient or 100 feet downgradient of active karst features; and

8. Areas that receive runoff from the following industrial facilities not authorized to infiltrate stormwater under the NPDES stormwater permit for industrial activities:

    a. automobile salvage yards;

    b. scrap recycling and waste recycling facilities;

    c. hazardous waste treatment, storage, or disposal facilities;

    d. wood preserving facilities; or

    e. air transportation facilities that conduct deicing activities.

b. Filtration System

i. Filtration options include, but are not limited to: sand filters with underdrains, biofiltration areas, swales using underdrains with impermeable check dams and underground sand filters;

ii. Must not install filter media until the contributing drainage area is constructed and fully stabilized unless they provide rigorous erosion prevention and sediment controls (e.g., diversion berms) to keep sediment and runoff completely away from the filtration area;

iii. Designed to remove at least 80 percent of TSS;

iv. Must use a pretreatment device such as a vegetated filter strip, small sedimentation basin, water quality inlet, forebay or hydrodynamic separator to remove settleable solids, floating materials, and oils and grease from the runoff, to the maximum extent practicable, before runoff enters the filtration system;

v. Designed to provide a water quality volume as described in Subd. 8.I.c. and d.;

vi. Designed to discharge all stormwater (including stormwater in excess of the water quality volume) routed to the system through the uppermost soil surface or engineered media surface within 48 hours. Additional flows that the system cannot filter within 48 hours must bypass the system or discharge through an emergency overflow; Designed to provide a means to visually verify the system is discharging through the soil surface or filter media within 48 hours;

vii. Designed to provide a means to visually verify the system is discharging through the soil surface or filter media within 48 hours;

viii. Employ appropriate on-site testing to ensure a minimum of three (3) feet of separation between the seasonally saturated soils (or from bedrock) and the bottom of the proposed filtration system;

ix. Construct with an impermeable liner when the system has less than three (3) feet of separation between seasonally saturated soils or bedrock;

x. Designed with a maintenance access, typically eight (8) feet wide.

c. Wet Sedimentation Basin

i. Permanent volume of 1,800 cubic feet of storage below the outlet pipe for each acre that drains to the basin;

ii. Permanent volume must reach a minimum depth of at least three (3) feet and must have no depth greater than 10 feet;

iii. Must be configured to minimize scour or resuspension of solids;

iv. In addition to the permanent volume, the basin must provide the water quality volume as live storage. Water quality volume is described in Subd. 8.I.c. and d.;

v. Water quality volume discharges at no more than 5.66 cubic feet per second (cfs) per acre of surface area of the basin;

vi. Designed to prevent short-circuiting and the discharge of floating debris;

vii. Basin outlets must have energy dissipation;

viii. Must include a stabilized emergency overflow to accommodate storm events in excess of the basin's hydraulic design;

ix. Must have a maintenance access, typically eight (8) feet wide, for the basin;

x. Must be located outside of surface waters and any buffer zones identified in Construction Stormwater General Permit.

xi. Permittees must design basins using an impermeable liner if located within active karst terrain.

d. Regional Wet Sedimentation Basins

i. When the entire water quality volume cannot be retained onsite, regional wet sedimentation basins can be used or created, provided they are constructed basins, not a natural wetland or water body.

ii. The regional basin conforms to all requirements for a wet sedimentation basin as described in Subd. 8.K.c. (Wet Sedimentation Basin)

iii. Must be large enough to account for the entire area that drains to the basin.

iv. Waterways between the project and the regional basin must not be significantly degraded.

v. Written authorization from City of Lexington or private entity that owns and maintains the regional basin.

Subd. 3. Wetlands.

A. Runoff shall not be discharged directly into wetlands without presettlement of the runoff

B. A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands.

C. Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the Wetland Conservation Act and the following principles in descending order of priority:

1) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

2) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

3) Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

5) Compensating for the impact by replacing or providing substitute wetland resources or environments.

Subd. 4. Steep Slopes. No land disturbing or development activities shall be allowed on slopes of 18 percent or more.

Subd. 5. Catch Basins. All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse-grained material. Such basins shall be cleaned when they are half filled with material.

Subd. 6. Drain Leaders. All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to

infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.

Subd. 7. Models/Methodologies/Computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the director of public works. Plans, specification and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the director of public works.

Subd. 8. Watershed Management Plans/Groundwater Management Plans. Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes section 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.

Subd. 9. Easements. If a storm water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

SECTIONS 13.31 THROUGH 13.39, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 13.40. LAWN FERTILIZER REGULATIONS.

Subd. 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 storm water drainage systems, natural drainage ways, or within wetland buffer areas.

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

Subd. 3. Phosphorus Use Restricted. A person may not apply a fertilizer containing the plant nutrient phosphorus to turf, except under the following conditions:

A. A tissue, soil, or other test by a laboratory or method approved by the commissioner and performed within the last three years indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth;

B. The property owner or an agent of the property owner is first establishing turf via seed or sod procedures, and only during the first growing season.

Subd. 4. Buffer Zone. Fertilizer applications shall not be made within one rod (16.5 feet) of any wetland or water resource.

SECTION 13.41. ANIMAL WASTE REGULATIONS.

Subd. 1. Animal Waste. No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, or public play area unless such owner immediately removes and disposes of all feces deposited by such animal in a sanitary manner.

Subd. 2. Feces Removal Device. It is unlawful for any person owning, keeping or harboring an animal to cause or permit said animal to be on any public property without having in his/her immediate possession a device for the removal of feces and depository for the transmission of excrement to a proper receptacle located on the property owned or possessed by such person.

Subd. 3. Failure to Remove Feces. It is unlawful for any person in control of, causing or permitting any animal to be on any public property to fail to remove feces left by such animal and dispose of it properly as described in section (b).

Subd. 4. Proper Disposal. Proper disposal of animal waste shall be limited to burial where lawfully permitted, flushing in the toilet, bagging for disposal in the owner or keeper's waste receptacle, and bagging for disposal in a waste receptacle designated for animal waste in a public park or park area.

Subd. 5. Storm Drain Prohibition. Disposal of animal waste in storm drains is prohibited.

Subd. 6. Public Compost Prohibition. Disposal of animal waste in public compost is prohibited.

Subd. 7. Exception. The provisions of this section shall not apply to the ownership or use of any properly identified service animals, animals when used for police activities, or tracking animals when used by or with the permission of the appropriate authorities.

SECTIONS 13.42 THROUGH 13.49, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 13.50 REGULATIONS FOR ILLICIT STORM WATER DISCHARGE AND DETECTION

Subd. 1. Findings and Purpose.

A. The city council hereby finds that non-stormwater discharges to the city's municipal separated storm sewer system are subject to higher levels of

pollutants that enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewage, flood control and other community services.

B. The purpose of the ordinance is to promote, preserve and enhance the natural resources within the city and protect them from adverse effects occasioned by non-stormwater discharges by regulating discharges that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land.

Subd. 2. Administration. The city and its authorized representatives are authorized to administer, implement, and enforce the provisions of this section.

Subd. 3. Illegal disposal and dumping.

A. No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain, inlet, catchbasin conduit or drainage structure, business, or upon any public or private land, so that the same might be or become a pollutant, unless the substance is in containers, recycling bags, or any other lawfully established waste disposal device.

B. No person shall intentionally dispose of grass, leaves, dirt, or landscape material into a water resource, buffer, street, road, alley, catchbasin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

Subd. 4. Illicit discharges.

A. No person shall cause any illicit discharge to enter the storm sewer system or any surface water.

B. Exemptions. The following discharges are exempt from this section:

1) Non-stormwater that is authorized by an NPDES point source permit obtain from the MPCA;

2) Firefighting activities or other activities necessary to protect public health and safety;

3) Dye testing for which the city has provided a verbal notification prior to the time of the test;

4) Water line flushing or other potable water sources;

5) Landscape irrigation or lawn watering;

6) Diverted stream flows;

7) Rising ground water;

8) Ground water infiltration to storm drains;

9) Uncontaminated pumped ground water;

10) Foundation or footing drains (not including active groundwater dewatering systems);

11) Crawl space pumps, or sump pumps conforming with section 150.30;

12) Air conditioning condensation;

13) Springs;

14) Noncommercial washing of vehicles;

15) Natural riparian habitat or wetland flows;

16) Dechlorinated swimming pools (for pools to be considered "dechlorinated," water must be allowed to sit seven (7) days without the addition of chlorine to allow for chlorine to evaporate before discharging in an area where drainage to streets or storm sewer systems may occur); or

17) Any other water source not containing a pollutant.

Subd. 5. Illicit Connections. No person shall construct, use, or maintain any illicit connection to intentionally convey non-stormwater to the city's storm sewer system. This prohibition expressly includes, without limitation, illicit connections made in the past regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this section if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.

Subd. 6. General provisions. All owners or occupants of property shall comply with the following general requirements:

A. Septic systems. No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm sewer system may occur. This section shall apply to both actual and potential discharges.

1) Individual septic systems must be maintained to prevent failure, which has the potential to pollute surface water.

2) No part of any individual septic system requiring on-land or in-ground disposal of waste shall be located closer than 150 feet from the ordinary high water level in the case of DNR protected waters, or the wetland boundary in the case of all other water bodies, unless it is proven by the applicant that no effluent will immediately or gradually reach the water bodies because of existing physical characteristics of the site or the system.

3) Recreational vehicle sewage shall be disposed to a proper sanitary waste facility. Waste shall not be discharged in an area where drainage to streets or storm sewer systems may occur.

B. Water runoff. Runoff of water from residential property shall be minimized to the maximum extent practicable. Runoff of water from the washing down of paved areas in commercial or industrial property is prohibited unless necessary for health or safety purposes and not in violation of any other provisions of the city code.

C. Mobile washing businesses. Business that use significant amounts of water at various locations in the city, such as, but not limited to mobile vehicle washing and carpet cleaning, shall dispose of wastewater into the sanitary sewer at a location permitted by the city. Wastewater must not be discharged where drainage to streets or storm sewer system may occur.

D. Motor vehicle repair and maintenance. Storage of materials, machinery and equipment for motor vehicle repair and maintenance must comply with the following requirements:

1) Motor vehicle parts containing grease, oil or other hazardous substances and unsealed receptacles containing hazardous materials shall not be stored in areas susceptible to runoff.

2) Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills, or discharges.

E. Parking lots and private streets. Debris from parking lots and private streets should be swept at least once a year in the spring to remove debris. Such debris shall be collected and properly disposed.

F. Other. Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries shall be removed as soon as possible and disposed of properly. Household hazardous waste may

be disposed of through the county collection program or at any other appropriate disposal site and shall not be placed in a trash container.

Subd. 7. Industrial activity discharges. Any person subject to an industrial activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with the permit may be required in a form acceptable to the city prior to the allowing of discharges to the storm sewer system. Any person responsible for a facility that has stormwater discharges associated with industrial activity, who is or may be the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm sewer system. These BMPs shall be part of a stormwater pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

Subd. 8. Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the storm sewer system, or public water the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person shall notify the city no later than the next business day.

Subd. 9. Access. If the city has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this section or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek an administrative search warrant from any court of competent jurisdiction.

Subd. 10. Suspension of Storm Sewer System Access.

A. Suspension due to illicit discharges in emergency situation. The city may, without prior notice, suspend storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm sewer or public waters. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the storm sewer system or public waters, or to minimize danger to persons.

B. Suspension due to the detection of illicit discharge. All persons discharging to the storm sewer system in violation of this chapter may have their storm sewer system access terminated if such termination serves to abate or reduce an illicit discharge. It is a violation of this section to reinstate storm sewer system access to premises that have been terminated pursuant to this section without the prior approval of the city.

Subd. 11. Salt Storage. All commercial, institutional, and non-NPDES permitted facilities that store deicing materials must comply with the City of Lexington's Salt Storage policy.

SECTIONS 13.51 THROUGH 13.59, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 13.60. OTHER CONTROLS.

In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control or shore land protection ordinance adopted by the City Council, the more restrictive standard prevails.

SECTIONS 13.61 THROUGH 13.69, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 13.70. SEVERABILITY.

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

SECTIONS 13.71 THROUGH 13.98, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 13.99. VIOLATION.

A. A violation of this chapter is a public nuisance. When the city finds that a person has violated a prohibition or failed to meet a requirement of this section, the person is deemed to have created a public nuisance subject to abatement and assessment, as provided under Minnesota Statutes Chapter 429 and other pertinent statues for certification to the County Auditor and collection the following year along with current taxes. In addition, the city may require the following:

1. The performance of monitoring, analysis, and reporting;

2. The implementation of source control or treatment BMPs;

3. Any other requirement deemed necessary.

B. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies. The City may recover all attorney's fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

ADOPTED by the City Council of the City of Lexington this 5th day of January, 2023.

First Reading December 15, 2022
Second Reading January 15, 2023

_____
Gary Grote, Mayor

ATTEST:

_____
Bill Petracek, City Administrator

Published in the Quad Press on _____ ##, 2023

CHAPTER 17