



PLANNING COMMISSION AGENDA

October 3, 2016
7:00 pm

1. **CALL TO ORDER -**
2. **PLEDGE OF ALLEGIANCE -**
3. **ROLL CALL -**
 - Barbara Ronningen (Chair)
 - Sally Doherty
 - Kris Kopitzke
 - Mark Nelson
 - Judy Seeberger
 - Lucia Wroblewski
 - Scott Patten
 - Jim Langan
 - Roger Bowman
4. **APPROVAL OF AGENDA -**
5. **APPROVAL OF MINUTES -**
 - A. September 12, 2016 Meeting Minutes -
6. **REPORTS AND PRESENTATIONS - None**
7. **PUBLIC HEARINGS -**
 - A. JoAnn Fox Application for a Conditional Use Permit for a Private Kennel at 2855 Nybeck Avenue South – **To Be Continued to November 7 Planning Commission Meeting**
 - B. Ordinance Amendment to Provide an Exception to Steep Slope Restrictions for Areas of Man-Made Ditches
 - C. Amendment to the Zoning Code to add Sec. 12-2041. Septic System Compliance and Inspection, which includes additional requirements for septic system compliance inspections.
8. **NEW BUSINESS -**
 - A. Ordinance Amendment to Add Minimal Impact Design Standards to the City Code
9. **OLD BUSINESS -**
 - A. Comprehensive Plan Update Process
 1. Land Use Classifications
 2. Identification of Issues for Review in Each Section of the Plan
 - B. Update on City Council Actions -
10. **ADJOURN -**

-- This agenda is not exclusive. Other business may be discussed as deemed necessary. --

A quorum of the City Council or Other Commissions may be present to receive information.

CITY OF AFTON
DRAFT PLANNING COMMISSION MINUTES
September 12, 2016

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5 1. **CALL TO ORDER** – Chair Barbara Ronningen called the meeting to order at 7:00 p.m.

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7 2. **PLEDGE OF ALLEGIANCE** – was recited.

8
9 3. **ROLL CALL** – Present: Langan, Wroblewski, Kopitzke, Seeberger, Bowman, Patten, Nelson, Doherty and
10 Chair Ronningen. **Quorum present.**

11
12 **ALSO IN ATTENDANCE** – Council Liaison Stan Ross, City Administrator Ron Moore and City Clerk Kim
13 Swanson Linner.

14
15 4. **APPROVAL OF AGENDA** – It was decided that if the public hearings cause the meeting to go long, the
16 Commission may choose to continue Old Business to the next meeting.

17
18 **Motion/Second: Doherty/Patten. To approve the September 12, 2016 Planning Commission agenda as**
19 **presented. Motion carried 9-0-0.**

20
21 5. **APPROVAL OF MINUTES** –

22 A. August 1, 2016 Planning Commission Meeting Minutes – Corrected a minor typo on Line 44: change
23 ‘has’ to ‘have’.

24
25 **Motion/Second: Nelson/Langan. To approve the August 1, 2016 Planning Commission Meeting minutes as**
26 **amended. Motion carried 7-0-2 (Abstain: Doherty and Wroblewski).**

27
28 6. **REPORTS AND PRESENTATIONS** – none.

29
30 7. **PUBLIC HEARINGS** –

31 A. Solar Energy Ordinance Amendment, SEV MN1, LLC and Janice Schwitters & Steven Moll to allow a
32 solar farm as a conditional use or interim use in the Agricultural District to enable a solar farm at 12351 15th
33 Street – **Chair Ronningen opened the Public Hearing at 7:03 p.m.**

34 Administrator Moore explained that SEV MN1, LLC and Janice Switters and Steven Moll have made an
35 application to amend relevant sections of the Zoning Code to allow “solar farm” as a conditional use or interim
36 use in the Agricultural District, including a specific proposal to install a 5-megawatt array of photovoltaic panels
37 that would take up approximately 40 acres of the property at 12351 15th Street. He noted Afton’s current
38 definition of a solar farm in the City’s solar energy ordinance:

39 *“Solar Farm - A commercial facility that converts sunlight into electricity, whether by*
40 *photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology,*
41 *for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal*
42 *land use for the parcel on which it is located.”*

43 Moore explained that the Planning Commission and City Council in 2015 completed a lengthy process in
44 2015 to adopt the solar ordinance. The ordinance allows solar arrays of substantial size in the Agricultural and
45 Rural Residential Zones, to a maximum of 2,000 square feet when they are fully screened. The ordinance
46 prohibits solar farms from the Agricultural and Rural Residential zoning districts due to concerns regarding the
47 impact of large areas of solar arrays on the rural character of the City. The City allows solar farms in the Industrial
48 Districts.

49 Moore reviewed the accompanying proposal, should the ordinance amendment be adopted, for SEV MN1,
50 LLC to install a solar farm at 12351 15th Street for a 5-megawatt array of photovoltaic panels requiring
51 approximately 40 acres of photovoltaic panels; attached materials included a site plan showing the location of the
52 proposed photovoltaic array and existing and proposed vegetative screening, as well as photos showing the
53 appearance of typical solar panel arrays in a field. Moore noted the language in Afton’s Comprehensive Plan
54 about the preservation of agricultural land and uses:

55 *“The residents of the City of Afton value the agricultural economy and rural character that an*
56 *agricultural environment provides. This Plan intends to preserve agricultural land for permanent*

57 agricultural use, and does not accept the belief held by some that agricultural use is merely a
58 temporary use or that agricultural lands are merely a holding area for future residential or other
59 development. Moreover, the community values agricultural land as open space in an increasingly
60 urban environment, a sanctuary for a rural lifestyle that Afton residents have consistently desired to
61 maintain.”

62 Moose explained that by adopting the 2015 solar ordinance, the City considers installations of large expanses
63 of solar arrays in the agricultural zone would change the natural, open, rural countryside views that currently are
64 characteristic of the Agricultural zone and the rural area of the City. Residents have continued to regard this
65 character as what has drawn them to Afton.

66 The proposed ordinance amendment would allow solar farms to be installed on properties in the Agricultural
67 zone. The proposed ordinance amendment does not require setbacks beyond those currently required for all
68 structures. The proposed ordinance includes an exemption from maximum impervious surface requirements,
69 which substantially affects open space and also affects stormwater management.

70 Moose also noted that land use regulations are concerned with potential impacts upon neighboring land uses.
71 These issues were taken into account when considering the solar ordinance in 2015. He pointed out some of the
72 likely concerns this installation would impact: the ground-mounted solar panels are proposed to rotate for sun
73 angle and are proposed to be approximately 12 feet in height. These arrays would be visible to adjoining
74 properties. While the proposed ordinance requires the solar array to be screened from adjacent houses and public
75 roads, it does not require screening along the full perimeter of the property screening views from existing and
76 future agricultural or residential uses. As part of the relatively recent public meeting regarding Manning Avenue
77 development planning, those who lived and/or farmed in the Agricultural zone did not want to see the open, rural
78 views changed due to land use changes. There is also a potential concern that a solar farm installation would cause
79 visual glare reflecting from the solar panels, particularly in such a large array. Technology for anti-reflective
80 coating on the panels to minimize glare; this could be addressed as part of a Conditional Use Permit or Interim
81 Use Permit process.

82 A representative from Sunrise Energy Ventures gave a presentation on the merits of a solar installation of this
83 magnitude, stating that solar farms are currently allowed in the Industrial District, but land there is too expensive
84 for this use. He stated that this solar farm would maintain rural land use; is compatible with the rural landscape; is
85 beneficial, as there would be no need for public services; and, maintained it is neutral or positive for nearby
86 housing; that it would be an interim land use (for the next 25-30 years); would be environmentally beneficial as it
87 would allow groundwater to be filtered and purified.

88 The owner of SEV MN1, LLC stated that they were able to be “grandfathered in” on this installation of a 5-
89 megawatt solar installation, as they applied prior to September 2015. After that date the largest solar farm
90 installations allowed in Minnesota are 1-megawatt. He stated that residents could subscribe to the energy
91 produced with this solar farm and get a 10% reduction in their energy bills.

92
93 Public Comments

94 1) Bill Rahn, 12426 15th Street S, lives across the street, stated this development would essentially be a 40
95 acre industrial site; it will be visible from a lot of properties; they will lose a two-mile rolling-hill view; he felt the
96 panels would be a vast amount of impervious surface and would increase runoff; he was not aware the Moll
97 wetland needed restoring.

98 2) Kurt Rent, 12121 15th Street S, asked who was actually purchasing the land. Applicant replied, “a
99 corporation.” He had concerns about a corporation owning the land; what if they get bought out? The city doesn’t
100 know who the “corporation” is connected to or what they would do with the property next. He stated his property
101 would look right on to the solar farm; he disagreed with the statement that water quality would be improved.

102 3) Steven Moll, son of Reuben Moll, owner of proposal property, Stearns County, stated this is a renewable
103 resource and the land can be restored to farm land at any time in the future.

104 4) Roland Switters, husband of Jan Switters and son-in-law of Reuben Moll, Cottage Grove, stated that
105 Reuben farmed this land since 1945 and it was in the family before that. He contended that farms can have lots of
106 environmental impacts as well. He noted that Xcel Energy has a mandate to supply 20% renewable energy by
107 2020 and 30% by 2030. He said family members feel they have a right to sell the farm for this use. He contended

108 there is no standing water this year, even with the heavy rains, and he feels that the solar farm will produce less
109 runoff than a farm and will have purer, cleaner water.

110 5) Bill Strub, 12916 15th Street S, stated they moved from Woodbury to Afton because they didn't want
111 industry near them; this use would be industrial.

112 6) Renee Kinney, 12041 15th Street S, wanted rural character maintained.

113 7) Bill Rahn, said the Moll property gets drainage from the hills surrounding the property. He calculated that
114 if he subscribed to the solar farm with 10% reduction in his bills, his bill would go down \$9.00 per month; he
115 believes the re-sale of his property in the future, if this solar farm is what the view is, would be significantly lower
116 than the reduction of the energy bills.

117 8) Wendy Bertelsen, 12631 15th Street S, moved to Afton to be in a rural community; this will cause barriers
118 to views, in winter the bare trees will not shield the glare from the panels; she sees 20 acres of this proposed solar
119 farm from her back yard; they should look for a site in the Industrial zoning district; she approves of solar and
120 wind energy, but not this size of installation in Afton's rural community.

121 9) Jan Switters, Reuben Moll's daughter, stated she inherited 20 acres of the family farm from her dad; she
122 felt her dad would be okay with this use of the farm.

123 10) Anne Headrick, 12210 22nd Street S, lives to the southwest of the property; they will look out onto the
124 proposed solar farm, and it will mar their view.

125 11) Wendy Bertelsen, 12631 15th Street S, is concerned about what the view will be; she feels Afton is about
126 the idea of rural and farms.

127 12) Bill Rahn, the traffic that comes off of Manning Avenue east onto 15th Street are all going to see the solar
128 farm.

129 13) Kurt Rent, residents on the west of the proposed solar farm are going to be impacted; he doesn't want his
130 son to grow up looking at this instead of cows.

131 14) Roland Switters, has driven through the neighborhood and noticed lots of trucks parked in yards; that is
132 not a pleasant view.

133
134 **Motion/Second: Doherty/Wroblewski. To close the Public Hearing at 7:37 p.m. Motion carried 9-0-0. .**

135
136 Commission Discussion

137 Bowman asked the applicant why the state changed from 5-megawatt to 1-megawatt solar farms, if the site
138 has a wetland that needs "restoration," why there is a 6 foot cyclone fence topped with 3 strands of barbed wire?

139 The applicant responded that Xcel thought they'd have too much energy if the solar farms were unlimited, so
140 instead of allowing a few 5-megawatt installations, after September 1, 2015, the state only allowed 1-megawatt
141 installations. SEV MN1 applied for and received a permit for a 5-megawatt installation. They feel there is a
142 wetland that needs "restoration" and if the National Electrical Code doesn't require the barbed wire, they will not
143 put it in.

144 Doherty reported that she owns a farm and she has been approached numerous times from solar companies to
145 install a solar farm on her land. All of the leases that she has seen lack a "decommissioning plan." She asked
146 about this proposed installation's lease in regards to a decommissioning plan.

147 The applicant said the decommissioning plan can be written into the conditions of approval.

148 Patten commented that most of the comments have been concerning an actual installation of a solar farm.

149 Ronningen reminded that the application is for an ordinance amendment to the solar ordinance, which means
150 that if passed, these kinds of installations would be possible in all Agriculture zones in Afton.

151 Seeberger stated that the Planning Commission spent many months developing the solar ordinance and there
152 was ample time for comment by companies interested in these types of installations.

153
154 **Motion/Second: Seeberger/Wroblewski. To recommend DENIAL to the City Council for the SEV MN1,
155 LLC and Janice Schwitters and Steven Moll application to amend relevant sections of the Zoning Code to
156 allow "solar farm" as a conditional use or interim use in the Agricultural District, including a specific
157 proposal for the property at 12351 15th Street South, as the City's Solar Ordinance was discussed at length
158 and the City's decision was to allow "solar farms" in the Industrial zoning districts only.**

160 Commission Discussion on the Motion

161 Kopitzke commented that the city, through the process of developing and adopting the solar ordinance,
162 decided that the way solar energy would be approached in Afton was through residential applications; he didn't
163 hear any new information from this proposal for an amendment to allow anything different than the city's current
164 solar ordinance. He felt that if other proposals for solar farms were heard, the faces making the public comments
165 would change (neighbors of the property) but the comments would remain the same.

166 Patten stated that the Planning Commission had developed the solar ordinance and recommended it to City
167 Council, who adopted it. He stated that the City, its Planning Commission, City Council, and residents are pro-
168 solar energy; however, the city made their decision in 2015 to treat solar as residential.

169 Langan reiterated that the public hearing addressed the particular property's proposal; he reaffirmed that this
170 was a proposal for an amendment to the ordinance to allow solar farms in all Agricultural zoning districts, not a
171 particular application.

172
173 **Motion carried 9-0-0.**

174
175 **B. Comprehensive Plan Amendment, Will Carlson, Rezone four parcels from Agricultural to Rural**
176 **Residential, located north of 60th Street and west of Trading Post Trail with PID'#s: 33.028.20.32.0001,**
177 **33.028.20.33.0004, 33.028.20.33.0005 and 32.028.20.41.0002, to enable a subdivision creating 18 lots on 113 acres**
178 **– Chair Ronningen opened the Public Hearing at 7:53 p.m.**

179 Administrator Moorse reviewed the application by Will Carlson to rezone property from Agricultural to Rural
180 Residential via the Comprehensive Plan. The applicant plans to subdivide into eighteen 5-acre lots the eastern 103
181 acres of four parcels containing 200 acres of property north of 60th Street and west of Trading Post Trail. The
182 majority of the 200 acres of property is currently zoned Agricultural, but his desire is to rezone the property to
183 Rural Residential to enable the subdivision. Because the Comprehensive Plan shows the property as Agricultural on
184 the Future Land Use Map, a rezoning requires an amendment to the Comprehensive Plan. The Public Hearing is for
185 a Comprehensive Plan amendment to revise the Future Land Use Map to show the easterly 100 acres of property as
186 Rural Residential vs. Agricultural.

187 Moorse reviewed the Comprehensive Plan goals, policies and strategies related to the rezoning of property
188 from Agricultural to Rural Residential. They were:

189 Housing and Land Use Goals

- 190 1. Maintain the City's overall low density
191 2. Preserve the rural character of Afton
192 3. Encourage agricultural uses
193 4. Maintain natural open spaces

194 Housing and Land Use Policies

- 195 1. The overall development density of the City shall not exceed one unit per ten acres
196 7. Prohibit rezoning of a parcel from Agricultural to Rural residential unless, in addition to
197 meeting other criteria, the parcel is more than 50% contiguous to a rural residential zoning
198 district and such rezoning would not result in development which is inconsistent with the
199 generally rural character of the surrounding area.
200 8. Discourage residential development on lands suitable for agricultural use and adhere to
201 planning practices that will allow farms to operate without external pressures

202 Land Use Strategies

- 203 9. Encourage the use of conservation and open space design subdivisions where the
204 subdivision permanently preserves open space or agricultural land uses or creates transition
205 zones with adjoining zones or jurisdictions.

206 He explained that a determination needs to be made as to whether the proposed rezoning of the property is in
207 harmony with the goals, policies and strategies of the Comprehensive Plan related to the overall land use of the
208 City and the preservation of agricultural uses and the rural character of the City. In the Metropolitan Council's
209 2040 development plan, Afton is designated as "Diversified Rural." This designation supports Afton's goals of

210 preserving agricultural land and uses and preserving its rural character. The City's role in relation to the
211 Diversified Rural designation is as follows:

- 212 1) Plan for growth not to exceed forecasts and in patterns that do not exceed 4 units per 40 acres;
- 213 2) Identify and protect locally important agricultural areas, in addition to prime agricultural lands, to provide
214 a range of economic opportunities;
- 215 3) Support existing agricultural uses as primary long-term land uses and consider allowing agricultural-
216 supportive land uses in local comprehensive plans;
- 217 4) Plan development patterns that incorporate the protection of natural resources; and,
- 218 5) Consider implementing conservation subdivision ordinances, cluster development ordinances, or
219 environmental protection provisions in local land use ordinances.

220 Moose explained that the Planning Commission must consider both the specific parcel proposed in the rezoning
221 application and the broader implications for other Agricultural parcels adjacent to Rural Residential property and
222 the effects on Agricultural property and in general and how that affects the overall density of Afton. Further,
223 Moose explained, Land Use Strategy #9 in the Comprehensive Plan encourages the use of conservation design
224 and open space subdivisions where the subdivision permanently preserves open space or agricultural uses. A
225 subdivision similar to the one reflected in the attached concept plan could be accomplished through a Preservation
226 and Land Conservation Development that would preserve the western 100 acres of the Carlson property and
227 would not require a rezoning.

228
229 Public Input

- 230 1) James Rickard, 5650 Odell Avenue S, felt the ordinance amendment for rezoning was invalid and
231 incomplete, as there was no record of ownership from the Dan Reynolds parcel. With a development of over 80
232 acres, he felt an Environmental Assessment Worksheet should be required. The roads indicate extension and that
233 further development of the west 100 acres will be forthcoming. There is no setback shown to the parcel to the
234 south; he believes the development proposal could not go forward with no setback. [Rickard provided copies of
235 his research to the city.]
- 236 2) Patti Wallen, 14099 50th Street S, felt Afton does not need this density of housing; Odell, shown as one of
237 the access points, cannot handle that amount of increased traffic as it is already in disrepair; the heavy
238 construction traffic on Odell will cause irreparable damage to a road that is already compromised.
- 239 3) Kathy Graham, 5912 Trading Post Trail S, it would be a safety hazard to have a dense subdivision access
240 road so close to the sharp turn in Trading Post Trail S to 60th Street S.
- 241 4) Kevin Slaikeu, 14233 60th Street S, the access road to this development will cause accidents with being so
242 close to the Trading Post turn; he felt the west 100 acres will become developed at sometime in the future if this is
243 approved.
- 244 5) Christian Dawson, 5888 Trading Post Trail S, the concept plan says "extension" to the west 100 acres,
245 meaning they plan to develop that as well. He felt this area of Afton should remain permanently rural and the city
246 should deny "land prospectors" from developing subdivisions in Afton. He wants to raise his family in a rural
247 community; he felt Afton needs to keep preserving the rural landscape and not allow denser housing development.
- 248 6) Nancy Turner, 13926 60th Street S, referred to Afton's Comprehensive Plan which states that agriculture
249 and open space is the "highest and best use of land" in Afton. They researched communities, read Comprehensive
250 Plans, looked at Afton's Land Use Map and picked here to live because of the ideas on land use. They are against
251 the city allowing such a subdivision in this area of Afton on agricultural land.
- 252 7) Doug Forbes, 5460 Odell Avenue S, he was concerned about the requirement of "being 50% surrounded
253 by Rural Residential" zoning to be able to rezone Agriculture to Rural Residential in order to subdivide to the
254 density proposed. He developed the Odell Avenue area and it took two years ago of working with the city to get
255 approvals. He chose to be in Afton and so subdivided the lots into 7 acre parcels, not the minimum lot size that he
256 could, because he wanted Afton's rural character to be preserved. He felt this proposed subdivision was not what
257 the Schusters' plan for their land would have been. He is against this rezoning and the subdivision density.
- 258 8) Sandra Carlson, wife of Will Carlson (the applicant), 2534 Stagecoach Trail S, they are residents of Afton
259 and not outside land prospectors. She stated they just want to give others the opportunity to live in Afton.
- 260 9) Ryan Bluhm, Westwood Consultants (the applicants planning representative), wished to respond to some
261 of the statements: he reported that the Carlsons have closed on both parcels that are still shown on Washington

262 County records under different ownership. The west 100 acres is currently being leased and farmed by another; he
263 claimed the farming runoff exceeds what will runoff from the impervious surface for the development. The access
264 off of 60th Street is conceptual and can be moved to the west. The extension that is shown to the west acreage is
265 required, as a development cannot leave a land-locked parcel. This proposed subdivision will develop into
266 residential, if the rezoning is successful or whether it will be a Preservation and Land Conservation Development
267 (PLCD).

268 10) Randy Graham, 5912 Trading Post Trail S, the development road shown accesses onto 60th Street S,
269 which is a gravel road. He knew of no plan by Afton or Denmark Township to pave the road.

270 11) Mary McConnell, 5680 Odell Avenue S, opposed the development as it doesn't meet the Comprehensive
271 Plan; she believed the city should discourage changing farmland to housing. She felt the Carlsons need to show a
272 burden of proof that this subdivision works and will have no adverse impacts. Trout Brook runs through this land
273 and it is a DNR protected waterway. If approved, the construction will cause sediment to run into Trout Brook.
274 The road access onto 60th Street S has safety issues. If this rezoning is allowed, she felt nothing stands in the way
275 of developing all the other areas in Afton. It was reported that last year a 16 foot wide field road adjacent to their
276 property was clear cut of trees and made into a 24 foot wide road, which cut trees on their property without their
277 permission. [McConnell provided the city with copies of her full statement

278 12) Christian Dawson, 5888 Trading Post Trail S, was approached by Will Carlson who said he wanted to put
279 10 lots on the property, he questioned the math on the proposal, as it shows 18 lots, not 10. He felt Will Carlson is
280 a land "prospector" looking to profit from the development, not "share" Afton with others.

281 13) Mark Patin, 13653 60th Street S, stated he used to live on Tower Drive in Woodbury when that was
282 basically rural; he later moved to Cottage Grove on 70th Street. He doesn't believe 60th Street S is capable of
283 supporting this density. He believes this is just the first step in a strategic move to eradicate rural Afton. This area
284 is the most beautiful view of farm land in Afton. It is actively being farmed and has a seasonal beauty for
285 neighbors. He felt that the rezoning of Agricultural to Rural Residential zoning the rural feel and character of
286 Afton is being eradicated. He has seen it happen in Woodbury, Cottage Grove and he hopes Afton will not allow
287 it.

288 14) Franz Hall, 5730 Trading Post Trail S, felt that a rezoning to Rural Residential will impact the area
289 watershed; runoff from all of the land on the east portion, shown to be the high density residential, will go into
290 Trout Brook. The impervious surface created by this many homes will affect the quality of water; it's a bad idea.

291 15) James Rickard, stated he offered Carlson property for an easement, but it was not accepted.

292 16) Susan Winsor, 15269 42nd Street S, commented that every time a portion of Afton is developed, we lose
293 Afton's rural character. She stated that uses like housing developments cause algae growth in our surface waters;
294 the Planning Commission and City Council are here to protect Afton's natural resources and environment.

295 17) Chair Ronningen read into the record comments she had received via email.

296 a. Ray Lehman, 5118 Trading Post Trail, felt the city should not change the Comprehensive Plan
297 anytime someone wants development.

298 b. Peg Nolz, former City Council member, stated some of the PID numbers were incorrect on the
299 application; she asked what is Will Carlson's standing in Afton [to be able to ask for a Comp Plan
300 change]. The Comp Plan shows soils in this area are unsuitable for septic systems; this portion of
301 Afton is identified in the Comp Plan as "prime agricultural land" and is important to Afton's
302 designation as Diversified Rural; she believed the parcels in question land squarely in the Shoreland
303 Management area and would need to comply with all that entails. She added that in her 20 years'
304 experience in working with the City [on the Planning Commission and the City Council], there was
305 never a rezoning of property from Ag to RR, as it would compromise the build out (thereby
306 jeopardizing Afton's classification with the Met Council and inviting the MUSA in) or, if approved
307 and the city holds tough to buildout, it would deprive owners of tracts of Rural Residential land that
308 has a right to be sub-dividable. RR land costs more to acquire and pays higher taxes.

310 **Motion/Second: Patten/Kopitzke. To close the Public Hearing at 8:35 p.m. Motion carried 9-0-0.**

311
312 Commission Discussion

313 Kopitzke stated he didn't see what needs changing in the Comprehensive Plan, as a rezoning ordinance
314 amendment doesn't require a Comprehensive Plan change.

315 Moorse explained that the Land Use Map shows these parcels as being in the Agricultural zoning district and
316 the applicant wants to develop it as Rural Residential density. Since a rezoning ordinance amendment would
317 require a Comp Plan change, the application could have come forward contingent on a Comp Plan change. It was
318 felt that putting the Comp Plan change would cut the timelines shorter.

319 Seeberger commented that the Planning Commission members were tasked with reviewing Afton's
320 Comprehensive Plan sections. Her section was the Housing and Land Use section, so she felt she was steeped in
321 this subject. She stated that the Comp Plan echoes what the public commented. She felt this particular pocket of
322 land in Afton is the most gorgeous land and making this rezoning change would not be in compliance with the
323 Comprehensive Plan.

324
325 **Motion/Second: Seeberger/Wroblewski. To recommend DENIAL to City Council for the Will Carlson**
326 **application for a Comprehensive Plan Amendment to enable a rezoning of the easterly portion of the**
327 **property north of 60th Street and west of Trading Post Trail with the following four PID's:**
328 **33.028.20.32.0001, 33.028.20.33.0004, 33.028.20.33.0005 and 33.028.20.41.0002, from Agricultural to Rural**
329 **Residential to enable a subdivision of the property to create 18 lots on 113 acres, with the following:**

330
331 **Findings of Fact**

- 332 1. **This ordinance amendment is not compatible with the surrounding neighborhood.**
333 2. **This amendment is not compatible with the Goals and Policies of Afton's Comprehensive Plan.**

334
335 **Patten offered a friendly amendment to the Findings.**

- 336 3. **The citizen can still subdivide in compliance with the Agricultural regulations.**
337 4. **This ordinance amendment violates the tenets of the Comprehensive Plan, especially protections for**
338 **Afton's water resources.**
339 5. **There is a protected waterway in this area that would be at risk without more information.**

340
341 **The friendly amendment was accepted by the motion and second. Motion carried 8-1-0. (Nay: Kopitzke.)**
342

343 **C. Conditional Use Permit for a Trailer Parking Facility, Anchor Bank, FSB and Brockman Investments,**
344 **located on Hudson Road with PID# 05.028.20.11.0007 – Chair Ronningen opened the Public Hearing at 8:43**
345 **p.m.**

346 Administrator Moorse reviewed the application from Anchor Bank and Brockman Investments for a
347 Conditional Use Permit for a trailer parking lot on the property on Hudson Road with PID# 05.028.20.11.0007,
348 located east of the Chandler, Inc. property at 13526 Hudson Road. Brockman Trucking currently has two similar
349 trailer parking lots along Hudson Road S. The trailer parking lot falls within the "storage enclosed or screened"
350 use, which requires a Conditional Use Permit. He reported the City Engineer reviewed the grading and drainage
351 plan with the applicant and revisions were made. The City Engineer has indicated the Preliminary Plans and
352 Stormwater Management Plan meet the stormwater and grading requirements, and overall he recommends
353 approval of the proposed project subject to the items in his September 7 memo being addressed prior to final
354 permit issuance by the City. Moorse indicated that the proposed driveway serving the parking area meets the
355 grading requirements, but does involve disturbance of a small area 18% or greater slope adjacent to Hudson
356 Road. This area was not shown on the survey. Staff has requested this area be added to the survey. Valley Branch
357 Watershed District (VBWD) reviewed the grading and drainage plan; their permit review report indicates the
358 plan meets the rate, volume and water quality requirements of the VBWD. Moorse explained that the proposed
359 use must be enclosed or fully screened. The intent of this requirement is that this use would not be visible to the
360 public. The trailer parking lot constructed by Brockman in 2014 was to be fully screened by vegetation. While
361 the vegetation to screen the trailers was installed according to the approved landscape plan, the vegetation does
362 not provide sufficient screening, either from Hudson Road or from I-94. For the current application, because the
363 land slopes down substantially from Hudson Road, and a portion of the slope is in the Hudson Road right-of-way,

364 the trees need to be planted at the bottom of the slope. This may not enable the trailers to be screened from view
365 by traffic on Hudson Road. Moorse also indicated that in the I-1C Zone, there are architectural standards
366 regarding landscaping that require screening that provides 95% opacity year round. The standards also require a
367 landscape guarantee, which is an agreement between the City and the owner which states that, in exchange for
368 issuance of a building permit, the owner will construct, install, and maintain all items shown on the approved
369 plan and that the owner will replace and/or correct any deficiencies or defaults that occur in the plan for a period
370 of two complete growing seasons subsequent to the installation of the landscaping plan. The landscape guarantee
371 agreement includes a performance bond. If after two growing seasons all the commitments are met, then the bond
372 and contract agreement are released to the applicant or property owner. Moorse reported that the applicant has
373 indicated this use is planned to be a replacement for the existing trailer parking area at the corner of Manning and
374 Hudson Road should that site be developed for a higher value use. Although they do not need the currently
375 proposed parking lot at this time, they have made this CUP application and plan to construct the parking area so
376 that it is available when needed in the future. While the approval of the trailer parking CUP in 2014 included a
377 condition that construction would begin within one year of the date of issuance of the permit or the permit would
378 become null and void, this is not a requirement in the zoning code. There is flexibility in the length of time
379 allowed for construction to begin.

380 Tim Freeman, from Folz, Freeman, Erickson, Inc., commented that the truck parking will not be the final or
381 best use of the land. If the other parking lots are developed into a higher use, Brockman wants to be ready with
382 another parking lot.

383 Renee Kinney, 12041 15th Street S, commented on the lighting in the truck parking lots, so that it does not
384 cause glare or light pollution to nearby neighbors.

385 Chair Ronningen asked Moorse if he had received an email from Elaine Santore, Tomahawk Trail, who is
386 against this use.

387 Moorse indicated he had not.

388
389 **Motion/Second: Nelson/Bowman. To close the Public Hearing at 8:55 p.m. Motion carried 9-0-0.**

390
391 Commission Discussion

392 Ronningen asked why the city would grant a Conditional Use Permit without a time limit or plan to have the
393 use constructed; that is not good public policy. It was noted that Anchor Bank is on the application, as Brockman
394 Trucking has to have city approval to proceed in order to purchase the property.

395 Bowman asked about the property line; if the contours were from the DNR LIDAR data; and, are they using
396 fill to raise the lot?

397 Patten asked if the Comprehensive Plan speaks to diversification in the Industrial Zone, as he felt Afton is
398 getting a lot of truck parking facilities that aren't very attractive to other uses.

399 Wroblewski asked about the vegetative screening and how it can be better than the last parking lot.

400 Ronningen suggested adding the condition to keep the trees alive for 5 years or replace them, and to have the
401 trees maintained and watered; she felt this should be added to the city's ordinance so that it is a requirement, and
402 not part of application conditions.

403 Langan felt the screening on the other two lots is inadequate and has noticed that Hudson Road has sunk from
404 all the traffic.

405 Ronningen reminded that Hudson Road is a state road, and not a priority, so it gets plowed last.

406
407 **Motion/Second: Doherty/Kopitzke. To recommend APPROVAL concerning the Anchor Bank, FSB and
408 Brockman Investments application for a conditional use permit for a trailer parking facility on the
409 property on Hudson Road with PID# 05.028.20.11.0007, including findings and conditions.**

410
411 Findings of Fact:

- 412 1. The applicant has submitted all necessary documents needed for a Conditional Use Permit.
- 413 2. The applicant is proposing a 4.51 acre gravel-surfaced trailer parking facility with 209 parking
414 stalls.

- 414 3. The applicant has submitted a landscape plan, illustrating 50 coniferous trees, including two rows
415 of trees along the south boundary of the parking area. A similar landscaping plan did not provide
416 sufficient screening for a similar facility at Neal and Hudson Road.
- 417 4. The proposal does not include any lighting.
- 418 5. Access into the site is proposed at one location off Hudson Road via a driveway which accesses the
419 parking lot.
- 420 6. The proposed parking area meets setback requirements.
- 421 7. The proposal meets impervious coverage requirements
- 422 8. The proposal meets the Valley Branch Watershed District's stormwater management requirements
- 423 9. The proposal includes grading of a small area of steep slopes adjacent to Hudson Road for the
424 driveway access to the property.
425

426 **Conditions:** The following is the list of conditions that were placed on the trailer parking CUP in 2014; the
427 Planning Commission added #23.

- 428 1. All appropriate provisions of the Afton Code of Ordinances shall be complied with for the duration
429 of the permit.
- 430 2. Valley Branch Watershed District provisions and recommendations shall be met for the duration of
431 the permit.
- 432 3. City Engineer specifications and recommendations for all work including the driveway shall be met
433 for the duration of the permit.
- 434 4. Mn/DOT requirements and recommendations regarding site access shall be met.
- 435 5. The grading and drainage plan, including ponding areas and the infiltration area, shall be
436 constructed according to plans approved by the VBWD and the City Engineer and in conformity
437 with Valley Branch Watershed District requirements, and two rows of trees shall be planted south
438 of the parking area and at the southwest corner of the parking area as indicated on an approved
439 landscaping plan and maintained for screening. The developer shall post an irrevocable letter of
440 credit in the amount of 125% of the estimated cost of construction of the stormwater facilities and
441 the plantings; such letter of credit shall extend for three years beyond the date of approval of this
442 permit by the City Council, and shall be used as a guarantee that the grading will be completed, the
443 drainage facilities will be built and the vegetation planted will survive.
- 444 6. There shall be no fueling of vehicles on site.
- 445 7. There shall be no maintenance of vehicles on site.
- 446 8. Design and location of trailer parking shall conform to the approved site and construction plans.
- 447 9. Storage of anything other than the trailers used by the applicant shall not be allowed, nor shall the
448 applicant use the site for storage of personal property or other vehicles, campers, boats,
449 automobiles, etc.
- 450 10. Parking areas shall have a durable and dustless surface, as approved by the City Engineer
- 451 11. The proposal does not include lighting. If any lighting is added, it shall require an administrative
452 permit. Any lighting shall be designed so that light is directed from the perimeter of the facility
453 towards the center. Lights shall not be directed towards the residential area to the south of the
454 facility, nor shall they adversely affect other property in the area.
- 455 12. Design, location, and specifications of all signs shall conform to the Afton Sign Ordinance. All signs
456 shall require a permit to be issued by the Zoning Administrator.
- 457 13. Silt fences or other types of erosion control shall be properly installed prior to construction; and,
458 shall maintained in good condition until the construction is complete.
- 459 14. No trucks or trailers shall be parked in areas other than those indicated on the plan.
- 460 15. Primary hours of operation shall be between the hours of 6:00 a.m. and 8:00 p.m. No more than an
461 average of 10 trucks per day shall be operated in or out of the property between the hours of 6:00
462 a.m. and 8:00 p.m. The average shall be calculated on a monthly basis.
- 463 16. All trucks shall use the Manning Avenue exit/entry on Interstate Highway 94 for the purpose of
464 entering and exiting the site.
- 465 17. The used of guard dogs on the premises is prohibited.

- 466 18. No hazardous substances, pollutants, (including petroleum and petroleum products) contaminants
467 or harmful substances shall be located or handled or stored on site
468 19. Non-compliance with the conditions of this permit shall be considered a violation; and, may result
469 in revocation of this permit.
470 20. Compliance with conditions of this permit shall be monitored on a periodic basis. The conditions of
471 this permit shall apply to the property described and shall not in any way, except as herein noted,
472 be affected by any subsequent sale, lease, or other change in ownership.
473 21. Construction shall begin within one year of the date of issuance of this permit or the permit shall
474 become null and void.
475 22. An amended conditional use permit shall be required for any future expansions or alterations.
476 23. The screening plan shall be approved by the City Engineer. Trees that become diseased or die will
477 be replaced for 5 years.

478 Motion carried 8-1-0. (Nay: Langan)
479

480 D. Ordinance Amendment Opting Out of the Temporary Health Care Dwelling Statute – Chair Ronningen
481 opened the Public Hearing at 9:19 p.m.

482 Administrator Moorse reported that in May 2016, a new statutory requirement regarding temporary health
483 care dwellings was signed into law. The statute includes a complex set of requirements related to allowing
484 temporary health care dwellings on residential lots in addition to the principal dwelling. Cities have the right to
485 opt out of the statutory requirements. Afton currently has ordinance language that allows the use of a
486 manufactured home as a temporary dwelling unit for an infirm family member. The City also allows non-rental
487 guest apartments within certain parameters, which could be used as a temporary healthcare dwelling unit for a
488 family member.

489 There was no public comment.
490

491 Commission Discussion

492 Kopitzke felt the city shouldn't opt out as the care units are consistent with current ordinances.

493 Doherty felt it might be risky using the state regulations, as we would be bound by that if the state decided to
494 change its parameters.
495

496 Motion/Second: Wroblewski/Langan. To close the Public Hearing at 9:20 p.m.
497

498 Motion/Second: Patten/Wroblewski. To recommend to City Council approval of the ordinance opting out
499 of the statutory requirements for temporary health care dwellings as written. Motion carried 9-0-0.
500

501 E. Ordinance Amendment for Steep Slope Exception to Restrictions for areas of existing Man-Made Slopes
502 that were created by the construction of roads and related ditches – Chair Ronningen opened the Public
503 Hearing at 9:23 p.m.
504

505 Motion/Second: Ronningen/Kopitzke. To continue the Steep Slope public hearing to the October Planning
506 Commission meeting. Motion carried 9-0-0.
507

508 F. Ordinance Amendment to Adopt the Washington County Septic Ordinance by Reference – Chair
509 Ronningen opened the Public Hearing at 9:25 p.m.

510 Administrator Moorse summarized that in April of 2015, Washington County adopted an updated Subsurface
511 Sewage Treatment Systems Ordinance. The Planning Commission and City Council reviewed the ordinance and
512 the City Council directed that the ordinance be adopted by reference.

513 There were no public comments.
514

515 Motion/Second: Ronningen/Wroblewski. To recommend approval to the City Council to adopt the
516 Washington County Septic Ordinance by reference. Motion carried 9-0-0.

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8. NEW BUSINESS – none.

9. OLD BUSINESS -

A. Comprehensive Plan Update Process – Chair Ronningen indicated that due to the late hour, this discussion will be delayed to the October 3 meeting.

B. Draft City Council Minutes – Council Member Ross reported on highlights of the August 16 Council meeting: Reithmeyer’s Nelson Estates Preliminary Plat was approved; the DeMaster Interim Use Permit application was withdrawn and fees refunded.

10. ADJOURN –

Motion/Second: Wroblewski/Seeberger. To adjourn the meeting at 9:26 p.m. Motion carried 9-0-0.

Respectfully submitted by:

Kim Swanson Linner, City Clerk

To be approved on October 3, 2016 as (check one): Presented: _____ or Amended: _____

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Planning Commission Memo

Meeting: October 3, 2016

To: Chair Ronningen and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: September 27, 2016

Re: JoAnn Fox Application for a Conditional Use Permit (CUP) to Allow a Private Kennel at 2855 Nybeck Avenue South. **(To be Continued to the November 7, 2016 Planning Commission Meeting)**

In reviewing the details of the proposed use with the applicant, and in reviewing the private kennel requirements, it was determined that additional information is needed to determine if the proposed use meets all private kennel requirements and if the proposed use requires a private kennel license. It is requested that the Planning Commission's consideration of the application be continued to the November 7, 2016 Planning Commission meeting.

Planning Commission Direction Requested:

Motion to continue the JoAnn Fox Application for a Conditional Use Permit (CUP) to Allow a Private Kennel at 2855 Nybeck Avenue South to the November 7, 2016 Planning Commission meeting.

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Planning Commission Memo

Meeting: October 3, 2016

To: Chair Ronningen and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: September 27, 2016

Re: Ordinance Amendment to Provide an Exception to Steep Slope Restrictions for Areas of Man-Made Slopes Created by the Construction of Public Roads and/or Related Ditches – **Public Hearing**

Continued Public Hearing

At its September 12, 2016 meeting, the Planning Commission continued the public hearing regarding the ordinance amendment concerning steep slopes to its October 3, 2016 meeting.

Background

At its June 13, 2016 meeting, the Council directed staff to work with the Planning Commission to develop an ordinance amendment to provide that the protection of slopes 18% or greater does not include slopes that were less than 18% in their natural state, but were made 18% or greater by grading, i.e. for the construction of a roadway, and also are not environmentally sensitive or fragile.

Planning Commission Recommendation

The Planning Commission, at its July 11 meeting, recommended against a general exception for man-made steep slopes. The Commission pointed to the potential difficulty of demonstrating a slope was man-made and to the possibility that a man-made steep slope may still be environmentally fragile and/or in an environmentally sensitive area. Instead, the Commission recommended a narrower exception, for example, specifically related to a driveway crossing a ditch area that has steep slopes. The Commission also recommended that there should be a process, such as a variance process, related to making this exception, through which the property owner would demonstrate that the slope was man-made, that it was not environmentally fragile, that it would be protected from erosion, and that the inability to disturb the steep slope was causing a practical difficulty.

Council Direction

At its July 19 and August 16, 2016 meetings, the Council discussed a narrower exception related to man-made steep slopes, specifically related to steep slopes that were created by the construction of a road and/or related drainage ditches or a driveway. The specific language agreed to by the Council was that steep slopes created by the construction of a public road and/or related ditches that do not exceed 30 feet in length perpendicular to the road, should not be subject to restrictions on the disturbance of steep slopes. When these steep slopes are proposed to be disturbed, either a driveway

permit or a grading permit will be required to ensure review by the City Engineer related to drainage and erosion control measures. An ordinance amendment reflecting the Council's language is attached for the Planning Commission's consideration.

Planning Commission Direction Requested:

Motion regarding a recommendation concerning the ordinance amendment to provide an exception to steep slope restrictions for areas of man-made slopes created by the construction of public roads and/or related ditches.

ORDINANCE XX-2016

**CITY OF AFTON, MINNESOTA
WASHINGTON COUNTY, MINNESOTA**

AN ORDINANCE AMENDING CHAPTER 12, LAND USE, TO PROVIDE AN EXCEPTION TO STEEP SLOPE RESTRICTIONS FOR EXISTING MAN-MADE SLOPES THAT WERE CREATED BY THE CONSTRUCTION OF PUBLIC ROADS AND RELATED DITCHES

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

The following sections of the Afton Code of Ordinances shall be amended by adding the underlined language

Sec. 12-132 Minimum Requirements.

E. Setbacks

2. Setbacks from slopes. All structures, including but not limited to, driveways, decks, swimming pools, and so forth, shall be setback a minimum of 20 feet from the crest of all slopes exceeding 18 percent as determined by the Zoning Administrator, with the exception of man-made slopes that were created by the construction of roads or related ditches, and that extend perpendicular to the road for a horizontal distance of 30 feet or less. An exception to this requirement, allowing an encroachment within the 20 foot setback from an 18 percent slope, is allowed outside of the Lower St. Croix River Bluffland and Shoreland Management District via a Conditional Use Permit (CUP) ~~CUP~~. As a condition of approval the applicant must submit an erosion control plan for the proposed encroachment. The erosion control plan shall be reviewed and approved by the City Engineer. In addition, the Zoning Administrator shall require a performance bond or Letter of Credit for a period of two (2) years beginning at the time of completion to ensure the applicant adheres to the erosion control, landscaping and any revegetation plan. The performance bond or letter of credit shall equal 125% of the total cost of the erosion control as recommended by the City Engineer.

Sec. 12-215 Land Reclamation and Grading.

D. Grading of Slopes

1. No slopes of 18% or greater shall be disturbed, with the exception of man-made slopes that were created by the construction of roads or related ditches, and that extend perpendicular to the road for a horizontal distance of 30 feet or less.

Sec. 12-283 Definitions.

Scenic easement, also referred to as a natural protection easement, means an easement dedicated by a developer restricting the use of lands with steep slopes, floodprone areas as well as other fragile areas. The purpose of the scenic easement is to protect environmentally sensitive lands.

- A. Scenic easements shall be required on slopes of 18 percent and greater, wetlands, drainageways, and other lands and soils judged to be fragile by the soil conservation service, with the exception of man-made slopes that were created by the construction of roads or related ditches, and that extend perpendicular to the road for a horizontal distance of 30 feet or less. Such easements shall be...

Sec. 12-407. Topographic alterations; grading and filling.

ORDINANCE XX-2016

D. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- 7. Fill or excavated material shall not be placed on steep slopes, with the exception of man-made slopes that were created by the construction of roads or related ditches, and that extend perpendicular to the road for a horizontal distance of 30 feet or less.

- 12. Scenic easements on slopes greater than 18 percent shall be required as per the City subdivision ordinance, article VI of this chapter, with the exception of man-made slopes that were created by the construction of roads or related ditches, and that extend perpendicular to the road for a horizontal distance of 30 feet or less.

Sec. 12-1259. Public sites and open spaces.

B. *Scenic easements.* Scenic easements shall be required on slopes of 18 percent and greater, wetlands, drainageways, and other lands and soils judged to be fragile by the soil conservation service, with the exception of man-made slopes that were created by the construction of roads or related ditches, and that extend perpendicular to the road for a horizontal distance of 30 feet or less.

Sec. 12-1384. Easements

E. *Scenic easements.* Scenic easements shall be required on slopes of 18 percent and greater, wetlands, drainageways, and other lands and soils judged to be fragile by the soil conservation service, with the exception of man-made slopes that were created by the construction of roads or related ditches, and that extend perpendicular to the road for a horizontal distance of 30 feet or less. Scenic easements also shall be required on slopes greater than 12 percent...

This ordinance shall take effect upon publication of this ordinance.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF OCTOBER, 2016.

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moorse, City Administrator

Motion by:
Second by:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Planning Commission Memo

Meeting: October 3, 2016

To: Chair Ronningen and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: September 27, 2016

Re: Amendment to the Zoning Code to add Sec. 12-2041. Septic System Compliance and Inspection, which includes additional requirements for septic system compliance inspections – **Public Hearing**

At its September 20, 2016 meeting, the Council referred to the Planning Commission, for a public hearing and recommendation, the attached ordinance reflecting two additional triggers for septic system compliance inspections. The additional triggers are to accelerate the timing of identifying and replacing non-compliant septic systems to protect groundwater, which is essential to continued development using private wells and private septic systems. The Washington County Septic Ordinance, which the City has adopted by reference, includes three septic compliance inspection triggers. These are as follows:

- A. Prior to the issuance of a permit for the addition of a bedroom
- B. For all new construction and replacement
- C. Prior to the transfer of any real property

Additional Septic System Compliance Inspection Triggers

The additional compliance inspection triggers are as follows:

When any building permit application is made for work:

- A. That has a valuation of over \$75,000; or
- B. That has a value that is more than 40% of the assessed value of the principal structure on the property.

An ordinance reflecting the additional compliance inspection triggers is attached for the Planning Commission's review and recommendation.

Planning Commission Direction Requested

Motion regarding a recommendation concerning the ordinance amendment adding new triggers for septic system compliance inspections.

ORDINANCE XX-2016

CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE IX. SEWAGE, ADDING ADDITIONAL SEPTIC SYSTEM COMPLIANCE INSPECTION REQUIREMENTS

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS: The following sections shall be amended by adding the underlined language and renumbering sections as shown below.

Subdivision IV. Maintenance and Septic System Compliance

Sec. 12-2041. Septic system compliance and inspection.

1. In addition to the septic system compliance inspection regulations detailed in Section 8.10 of the Washington County, Ch. 4. Subsurface Sewage Treatment System (SSTS) Regulations, Ordinance #196, the City of Afton does hereby require existing septic systems to be inspected for compliance when any building permit application is made for work:
 - A. That has a valuation of over \$75,000; or
 - B. That has a value that is more than 40% of the assessed value of the principal structure on the property.
2. A septic inspection must be conducted to ensure compliance with applicable requirements, unless the owner can document that the septic system has passed an inspection within the last 10 years.

Sec 12-2042 – 12-2044. Reserved.

This change shall take effect upon publication of this ordinance.

ADOPTED BY THE CITY OF AFTON CITY COUNCIL THIS 18th DAY OF OCTOBER, 2016.

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moorse, City Administrator

Motion:
Second:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Planning Commission Memo

Meeting: October 3, 2016

To: Chair Ronningen and members of the Planning Commission
From: Ron Moorse, City Administrator
Date: September 27, 2016
Re: Minimal Impact Design Standards (MIDS) Ordinance Amendment

Minimal Impact Design Standards (MIDS) are standards and processes used to guide construction projects and development plans in a way that minimizes impacts to surface water and protects water quality. MIDS regulations are being used by cities and watershed management organizations, such as the Valley Branch Watershed District and the Middle St. Croix Water Management Organization (MSCWMO). The MSCWMO has obtained grant funding to assist cities in incorporating MIDS into their zoning regulations. The MSCWMO has hired Jay Michels, an engineering consultant with expertise in MIDS, to assist in this process. Mike Isensee, Executive Director of the MSCWMO and Jay Michels have reviewed Afton's zoning regulations and have developed recommendations regarding incorporating MIDS into those regulations. At its July 11, 2016 meeting, the Planning Commission received a presentation regarding MIDS from Mike Isensee of the MSCWMO. Attached is the memorandum regarding integrating MIDS into the City of Afton Code that was prepared by Mike Isensee and Jay Michels and was presented at that meeting.

In reviewing the City's zoning code, the consultant suggested that rather than making substantial changes throughout the existing zoning code to reflect the various elements of MIDS, it would be more straightforward and user-friendly to make minor changes to the zoning code that refer to a new code chapter devoted to MIDS. Attached are a memorandum that summarizes the proposed changes to the zoning code and a new Chapter 13 titled Stormwater Management and Erosion Control.

The next step is review and feedback by the Planning Commission regarding the integration of the MIDS standards into the City Code. If the Planning Commission has questions regarding the proposed Chapter 12 revisions and/or the proposed new Chapter 13, Mike Isensee and/or Jay Michaels could be requested to attend the November Planning Commission meeting.

Planning Commission Direction Requested

Motion providing feedback regarding the draft ordinance integrating MIDS into the City Code.

Project Name | MIDS Community Assistance Package

Date | September 26,
2016

To | City of Afton Planning Commission

Mike Isensee, MSCWMO

From | Jay Michels, EOR

Spencer Peck, EOR

Regarding | Integrating MIDS into City of Afton Municipal Code

Introduction

This memorandum presents a narrative description of why the City of Afton should update its existing stormwater management ordinances. At the direction of Afton City Council (please see resolution 2015-19 passed by the City of Afton City Council on February 17, 2015), staff at Emmons & Olivier Resources (EOR) thoroughly reviewed the existing City Code looking for opportunities to incorporate standards and policies from the Minimal Impact Design Standards Model Stormwater Ordinance (MIDS or Model Ordinance). The goal of the review and recommendations is to improve the effectiveness, consistency, and transparency of the City's ordinances and to continue protecting the community's water resources. The Middle St. Croix Watershed Management Organization (MSCWMO), EOR and City Staff considered the findings of the initial review at joint working session on April 22, 2015. Based on City Staff feedback the draft ordinance was completed and is now presented to the Planning Commission.

Minimal Impact Design Standards (MIDS) History

This section briefly reviews the state-wide importance of water resources, the evolution of stormwater management generally, and how the Minimal Impact Design Standards (MIDS) Model Stormwater Ordinance were designed to protect these valuable, fragile resources.

Water is one of the most important natural resources in Minnesota. It is important to local economies, crucial for wildlife, and a critical component of Minnesotans' lifestyles and recreational pursuits. Clean, abundant water is a key issue all across the state: from the beautiful north shore of Lake Superior, to the game fishing and water recreation on the numerous in-land lakes, to the agricultural heartland of the south and west. The pervasive importance of water is the fundamental rationale for protecting and restoring the State's highly valued water resources. One crucial component in protecting and restoring Minnesota's water resources is effective stormwater management.

Stormwater management has evolved substantially during the past 20 years. Historically, stormwater management solutions concentrated on directing stormwater off-site quickly and reducing flooding concerns. The main tool to achieve these goals was collecting runoff in stormwater ponds and other detention facilities. The shortcomings of these approaches can be seen in the extensive water pollution in Minnesota, including huge number of impaired waters. Unfortunately, water resources in and around the City of Afton have not avoided damage or degradation from the failures of outdated stormwater management. A more modern and effective method of protecting waterbodies is to retain the raindrop where it falls through the use of

retention methods. This minimizes runoff, reduces pollution, and increases infiltration and groundwater recharge. Stormwater retention, as opposed to detention, is the overarching concern of the Minimal Impact Design Standards (MIDS).

The MIDS performance standards and Model Ordinance was developed over the course of four years (October 2009 – June 2013) with the help of the Minnesota Pollution Control Agency (MPCA) and a diverse group of stakeholders and experts. The foundation of MIDS is Low Impact Development (LID) standards, which use technologies and best management practices (BMP) to mimic a site's natural hydrology as the landscape is developed. The standards and procedures in MIDS are a set of effective, flexible, and adaptable tools designed to retain stormwater where it falls. In fact, these tools go beyond just managing stormwater, but also provide solutions for numerous issues associated with utility and infrastructure projects such as requiring financial securities, codifying fair and effective enforcement procedures, and ensuring facility inspection and maintenance.

Basic Principles of MIDS

The Minimal Impact Design Standards represent the next generation of stormwater management in Minnesota. Using Low Impact Development (LID) principles, MIDS emphasizes keeping the raindrop where it falls in order to minimize stormwater runoff and pollution. Low Impact Development is an internationally recognized approach to stormwater management that mimics a site's natural hydrology as the landscape is developed. The LID approach preserves and protects environmentally-sensitive sites and natural features, including riparian buffers, wetlands, steep slopes, valuable trees, floodplains, woodlands, and highly permeable soils. MIDS incorporates these concepts to achieve more effective stormwater management with four main components:

1. Strong, consistent performance standards for the full range of constructions projects.
2. Flexible Treatment Alternatives designed to achieve high water quality standards despite site constraints such as high water tables, karst geology, or soil issues.
3. A MIDS Design Sequence Flow Chart to assist all stakeholders, from the most experienced developer to a first-time home builder, navigate, understand, and effectively apply the performance standards to specific projects.
4. A new calculator and credit calculations that standardize the use of a range of innovative structural stormwater practices and facilities.

Performance Standards

Stormwater performance standards do not exist in Afton's current code. The current version of section 12-409 "Stormwater Management" lists both general and specific standards. These standards amount to only six sentences. The only objective standard imposed by these sections is a maximum amount of impervious surface coverage (10 percent). Although a "qualified

individual” must “document” that stormwater facilities are properly designed and installed, this standard fails to specify the required qualifications. The other standards provide only vague and unquantifiable standards. For instance, development must “minimize the extent of disturbed area” and be stabilized “as soon as possible.” Finally, the practices suggested as methods of stormwater management do not include modern technology, but instead focus on simply diverting runoff away from the site, or using stormwater ponds. Adopting MIDS offers the City of Afton the opportunity to implement performance standards to protect the community’s valuable water and land resources.

The MIDS Model Ordinance ensures consistent and effective management of a range of stormwater issues, including reducing the velocity at which stormwater leaves a particular property (rate), reducing the amount of water generated by the impervious surfaces on that property (volume), and removing sediment, nutrients, and other pollutants contained in the stormwater (water quality). These factors have important impacts on the body of water receiving stormwater—if not properly managed, each can damage, or even destroy a body of water. Performance standards differ depending on the severity of the storm (e.g. the 1-year, 2-year, 10-year, and 100-year, 24-hour storm events). Generally under MIDS, new development and redevelopment projects must capture, and retain on-site, up to 1.1 inches of runoff from all impervious surfaces on the site.¹ Linear development (e.g. road construction).

These strong performance standards provide enhanced protection for Minnesota’s water resources without placing unreasonable or unnecessary burdens on developers or landowners. When adopted, MIDS can help communities achieve both water quality and regulatory goals. For instance, MIDS can be used to meet anti-degradation requirements; achieve rate and volume controls, actively reduce several pollutant loads; and achieve waste load reductions as specified in a Total Maximum Daily Load (TMDL) standards. The clear, concise, and quantifiable standards provided by MIDS also prevent anyone in the community from avoiding, exploiting, or neglecting the requirements of the ordinance. Simply put, the standards cannot be flouted or abused. Finally, MIDS is an approved approach for satisfying the requirements for new development and redevelopment outlined in Minimum Control Measure (MCM) 5 of the General Permit for small Municipal Separate Storm Sewers (MS4 Permits).

Flexible Treatment Alternatives

Many developers and land owners fear updates to development policies. They believe new regulations may result in impracticable requirements for a previously undeveloped site. These beliefs are often especially strong in communities where development policies are less stringent or are applied infrequently. The MIDS development group foresaw these obstacles, and purposely integrated measures of flexibility in the Model Ordinance and its performance

¹ Long-Form MIDS Stormwater Ordinance, § 6(d)

standards. If an applicant is unable to achieve the full MIDS performance goals due to site restrictions as documented by the applicant and attested by the local authority, the development project may instead follow one of three Flexible Treatment Alternatives.

The first alternative is to retain a smaller volume of runoff, remove a large percentage of the total phosphorous load from the discharged runoff, and attempt to address constraints by relocating project elements. If the first alternative is unfeasible, the second alternative reduces the volume standards to a “maximum extent practicable” level, further decreases the percentage of total phosphorous that must be removed, and analyses the effect of relocation of project elements. Finally, if the first two alternatives are unattainable, the third alternative allows off-site mitigation equivalent to the full volume reduction performance goal. These alternatives are intended to be used in sequence. Each step of the sequence must be documented, reviewed, and approved by the local authorities.

MIDS Calculator

One of the greatest aspects of MIDS is that it standardizes the benefits of non-structural and technological stormwater practices. The MIDS Best Management Practice (BMP) calculator is a Microsoft Excel-based tool used to determine stormwater runoff volume and pollutant reduction capabilities of various low impact development (LID) BMPs. The MIDS calculator estimates the stormwater runoff volume reductions for various BMPs based on the MIDS performance goal (1.1 inches of runoff off impervious surfaces) and annual pollutant load reductions for total phosphorus (including a breakdown between particulate and dissolved phosphorus) and total suspended solids (TSS).

Standardization of stormwater Best Management Practices (BMPs) not only simplifies the development process, but also supports decision-makers in determining which design aspects will satisfy a community’s goals. All the BMPs recommended by the MIDS system have been reviewed and approved by a host of stormwater professionals, including the Minnesota Pollution Control Agency (MPCA). The MIDS Calculator also helps communities quantify load reductions in applications for grants and other funding opportunities. In short, the MIDS Calculator reduces workloads for developers and City Staff, and clarifies the stormwater management possibilities to even the most unsophisticated user.

Overlapping Authority and MIDS

MIDS is especially effective in Minnesota because it is typically implemented by several overlapping authorities, including watershed districts (WDs), watershed management organizations (WMO), counties, and municipalities. In fact, nearly every level of water governance has adopted the MIDS approach. The MIDS development process and state wide application is codified in state statute (Minn. Stat. 115.03 Subd. 5c(c)). The Minnesota Department of Natural Resources, a state-level agency, incorporated the MIDS performance

goals into its Stormwater and Shoreline Best Management Practices for Public Water Accesses.¹ Further, the Minnesota Pollution Control Agency (MPCA), the state agency responsible for issuing permits and overseeing many pollution prevention and water quality programs, was heavily involved in the development of MIDS, and has approved MIDS as a method for achieving the regulatory requirements for several state-wide programs.

At the watershed level, a significant number of Watershed Districts, Water Management Organizations, Lake Improvement Districts, Soil and Conservation Districts, and municipalities have adopted, or are actively preparing to adopt MIDS standards, including several of Afton's immediate neighbors.² These organizations have a critical role in achieving the water quality and resource conservation goals set at the state and local level. Since MIDS was released in 2013, five watershed districts, two water management organization, and six cities have adopted MIDS. The Middle St. Croix Watershed Management Organization was awarded a Clean Water grant in 2014 to implement the MIDS Community Assistance Package. The watershed management organization will work with up to 13 communities in the St. Croix Basin to adopt ordinance and code revisions to incorporate MIDS stormwater quality and volume standards for new development and redevelopment. Among these communities, two (Lakeland Shores and Lakeland) have already adopted the MIDS approach.

Consistency and the MIDS Approach

MIDS also ensures a community's stormwater management ordinance is internally consistent and easy to use. The existing code uses multiple terms (i.e. drainage, stormwater, runoff, etc) which could cause a developer or landowner significant confusion. More problematic is the current cumbersome and disorganized structure. The relevant terms and standards are scattered throughout the code with no organization or consistency. Most appear in Chapter 12, but this Chapter is over 200 pages long and has several dozen subchapters, sections and subsections. For instance, to determine the exact stormwater management requirements for a particular project, at least thirteen (13) separate provisions must be consulted. These provisions are spread from page 10 to page 211, and only one provision even contains the term "stormwater management." Creating a stormwater pollution prevention plan for a project is thus a major undertaking requiring frequent contact with City staff, long hours reviewing the City Code, and possibly even hiring professional help.

Adopting MIDS offers an easy alternative. First, the new provisions would simply be slotted into the existing code. Using the reserved Chapter 13, MIDS could be integrated into the existing code as a standalone chapter titled "Stormwater Management." No major rewrite is required, beyond deleting conflicting or supplemented sections. Second, and most importantly, are the benefits of a stand-alone chapter. A single, organized stormwater management chapter would save developers and City staff enormous amounts of time and money. Instead of searching through a 200-page document, both Staff and developers would need to look at only one chapter

of the code to determine what stormwater management standards must be met. Moreover, even first time builders, or developers new to Afton could easily integrate the performance standards, and use the simple tools in the MIDS ordinance to develop a state-of-the-art stormwater management system.

In summary, Afton will greatly benefit from adopting the MIDS performance standards as recommended by the MSCWMO and EOR review. The MIDS updates provide clear and effective performance standards, which the current code lacks. The new ordinance does not place an unreasonable burden on landowners or developers. Thanks to the Flexible Treatment Alternative, the updates may open sites to development that were previously unavailable as a result of site constraints. The recommended updates bring Afton to the state-of-the-art stormwater management and seamlessly integrate their approach with neighboring communities and other overlapping layers of authority. Finally, the updates improve the effectiveness and consistency of the code with a new stand-alone stormwater management chapter. All water resources in and around Afton will greatly benefit from the reduced runoff volumes and rates, and decrease pollution loads once MIDS is adopted and implemented.

¹ Minnesota Dept. of Nat. Resources, Stormwater and Shoreline Best Management Practices for Public Water Accesses

² See "Minnesota Stormwater Manual - Communities that Adopted MIDS," at [http://stormwater.pca.state.mn.us/index.php/Community Assistance Package](http://stormwater.pca.state.mn.us/index.php/Community_Assistance_Package).

To: Afton City Council and Community Members
From: Spencer J Peck, Emmons & Olivier Resources
Date: May 5, 2016
Re: Summary of Updates to Chapter 12

Memorandum

This memorandum briefly summarizes the changes made to Chapter 12 – Zoning, of the City of Afton Code of Ordinances. These changes were required as part of the City’s efforts to adopt a new ordinance regulating stormwater management and erosion and sediment control. The new ordinance is contained in a new Chapter 13 – Stormwater Management and Erosion and Sediment Control.

The changes to Chapter 12 are very small in scope and serve to ensure consistency within and among the various City ordinances. Modified Chapter 12 provisions are also designed to alert community members and developers that new stormwater management and erosion control provisions are codified in Chapter 13. The changes are listed in the bullet points below.

- **Sec. 12-55. Definitions.**
 - Several new definitions were added to ensure new terms are clear and understandable. Some of the new terms are not necessarily contained in Chapter 12, but are included in Chapter 13.
- **Sec. 12-132(C)(1). Minimum requirements.**
 - This section lists and describes “additional engineering and design guidelines” for use within the “agricultural zone.”
 - This provision might have been unintentionally overlooked in previous conversations regarding adopting Chapter 13. It might be useful for City Staff to review this provision and decide if anything needs to happen. In its current state, this may be duplicative of the plans and documents required for the SWPP/ESCP permitting process.
- **Sec. 12-215. Land reclamation and land grading.**
 - Updated terms for consistency with new Chapter 13. Specifically, replaced old terms, such as “drainage” with “stormwater management.”
 - Added new criteria for the Zoning Administrator to consider when determining whether to require a stormwater pollution prevention plan or erosion and sediment control plan. The old list was outdated, and inadequate to protect water resources from the full range of causes of pollution.
 - Added language ensuring SWPPs and ESCPs meet the standards of Chapter 13.
- **Sec. 12-217. Drainage.**
 - Updated language to apply provisions to sites “with the potential to cause unreasonable flooding” as a result of stormwater runoff.
 - Modified language to direct stormwater run-off to “stormwater management facilities that are consistent” with Chapter 13. Removed conflicting, outdated stormwater management practices.
 - Added a clause requiring any increases in stormwater runoff rates or volumes to comply with Chapter 13
- **Sec. 12-409. Stormwater Management.**
 - This section formerly contained general and specific goals for stormwater management.

- Deleted all old provisions, and replaced with new provisions requiring all building permits and land disturbing activity to obtain a SWPP or ESCP as required by Chapter 13.
- **Sec. 12-1474. Financial Guarantee**
 - Updated language and terms for financial guarantees for Grading and ESCP plans.
 - Added a clause requiring financial guarantees for SWPPs.

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Chapter 13

Stormwater Management and Erosion Control

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Article I. In General

Secs. 13-1 – 13-49. Reserved.

Article II – Stormwater Management and Erosion Control

Division 1. Generally.

Sec 13-50. Statutory Authorization

This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes §§ 103B, 103D, and 462; Minnesota Rules, Parts 6120.2500- 6120.3900; and Minnesota Rules Chapters 8410 and 8420.

This ordinance is intended to meet the construction site erosion and sediment control and post-construction stormwater management regulatory requirements for construction activity and small construction activity (NPDES Permit) as defined in 40 CFR 122.26(b)(14)(x) and (b)(15), respectively.

This ordinance is intended to meet the Minimal Impact Design Standards (MIDS) developed under Minnesota Statutes § 115.03 subd. 5c.

Sec. 13-51. General Purposes.

The purpose of this ordinance is to establish regulatory requirements for land development and land disturbing activities aimed at minimizing the threats to public health, safety, public and private property and natural resources within the City from construction site erosion and post-construction stormwater runoff.

Sec. 13-52. Specific Purposes.

It is hereby determined by the City Council that in order to accomplish the general purposes of this article as set forth in Section 13-52, it is necessary and proper to establish and enforce the regulations contained in this article for the following specific reasons:

- A. Meet MIDS performance standards;
- B. Assist in meeting NPDES/SDS Construction Stormwater General Permit requirements;
- C. Assist in meeting Total Maximum Daily Load (TMDL) plan waste load allocations for impaired waters through quantification of load reductions;
- D. Assist in meeting policies and performance standards of the Middle St. Croix Water Management Organization (MSCWMO) and Valley Branch Watershed District (VBWD);
- E. Protect life and property from dangers associated with flooding;
- F. Protect public and private property and natural resources from damage resulting from stormwater runoff and erosion;
- G. Ensure site design minimizes the generation of stormwater runoff and maximizes pervious areas for stormwater treatment within the context of the allowable use;
- H. Provide a single, consistent set of performance goals that apply to all developments;

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- I. Protect water quality from pollutant loadings of sediment, suspended solids, nutrients, heavy metals, toxics, debris, bacteria, pathogens, biological impairments, thermal stress and other pollutants;
- J. Promote infiltration and groundwater recharge;
- K. Provide vegetated corridors (buffers) to protect water resources from development;
- L. Protect functional values of all types of natural waterbodies (e.g., rivers, streams, wetlands, lakes, seasonal ponds); and
- M. Sustain or enhance biodiversity (native plant and animal habitat) and support riparian ecosystems.

Sec. 13-53. Scope

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

Sec. 13-54. Greater restrictions

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

Sec. 13-55. Severability

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

Secs. 13-56 – 13.89. Reserved.

Division 2. Applicability.

Sec. 13.90. Stormwater management permit

Unless otherwise exempted by Section 3, an approved Stormwater Management Permit shall be required prior to any proposed land development activity that meets any of the criteria in 1. through 5. immediately below. All stormwater management permits shall include an Erosion and Sediment Control Plan (ESC Plan) or a Stormwater Pollution Prevention Plan (SWPPP)

- A. Any project that creates or fully reconstruct 6,000 square feet or more of impervious surface.
- B. All major subdivisions or minor subdivisions that are part of a common plan of development.

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- C. Projects within the St. Croix Riverway that add 500 square feet or greater of additional impervious surface.
- D. Any project requiring a variance from the current local impervious surface zoning requirements for the property.
- E. Any land development activity, regardless of size, that the City determines is likely to cause an adverse impact to an environmentally sensitive area or other property.

Sec. 13.91. Erosion and sediment control plan

Unless otherwise exempted by this ordinance in Section 3, an Erosion and Sediment Control Plan shall be required as part of any Grading and Filling Permit or Building Permit which proposes any land disturbing activity that meets any of the criteria in 1. through 3. below.

- A. Any project undertaking grading, filling, or other land alteration activities which involve movement of 100 cubic yards of earth or removal of vegetation on greater than 6,000 square feet of land.
- B. Any project with wetland impacts, grading within public waters, grading within buffers or within 40-feet of the bluff line.
- C. A land disturbing activity, regardless of size, that the City determines is likely to cause an adverse impact to an environmentally sensitive area or other property, or may violate any other erosion and sediment control standard set forth in this ordinance.

Sec. 13.92. Buffers

A buffer of unmowed natural vegetation shall be required upslope of wetlands, lakes and streams prior to the approval of any proposed land development requiring a subdivision, lot split, rezoning, special use permit or variance, unless otherwise exempted in this ordinance in Section 13-94.

Sec. 13.93. Exemptions

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

- A. Emergency work necessary to protect life, limb, or property.
- B. Routine agricultural activity such as tilling, planting, harvesting, and associated activities. Other agricultural activities are not exempt including activities such as construction of structures.
- C. Silvicultural/forestry activity.

Sec. 13.94. Definitions

Words or phrases used in this ordinance shall have the meanings as defined by Appendix B of the Minnesota Construction Stormwater Permit No: MN R100001 (Construction Permit)¹

If not defined in the Construction Permit, then words or phrases shall be interpreted to have the meaning they have in common usage.

¹ Available at <http://www.pca.state.mn.us/wfhya5b>

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Words or phrases shall be interpreted so as to give this ordinance its most reasonable application.

For the purpose of this ordinance, the words “must”, “shall”, and “will” are mandatory and not permissive.’

- A. **Applicant.** The owner of land submitting an application under the provisions of this ordinance for a Stormwater Management Permit (SWMP) and/or Erosion and Sediment Control Plan (ESC Plan) to be issued by the community.
- B. **Best Management Practices (BMPs).** The most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.
- C. **Better Site Design.** The control and management of stormwater quantity and quality through the application of Better Site Design Techniques as outlined in the current version of the Minnesota Stormwater Manual. Better Site Design includes: preservation of natural areas; site reforestation; stream and shoreland buffers; open space design; disconnection of impervious cover; rooftop disconnection; grass channels; stormwater landscaping; compost and amended soils; impervious surface reduction; and trout stream protection.
- D. **Common Plan of Development or Sale.** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
- E. **Construction Activity.** Includes construction activity as defined in 40 CFR pt. 122.26(b)(14)(x) and small construction activity as defined in 40 CFR pt. 122.26(b)(15) and construction activity as defined by Minn. R. 709.0080, subp. 4. This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling, and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more. Construction activity does not include a disturbance to the land of less than five (5) acres for the purpose of routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. (NOTE – The community may wish to change this to a smaller disturbance area. A smaller area is more restrictive than the state/federal requirements, so it would be allowable for a local government.)
- F. **Development, New.** Any development that results in the conversion of land that is currently prairie, agriculture, forest, or meadow and has less than 15% impervious surface. Land that

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was previously developed, but now razed and vacant, will not be considered new development.

- G. **Erosion and Sediment Control Plan (ESC Plan).** A plan for projects disturbing less than one acre that is in compliance with the minimum requirements of the MSCWMO and VBWD. The plan identifies erosion prevention and sediment control practices, location and timelines for installation. The plan also includes responsible parties and timelines for inspection and maintenance.
- H. **Erosion Prevention.** Measures employed to prevent erosion. Examples include but not limited to: soil stabilization practices, limited grading, mulch, temporary erosion protection or permanent cover, and construction phasing.
- I. **Fully Reconstructed Impervious Surface.** Areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and pavement rehabilitation projects that do not alter underlying soil material beneath the structure, pavement, or activity are not considered fully reconstructed impervious surfaces. Reusing the entire existing building foundation and re-roofing of an existing building are not considered fully reconstructed.
- J. **Impervious Surface.** A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.
- K. **Land Disturbance.** Any activity that result in a change or alteration in the existing ground cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, stockpiling, excavation, and borrow pits. Routine vegetation management, and mill and overlay/resurfacing activities that do not alter the soil material beneath the pavement base, are not considered land disturbance. In addition, other maintenance activities such as catch basin and pipe repair/replacement, lighting, and pedestrian ramp improvements shall not be considered land disturbance for the purposes of determining permanent stormwater management requirements.
- L. **Linear Project.** Construction or reconstruction of roads, trails, sidewalks, and rail lines that are not part of a common plan of development or sale. Mill, overlay and other resurfacing projects are not considered to be reconstruction.
- M. **Major Subdivision.** All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of an existing street.
- N. **Minor Subdivision.** Any subdivision containing three (3) or less lots fronting on an existing street, not part of a common plan of development nor involving any new street or road or the extension of municipal facilities.
- O. **National Pollutant Discharge Elimination System (NPDES).** The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the

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

- P. **Owner.** The person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease, easement, or mineral rights license holder, the party or individual identified as the lease, easement or mineral rights license holder; or the contracting government agency responsible for the construction activity.
- Q. **Permanent Cover.** Surface types that will prevent soil failure under erosive conditions. Examples include: gravel, asphalt, concrete, rip rap, roof tops, perennial cover, or other landscaped material that will permanently arrest soil erosion. A uniform perennial vegetative cover (e.g., evenly distributed, without large bare areas) with a density of 70% of the native background vegetative cover for the area must be established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures. Permanent cover does not include the practices listed under temporary erosion protection.
- R. **Permittee.** A person or persons, firm, or governmental agency or other entity that signs the application submitted to the City and is responsible for compliance with the terms and conditions of the permit.
- S. **Predevelopment State.** The rate and volume of stormwater is unchanged. The calculation of predevelopment is based on native soils and vegetation.
- T. **Public Waters.** All water basins and watercourses that are described in Minn. Stat. § 103G.005 subd. 15.
- U. **Redevelopment.** Any development that is not considered new development.
- V. **Retain.** Manage stormwater on site using a low-impact development approach so that the rate and volume of predevelopment stormwater reaching receiving waters is unchanged.
- W. **St. Croix Riverway.** All lands and public waters within the riverway boundary subject to the standards and criteria for the Lower Saint Croix National Scenic Riverway in Minnesota.
- X. **Saturated Soil.** The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.
- Y. **Sediment Control.** Methods employed to prevent sediment from leaving the site. Sediment control practices include: silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, bio rolls, rock logs, compost logs, storm drain inlet protection, and temporary or permanent sedimentation basins.
- Z. **Stormwater Facility.** A stationary and permanent BMP that is designed, constructed and operated to prevent or reduce the discharge of pollutants in stormwater.
- AA. **Small Construction Activity.** As defined in 40 CFR part 122.26(b)(15). Small construction activities include clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of

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development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five (5) acres.

- BB. **Stabilized.** Exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Grass, agricultural crop or other seeding alone is not stabilization. Mulch materials must achieve approximately 90 percent ground coverage (typically 2 ton/acre).
- CC. **Stormwater.** As defined under Minn. R. 7077.0105, subp. 41(b), and includes precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage.
- DD. **Stormwater Pollution Prevention Plan (SWPPP).** A plan for stormwater discharge that includes erosion prevention BMPs, sediment control BMPs and permanent stormwater management systems that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.
- EE. **Surface Water(s).** All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private, except that surface waters do not include treatment basins or ponds that were constructed from upland.
- FF. **Temporary Erosion Protection.** Methods employed to prevent erosion during construction activities. Examples of temporary erosion protection include; straw, wood fiber blanket, wood chips, vegetation, mulch and rolled erosion control products.
- GG. **Underground Waters (Groundwater).** Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term groundwater shall be synonymous with underground water.
- HH. **Wetland(s).** As defined in Minn. R. 7050.0130, subp. F and includes those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:
1. A predominance of hydric soils.
 2. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition.
 3. Under normal circumstances support a prevalence of such vegetation.

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Secs. 13.96 – 13.119. Reserved.

Division 3. Permit Review Process.

Sec. 13.120. Pre- application meeting

At the discretion of the Zoning Administrator, the City shall facilitate a pre-application meeting with the applicant, City staff (or their authorized representative), and staff of relevant partner agencies (e.g. WCD, MSCWMO, VBWD, MDNR, etc.). The purposes of the meeting are to understand the general parameters of the proposed project and to convey the requirements of meeting the provisions of the ordinance.

Sec. 13.121. Application completeness review.

The City shall make a determination regarding the completeness of a permit application and notify the applicant in writing if the application is not complete including the reasons the application was deemed incomplete.

Sec. 13.122. Application review.

The applicant shall not commence any construction activity subject to this ordinance until a permit has been authorized by the City.

Sec. 13.123. Permit authorization.

If the City determines that the application meets the requirements of this ordinance, the City may issue approval authorizing the project or activity. The approval shall be valid for one year.

Sec. 13-124. Permit denial.

If the City determines the application does not meet the requirements of this ordinance the application must be denied. If the application is denied, the applicant will be notified of the denial in writing including reasons for the denial. Once denied, a new application must be resubmitted for approval before any activity may begin.

Sec. 13-125. Plan information requirements.

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

Sec. 13-126. Modification of permitted plans.

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

- A. There is a change in design, construction, operation, maintenance, weather or seasonal conditions that has a significant effect on the discharge of pollutants to surface water or underground water.

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- B. Inspections or investigations by site operators, local, state or federal officials indicate the plans are not effective in eliminating or significantly minimizing the discharge of pollutants to surface water or underground water or that the discharges are causing water quality standard exceedances.
- C. The plan is not achieving the general objectives of minimizing pollutants in stormwater discharges associated with construction activity.

Sec. 13-127. Permit completion.

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

Secs. 13-128 – 13-139. Reserved.

Division 4. Site Design and MIDS Calculator.

Sec. 13-140. Better Site Design.

Whenever possible, development projects shall be designed using the Better Site Design Techniques of the current version of the Minnesota Stormwater Manual.²

Sec. 13-141. MIDS calculator.

Final site design and choice of permanent stormwater volume reduction practices shall be based on outcomes of the MIDS Calculator (or other model that shows the performance goal can be met) and shall meet the performance standards in Division 5 of this ordinance.

Sec. 13-142. Buffer requirement.

Buffer locations and widths must comply with the State of Minnesota, Minnesota Pollution Control Agency, and Middle St. Croix Watershed Management Organization or Valley Branch Watershed District standards.

Secs. 13-143 – 13-59. Reserved.

Division 5. Performance Standards.

Sec. 13-160. Stormwater Volume Reduction Performance Standards

Any applicant for a Stormwater Management Permit as defined in Section 2 of this ordinance must meet all of the following performance standards:

- A. **New development volume control.** For new, nonlinear developments on sites without restrictions, stormwater runoff volumes will be controlled and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from all impervious surfaces on the site.
- B. **Redevelopment volume control.** Nonlinear redevelopment projects on sites without restrictions that create or fully reconstruct impervious surfaces shall capture and retain on site 1.1 inches of runoff from the new and/or fully reconstructed impervious surfaces.

² Available at http://stormwater.pca.state.mn.us/index.php/Better_site_design.

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

1. 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the site
2. 1.1 inches of runoff from the net increase in impervious area on the site.

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

Sec. 13-161. Flexible treatment alternatives for sites with restrictions.

Applicant shall attempt to comply fully with the appropriate performance standards described above. Alternatives considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site. If full compliance is not possible due to any of the factors listed below, the applicant must document the reason. If site constraints or restrictions limit the full treatment goal, the following flexible treatment alternatives shall be used:

Applicant shall document the flexible treatment alternatives sequence starting with Alternative #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed. Applicants must document the specific reasons why Alternative #1 cannot be met based on the factors listed below. If Alternative #2 cannot be met then Alternative #3 shall be met. Applicants must document the specific reasons why Alternative #2 cannot be met based on the factors listed below. When all of the conditions are fulfilled within an alternative, this sequence is completed.

Volume reduction techniques considered shall include infiltration, reuse & rainwater harvesting, and canopy interception & evapotranspiration and/or additional techniques included in the MIDS calculator and the Minnesota Stormwater Manual.

Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.

Factors to be considered for each alternative will include:

- Karst geology
- Shallow bedrock
- High groundwater
- Hotspots or contaminated soils
- Drinking Water Source Management Areas or within 200 feet of drinking water well
- Zoning, setbacks or other land use requirements
- Poor soils (infiltration rates that are too low or too high, problematic urban soils)

A. **Alternative #1:** Applicant attempts to comply with the following conditions:

1. Achieve at least 0.55" volume reduction from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment or linear development site.
2. Remove 75% of the annual TP load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.

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3. Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.
- B. **Alternative #2:** Applicant attempts to comply with the following conditions:
1. Achieve volume reduction to the maximum extent practicable.
 2. Remove 60% of the annual TP load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.
 3. Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.
- C. **Alternative #3: Off-site Treatment.** Mitigation equivalent to the performance of 1.1 inches of volume reduction for new development, linear development or redevelopment as described above in this section, (including banking or cash) can be performed off-site to protect the receiving water body. Off-site treatment shall be achieved in areas selected in the following order of preference:
1. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
 2. Locations within the same Department of Natural Resource (DNR) catchment area (Hydrologic Unit 08) as the original construction activity.
 3. Locations within the next adjacent DNR catchment area upstream.
 4. Locations anywhere within the City's jurisdiction.
 5. The MIDS Design Sequence Flowchart can be found in the Minnesota Stormwater Manual.³

Sec. 13-162. Stormwater Management Rate Control.

For new development, redevelopment and linear development sites the site design shall provide on-site treatment during construction and post-construction to ensure no increase from existing conditions in offsite peak discharge for the 1-year, 2-year, 10- year, and 100-year, 24-hour storm events based on the standards defined by the MSCWMO or VBWD. For single family residential building lots not part of a common plan of development site rate control requirements do not apply.

Sec. 13-163. Other Design Standards.

- A. Minnesota Stormwater Manual. All volume control for water quality and quantity and site design specifications shall conform to the current version of the Minnesota Stormwater Manual.
- B. NPDES/SDS Construction Stormwater General Permit. All volume control and water quality and quantity Best Management Practice design specifications shall conform to the current version of the NPDES/SDS Construction Stormwater General Permit.

³ Available at http://stormwater.pca.state.mn.us/index.php/Flexible_treatment_options

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- C. Site erosion and sediment control requirements. All erosion and sediment control requirements shall conform to the current requirements of NPDES/SDS Construction Stormwater General Permit.
- D. Watershed District/WMO requirements. All stormwater management and erosion and sediment control activities shall comply with all applicable requirements of the Watershed Districts or Watershed Management Organizations in which the project is located. In case provisions in this ordinance and requirements of watershed district or watershed management organizations overlap or conflict, the strictest provisions shall apply to the activities.
- E. Where applicable, a minimum of 20' shall be provided on all sides of all publicly owned stormwater facilities for facility maintenance.

Secs. 13-164 – 13-179. Reserved.

Division 6. Inspections, Maintenance, and Enforcement.

Sec. 13-180. Inspections and record keeping.

- A. **Applicant responsibilities.** The applicant is responsible for inspections and record keeping during and after construction for all privately-owned stormwater treatment practices on the site.
- B. **City inspections.** The City reserves the right to conduct inspections on a regular basis to ensure that both temporary and permanent stormwater management and erosion and sediment control measures are properly installed and maintained prior to construction, during construction, and at the completion of the project.

Sec. 13-181. Right of entry and inspection.

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

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

Sec. 13-182. Fees.

Fees will be applied per City Fee Schedule

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Sec. 13-183. Enforcement tools/stop work orders.

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

- A. **Construction stop work order.** The City may issue construction stop work orders until stormwater management measures meet specifications and the applicant repairs any damage caused by stormwater runoff. An inspection by the City must follow before the construction project work can resume.
- B. **Other actions to ensure compliance.** The City can take any combination of the following actions in the event of a failure by applicant to meet the terms of this ordinance:
 - 1. Withhold inspections or issuance of certificates or approvals.
 - 2. Revoke any permit issued by the City to the applicant.
 - 3. Conduct remedial or corrective action on the development site or adjacent site affected by the failure.
 - 4. Charge applicant for all costs associated with correcting the failure or remediating damage from the failure; if payment is not made within thirty days, payment will be made from the applicant's financial securities.
 - 5. Bring other actions against the applicant to recover costs of remediation or meeting the terms of this ordinance.
 - 6. Any person, firm or corporation failing to comply with or violating any of these regulation, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. Each day that a separate violation exists shall constitute a separate offense.

Sec. 13.184. Long term inspection and maintenance of private stormwater facilities.

- A. **Maintenance Plan Required.** No private stormwater facilities may be approved unless a maintenance agreement is provided that defines who will conduct the maintenance, the type of maintenance necessary to ensure effective performance, and the maintenance intervals. All private stormwater facilities shall be inspected by the property owner and maintained in proper condition by the owner consistent with the performance goals for which they were originally designed.
- B. **Facility Access.** The applicant shall obtain all necessary easements or other property interests to allow access to the facilities for inspection or maintenance for both the responsible party and the City or authorized representative.
- C. **Removal of Settled Materials.** All settled materials including settled solids, shall be removed from ponds, sumps, grit chambers, and other devices as necessary and disposed of properly.
- D. **Inspections.** All stormwater facilities within the City shall be inspected by the property owner at a frequency consistent with the maintenance plan. Inspection reports shall be provided to the City upon request.

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Sec. 13-185. Long term inspection and maintenance of public stormwater facilities.

- A. **Acceptance of Publicly Owned Facilities.** Before work under the permit is deemed complete; the permittee must submit as-builts and a Maintenance Plan demonstrating at the time of final stabilization that the stormwater facilities conform to design specifications. A final inspection shall be required before the City accepts ownership of the stormwater facilities.
- B. **Maintenance.** The City shall perform maintenance of publicly owned stormwater facilities in accordance with their comprehensive stormwater management plan and other regulatory requirements.

Sec. 13-186. Financial Securities.

- A. **Amount.** At the discretion of the City, the City may require a Financial Security from the Applicant in an amount sufficient to cover the entirety of the estimated costs of permitted and remedial work based on the final design as established in a set financial security schedule determined by the City.
- B. **Release.** The Financial Security shall not be released until all permitted and remedial work is completed.
- C. **Use by City.** The Financial Security may be used by the City to complete work not completed by the Applicant.
- D. **Form of security.** The form of the Financial Security shall be one or a combination of the following to be determined by the City:
 - 1. **Cash deposit** - A Financial Security for erosion and sediment control, as determined by the City, shall be by cash deposit to the City. The cash will be held by City in a separate account.
 - 2. **Security deposit** - Deposit, either with the City, a responsible escrow agent, or trust company, at the option of the City, either:
 - a. An irrevocable letter of credit, negotiable bonds of the kind approved for securing deposits of public money, or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges funds are on deposit and guaranteed for payment.
 - b. Cash in U.S. currency.
 - c. Other forms and securities (e.g., disbursing agreement) as approved by the City.
- E. **City indemnity.** This Financial Security shall hold the City free and harmless from all suits or claims for damages resulting from the negligent grading, removal, placement or storage of rock, sand, gravel, soil or other like material within the City.
- F. **Maintaining the financial security.** If at any time during the course of the work the balance of the Financial Security falls below 50% of the total required deposit, the Applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the Applicant does not bring the financial security back up to the required amount

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within seven (7) days after notification by the City that the amount has fallen below 50% of the required amount the City may:

1. **Withhold inspections** - Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 2. **Revoke permits** - Revoke any permit issued by the City to the Applicant for the site in question or any other of the Applicant's sites within the City's jurisdiction.
- G. **Action against the financial security.** The City may access the Financial Security for remediation actions if any of the conditions listed below exist. The City shall use the Financial Security to pay for remedial work undertaken by the City, or a private contractor under contract with the City, or to reimburse the City for all costs incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.
1. **Abandonment** - The Applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
 2. **Failure to implement the SWPPP or ESC Plan** - The Applicant fails to conform to the grading plan and/or the SWPPP as approved by the City.
 3. **Failure to perform** - The BMPs utilized on the project fail within one year of installation.
 4. **Failure to reimburse City** - The Applicant fails to reimburse the City for corrective action taken.
- H. **Proportional reduction of the financial security.** When more than one-third of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by one-third. When more than two-thirds of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security to two-thirds of the initial amount. This reduction in financial security will be determined by the City.
- I. **Returning the financial security.** The security deposited with the City for faithful performance of the SWPPP or the ESC Plan and any related remedial work shall be released one full year after the completion of the installation of all stormwater pollution control measures, including vegetation establishment, as shown on the SWPPP or ESC Plan.
- J. **Emergency action.** If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action. The City shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the City for emergency action may be recovered from the applicant's financial security.

Sec. 13-187. Enforcement Actions.

- A. **Notification of Failure of the Permit:** The City shall notify the permit holder of the failure of the permit's measures.
- B. **Initial Contact.** The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion and sediment control measures, whichever is less, the City at its discretion, may begin corrective

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work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish contact, the City may proceed with corrective work. There are conditions when time is of the essence in controlling erosion. During such a condition the City may take immediate action, and then notify the applicant as soon as possible.

- C. **Erosion Off-site.** If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required. When restoration to wetlands and other resources are required, the applicant shall be required to work with the appropriate agencies to ensure that the work is done properly.
- D. **Erosion into Streets, Wetlands or Water Bodies.** If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- E. **Failure to do Corrective Work.** When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take the following actions.
 - 1. Stop Work Order. Issue a stop work order, withhold the scheduling of inspections, and/or withhold the issuance of a Certificate of Occupancy.
 - 2. Permit Revocation. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
 - 3. Correction by City. Correct the deficiency or hire a contractor to correct the deficiency.
- F. The applicant will be required to reimburse the City for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities as described in Section 8 above.
- G. If there is an insufficient financial amount in the applicant's financial securities as described in Section 8 above, the City may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of assessment.

Sec. 13-188. Misdemeanor.

Any person, firm or corporation failing to comply with, or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both.

- A. All land use and building permits may be suspended until the applicant has corrected the violation.

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- B. Each day that a separate violation exists shall constitute a separate offense.
- C.

Highlights of the September 20, 2016 Regular City Council Meeting:

1. **Denied** the request for the LSCV Fire Relief Association Pension Fund increase from \$3,250 to \$3,400.
2. **Approved** a \$5,000 contribution to the upgrade of the Afton-Lakeland Bike and Pedestrian Trail, to be used exclusively on the Afton portion of the trail.
3. **Delayed** the Solar Ordinance amendment application upon the request of the applicant.
4. **Denied** the Comprehensive Plan amendment application for rezoning from Ag to RR on 4 parcels at Trading Post Trail and 60th Street S.
5. **Continued** the application to the October 18 meeting for Brockman Trucking for a CUP for a truck parking facility on Hudson Rd in order to finalize the conditions as recommended.
6. **Adopted** the Washington County Septic Ordinance by reference.
7. **Adopted** to Opt Out of the Temporary Health Care Dwelling Statute as Afton currently has ordinance language allowing options for caring for infirm family members.
8. **Authorized** 2016 Bridge Inspections to be completed by the City Engineer for an amount not to exceed \$2,466.
9. **Authorized** the Request for Proposals for Solid Waste Management Services from providers.
10. **Approved** the 2017 Preliminary Tax Levy of \$2,041,901, which is a 9.86% increase from 2016. This levy can be decreased but not increased at the final Budget and Tax Hearing at the December 20 meeting.
11. **Decided** that the cluster mailboxes in neighborhoods would not enhance Afton's rural character.
12. **Approved** the ordinance amendment for additional Septic Compliance Inspection Triggers in Afton.
13. **Approved** a letter of support to the County Commissioners for reappointment of Jill Lucas to the Valley Branch Watershed District Board of Managers.
14. **Approved** the concept plan for the Sheriff's Deputies facility adjacent to Afton City Hall.
15. **Approved** burial plots and the fee of \$1,000 for the Isaacson family at Mt. Hope Cemetery as a donation to the Afton Historical Museum.
16. **Approved** 2016 street repairs for Pennington Avenue bank erosion for \$7,000; a 30th Street bridge repair for \$37,600; and, the repairs to 15th Street with a skim coating for \$35,000. All quotes for repairs were from Tri County.
17. **Approved** a park picnic table donation from Sandi Alexander as a dedication to her husband to be placed in his favorite spot in Steamboat Park.