

06-05-2023

Planning Commission
Meeting

Supplemental Packet

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

Planning Commission Memo

Meeting: June 5, 2023

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moore, City Administrator

Date: May 31, 2023

Re: Groundwater Protection - **Supplemental**

Attached are ordinances from the cities of Stillwater and Woodbury regarding the use of chemicals on lawns and regarding properly abandoning unused wells.

ARTICLE II. - PUBLIC WATERS PROTECTION

Sec. 35-21. - Short title.

This article shall be known, cited and referred to as the City of Stillwater Public Waters Protection Ordinance; except as referred to herein, where it shall be known as "this article".

(Ord. No. 873, § 1, 3-16-99)

Sec. 35-22. - Intent and purpose.

This article is adopted for the purpose of:

- (a) Regulating permitted uses in the city, and; regulating the use of certain lawn care practices. The use of certain lawn care practices within the city will be regulated to preserve and enhance the water quality of the lakes, ponds, wetlands, creeks and St. Croix River, prevent erosion into these water bodies, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, protect fish and wildlife habitat, and preserve the economic and natural environmental values of the surface waters and underground waters of the city.
- (b) Conserving and developing natural resources, and maintaining a high standard of environmental quality.

(Ord. No. 873, § 2, 3-16-99)

Sec. 35-23. - Statutory authorization and policy.

Subd. 1. *Statutory authorization.* This article is adopted pursuant to the authorization and policies contained in Minn. Stat. Ch. 103A-I, Minnesota Regulations, Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in Minn. Stat. Ch. 462.

Subd. 2. *Policy.* The uncontrolled use of the waters and shorelands within the city, affects the public health, safety and general welfare by contributing to pollution of public waters and degradation of the environmental and aesthetic values and by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and general welfare to provide for the wise development, use, and conservation of the waters and shorelands within the city. The Minnesota legislature has delegated responsibility to local governments of the state to regulate the subdivision, development and use of shorelands of public waters and thus to preserve and enhance the quality of surface waters, to manage the effects of shoreland crowding, to conserve the economic, historic and natural environmental values of shorelands, and to provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the city.

(Ord. No. 873, § 3, 3-16-99)

Sec. 35-24. - General provisions and definitions.

Subd. 1. *Jurisdiction.* The provisions of this article apply to the entire city since all lands drain runoff or surface water directly or indirectly into the lakes or any one of them, into Brown's Creek or its tributaries and into the St. Croix River.

Subd. 2. *Interpretation.* In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

Subd. 3. *Severability.* If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

Subd. 4. *Abrogation and greater restrictions.* This article is in addition to and not in lieu of other official controls adopted by the city council or the state department of natural resources. Where the standards, regulations or provisions contained in this article are inconsistent or in conflict with the standards, regulations or provisions of the separate covenants running with the land in each of the developments described in subdivision 1 of this section, any provisions of the Minnesota Department of Natural Resources' Statewide Standards for Management of Shoreland Areas (7/3/89) (the "DNR Statewide Minimum Standards"), or the provisions of any other applicable covenants, statutes, rules, regulations or ordinances, the most restrictive provisions shall govern in order to preserve, protect and enhance the water quality, natural environmental economic and historic values and aesthetic beauty of the subwatersheds of the lakes. The restrictions set forth in this chapter do not apply to flower or vegetable gardens except to the extent that gardens are prohibited in buffer zones as defined in this chapter.

(Ord. No. 887, § 1, 1-18-00)

Subd. 5. *Definitions.* Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this article its most reasonable application. For the purpose of this article, the words "must and shall" are mandatory and not permissive. In the event of a conflict between any definition contained herein, in the DNR Statewide Minimum Standards, or in any other applicable covenant, statute, rule, regulation or ordinance, the most restrictive definition shall govern.

Buffer zone. Buffer zone means the fifty (50) foot wide strip of land, measured at a right angle to the shoreline or the ordinary high water level, adjacent to every lake, pond, wetland, creek, river or standing water surface.

Lot. Lot means a parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means, and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Pesticide. Pesticide means insecticides, herbicides and fungicides.

Quick-release nitrogen. Quick-release nitrogen means ammonium nitrate, ammonium sulfate, calcium nitrate, and urea.

Shoreland. Shoreland means all land within the subwatersheds of any lake, pond, wetland, creek or river within the city.

Slow-release nitrogen. Slow-release nitrogen means IBDU, sulfur-coated or resin-coated urea, ureaformaldehyde, and natural organics such as milorganite, ringer, sustane, manure, grass clippings, phosphate rock, and potash.

(Ord. No. 873, § 4, 3-16-99; Ord. No. 887, § 2, 1-18-00)

Sec. 35-25. - Restrictions.

Subd. 1. *Fertilizers.*

(a) *General provisions.*

- (1) The use of fertilizers containing phosphorous is prohibited in the buffer zone and within 50 feet of any standing water surface.
- (2) Beyond the buffer zone, fertilizing is permitted subject to the restrictions set forth herein, but should be avoided if possible and minimized, in any event.
- (3) Fertilizing is prohibited when the ground is frozen between November 15th and April 1st.
- (4) Lot owners who fertilize should have their soil tested at least once every three years by a soil test laboratory such as the University of Minnesota to determine the proper amounts of nitrogen and potassium to be applied.
- (5) Fertilizer, yard waste or grass clippings must not be cast upon or applied to an imperious surface such as a driveway, sidewalk or street. If this material is inadvertently spilled upon such a surface it should be swept and cleaned from the surface.
- (6) Gardens are prohibited in buffer zones.

(b) *Phosphorus.*

- (1) *General.* Fertilizers containing more than three (3) percent phosphorus are prohibited unless the soil is demonstrably phosphorus deficient. More phosphorus may be applied provided that phosphorous is applied only in the amount specified by soil test or written report from a competent professional.
- (2) *New lawns.* If phosphorus is to be applied in lawn based on the results of a reliable soil test, the fertilizer must be incorporated into the soil seed bed before seeding or laying sod.
- (3) *Record keeping.* If more than three (3) percent phosphorous is applied, the lot owner must provide copies of all soil test reports demonstrating the phosphorous deficiency in the soil and must provide copies of records reflecting the analysis and amount of fertilizer applied to the city forester and must, upon the city's request, provide samples of lawn fertilizer (large enough to permit laboratory testing) to be applied.

(c) *Nitrogen.*

- (1) Application of more than 2 pounds actual nitrogen per 1,000 square feet of lawn per year on "low maintenance" lawns applied at 1 pound in the spring and 1 pound in the fall and of more than 4 pounds actual nitrogen per 1,000 square feet of lawn per year on "high maintenance" lawns applied at 2 pounds in the spring and 2 pounds in the fall is prohibited unless the lot owner has a written recommendation from a competent professional based upon a reliable soil test for higher nitrogen applications.
- (2) Only 50 percent controlled slow-release nitrogen organic fertilizer may be used. The use of quick-release nitrogen is prohibited.
- (3) If nitrogen is applied at rates greater than those specified in subsection (1) above, the lot owner must provide copies of the written recommendation required therein to the city forester.

(d) Reserved.

(Ord. No. 887, §§ 3—9 1-18-00; Ord. No. 1128, § 1, 7-2-19)

Subd. 2. *Pesticides (insecticides, herbicides, fungicides and other chemicals).*

- (a) The use of chemical pesticides in accordance with their label is permitted, but should be avoided as much as possible, because a regular cycle of chemical treatments stresses a lawn and makes it more susceptible to pests and drought.
- (b) Before using chemical pesticides, the lot owner must consult the Minnesota Extension Service, the Washington County Soil & Water Conservation District or other competent professional to diagnose properly the pests, disease or other vegetative problem, and to determine if pesticide use is justified or if there are other control options.
- (c) When consultation as provided under subparagraph (b) has determined that pesticide use is warranted, a pesticide program may be implemented, provided that:
 - (1) The lot owner must use the least toxic and most readily degradable pesticide which will be effective.
 - (2) The pesticide must be applied only and exactly as directed on the label.
 - (3) Pesticide applications must be properly timed to maximize their overall effectiveness.
 - (4) Pouring of excess pesticide on the ground or into the lakes or other surface waters is prohibited.
 - (5) The lot owner may purchase only the amount of pesticide necessary for the current season, and must dispose of unused pesticide and pesticide containers properly.

Sec. 35-26. - Stormwater management practices.

Stormwater management practices shall be as follows:

Subd. 1. Statutory authorization. This section is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and 462; Minnesota Rules, Parts 6120.2500-6120.3900, Minnesota Rules Chapters 8410, 8420 and 70510.0210.

Subd. 2. Findings. The city hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewage, flood control and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in areas which may be affected by unplanned land use.

Subd. 3. Purpose. The purpose of this section is to promote, preserve and enhance the natural resources within the city and protect them from adverse effects caused by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development.

Subd. 4. Scope and effect. The scope and effect of this section is as follows:

- (a) *Applicability.* Every applicant for subdivision or a permit to allow land disturbing activities must submit a stormwater management plan to the department of community development. No building permit, subdivision approval or permit to allow land disturbing activities may be issued until approval of the stormwater management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this section.
- (b) *Minnesota Pollution Control Agency (MPCA).* The MPCA is the permitting authority for land disturbing activities requiring an NPDES Permit for construction activity, including the requirements for developing and implementing a SWPPP. Where required, the NPDES Permit is in addition to permits required by the City of Stillwater.
- (c) *Exemptions.* The provisions of this Section do not apply to:
 - (1) Any part of a subdivision if a plat for the subdivision has been approved by the city on or before August 3, 1993.
 - (2) Any activity for which plans have been approved by the watershed management organization with jurisdiction over the project within six months prior to August 3, 1993.
 - (3) A lot for which a building permit has been approved on or before August 3, 1993.
 - (4) Minor land disturbing activities such as home gardens and an individual's home landscaping, repairs and maintenance work, installation of fence, sign, telephone and electric poles and other kinds of posts or poles.
 - (5) Emergency work to protect life, limb or property and emergency repairs, unless the land disturbing activity would have required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.
 - (6) Construction, installation and maintenance of electric, telephone and cable television, utility lines or individual service connection to these utilities, which result in creating less than 5,000 square feet of exposed soil;
 - (7) Tilling, planting or harvesting of agricultural, horticultural or silvicultural crops;
 - (8) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles that result in creating less than 5,000 square feet of exposed soil;
 - (9) Any land disturbing activity that, in the discretion of the city, should be exempt from the provisions of this section. The city may exempt an activity from the provisions of this section if all of the following standards and requirements are met:
 - a. Existing draining and ponding patterns are not significantly altered so as to adversely affect adjoining land;
 - b. The resultant grade and slopes at the property line are in substantial conformity to the surrounding natural topography and are set so as to minimize erosion and provide for sufficient drainage so that both natural and stormwater enter and leave the property at the original or natural drainage points;
 - c. All banks will be left with a slope not greater than one foot vertical to four feet horizontal, except that greater slope shall be permitted if it is in substantial conformity to the immediately surrounding area, and in the judgment of the city, it is not expected to adversely affect future development of the site. All excavated areas shall be finally graded in substantial conformity to the surrounding natural topography; and
 - d. The property is or will be graded so that stagnant water will not be permitted to collect upon it.
 - e. The property requires an NPDES general construction permit that is located:
 - i. Within a Wellhead Emergency Response Area; and
 - ii. Within a drinking water supply management area with a moderate to high vulnerability.
- (d) *Incorporation by reference.* The following are hereby incorporated by reference into this ordinance:
 - (1)

The city's engineering design guidelines are hereby incorporated into this ordinance. The guidelines shall serve as the official guide for stormwater principles, methods, and practices for proposed development activities.

- (2) The National Pollutant Discharge Elimination System Permit, MN R100001 (NPDES general construction permit) issued by the Minnesota Pollution Control Agency, August 1, 2018, as amended.

Subd. 5. Plan approval procedures. Procedures for the approval of a stormwater agreement plan are as follows:

- (a) *Application.* A written application for stormwater management plan approval, along with the proposed stormwater management plan and maintenance agreement, must be filed with the city engineer and must include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the zoning district, and that the proposed use will conform to the standards set forth in this [section 35-26](#).
- (b) *Plan contents.* The stormwater management plan shall be prepared to meet the requirements of this ordinance, as well as the requirements within the city's engineering design guidelines document, the city's MS4 permit and the NPDES construction general permit.

Subd. 6. Plan review procedure. Procedures for the review of a stormwater management plan are as follows:

- (a) *Process.* Stormwater management plans meeting the requirements of [section 35-26](#) subd. 5 must be submitted by the community development director to the planning commission for review in accordance with the standards of [section 35-26](#) subd. 7.
 - (1) Projects within Carnelian-Marine-Saint-Croix or Browns Creek Watershed District must obtain watershed district permits as required. Projects within the jurisdiction of the Middle Saint Croix Watershed Management Organization (MSCWMO) must meet the requirements of the MSCWMO Watershed Management Plan. Projects within the MSCWMO meeting the full review requirements of the MSCWMO Plan will not be approved by the city until reviewed by the MSCWMO board. All projects must be reviewed and approved by the city engineer.
- (b) *Duration.* Plan approval will expire one year after date of approval unless construction has commenced in accordance with the plan. The planning department may grant one extension of not greater than one year.
- (c) *Conditions.* A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements of this are met. Conditions may limit the size, kind or character of the proposed development; require the construction of structures, drainage facilities, storage basins and other facilities; require replacement of vegetation; establish required monitoring procedures; stage the work over time; require alteration of the site design to ensure buffering; and require the conveyance to the city or other public entity of necessary lands or easements.
- (d) *Performance.* Projects with public improvements must submit a cash deposit or letter of credit in the amount of 125% of the cost of construction. The city may draw on the cash deposit or letter of credit to correct erosion and sediment concerns not addressed within the timeframe established in this subsection or to correct any failure to comply with the requirements of the Minnesota Pollution Control Agency General Stormwater Permit for Construction. The letter of credit must guarantee completion and compliance with conditions within a specific time and may be extended in accordance with [section 35-26](#) subd. 6(b).
- (e) *Fees.* All applications for a stormwater management plan approval must be accompanied by a process and approval fee as set from time to time by resolution of the city council. Applicants must also reimburse the city for actual engineering costs incurred by the city for review of the application.

Subd. 7. Approval standards. Standards for approval of a stormwater management plan are as follows:

- (a) Failure to meet requirements. A stormwater management plan that fails to meet the standards in this ordinance and the city's engineering design guidelines shall not be approved.
- (b) All land disturbing activities are required to follow the construction site stormwater runoff control standards set within the city's engineering design guidelines and the NPDES construction general permit. The standards should meet the following requirements:
 - (1) Erosion control.
 - (2) Sediment control.
 - (3) Temporary sediment basins.
 - (4) Dewatering and basin draining.
 - (5) Inspection and maintenance.
 - (6) Pollution management measures/construction site waste control.
 - (7) Final stabilization.
 - (8) Training.
- (c) *Stormwater management criteria for permanent facilities.* Unless determined by the city engineer to be exempt or granted a waiver, all site designs shall establish stormwater management practices to control the peak flow rates and pollutants of stormwater discharge associated with specified design storms and runoff volumes, as detailed in the city's engineering design guidelines. Stormwater management criteria for permanent facilities are as follows:
 - (1) The applicant must give consideration to reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.
 - (2) The following stormwater management practices must be investigated in developing a stormwater management plan in the following descending order of preference:

- a. Infiltration of runoff on the site, if suitable soil conditions are available for use;
 - b. Flow attenuation by use of open vegetated swales and natural depressions;
 - c. Stormwater retention facilities; and
 - d. Stormwater detention facilities.
- (3) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in section 35-26 subd. 7(c). Justification shall be provided by the applicant for the method selected.
- (d) *Design standards.* Stormwater detention facilities constructed in the city shall be designed according to the most current technology as reflected in this ordinance and the city's engineering design guidelines. Rate control, volume control and water quality standards, as contained in the city's engineering design guidelines shall apply, unless strict adherence is waived by the city engineer for development that results in less than one acre of land disturbing activity. As an alternative to meeting the volume control and water quality standards for land disturbing activities that are less than one acre or for single-family residential projects involving more than 15 units, the applicant may install a stormwater improvement, as described in the city's engineering design guidelines. Provisions shall also be required to control the rate of runoff if determined to be necessary by the city engineer.
- (e) *Stormwater management facilities maintenance plan and agreement.*
- (1) All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. The applicant shall enter into a maintenance agreement with the city that documents all responsibilities for operation and maintenance of all permanent stormwater management facilities. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. The maintenance agreement shall be executed and recorded against the parcel. The stormwater maintenance agreement shall be in a form approved by the city and shall describe the inspection and maintenance obligations of this section and shall, at a minimum:
 - a. Designate a responsible party who is permanently responsible for maintenance of the structural and nonstructural measures.
 - b. Assign responsibilities for such maintenance to successors in title.
 - c. Allow the city and its representatives the right-of-entry for the purposes of inspecting all permanent storm water management facilities.
 - d. Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party of the permanent storm water management facility.
 - e. Include a maintenance plan that contains, but is not limited to the following:
 1. Identification of all structural permanent storm water facility.
 2. A schedule for regular inspection, monitoring, and maintenance of each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to quality, temperature, and quantity of runoff.
 3. Identification of a responsible party for conducting the inspection, monitoring and maintenance for each practice.
 4. Include a schedule and format for reporting compliance with the maintenance agreement to the city.
 - (2) *Inspection of storm water management facilities.* Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other storm water management practices.
 - a. When any new storm water management facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer, or combined sewer; the property owner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the city has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.
 - b. The director of public works, or designated representative, shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter. The inspection records will be kept on file at the public works department for a period of six years. It shall be responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.
 - (3) *Records of installation and maintenance activities.* The responsible party shall make records of the installation and of all maintenance and repairs of the storm water management facilities and shall retain the records for at least three years. These records shall be made available to the city during inspection of the storm water management facilities and at other reasonable times upon request.
 - (4) *Failure to maintain practices.* If the responsible party fails or refuses to meet the requirements of the maintenance agreement, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the storm water management facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the city shall notify the responsible party in writing. Upon receipt of that notice, the responsible party shall have 30 days to perform

maintenance and repair of the facility in an approved manner. After proper notice, the city may specially assess the owner(s) of the storm water management facility for the cost of repair work and any penalties; and the cost of the work shall be assessed against the property and collected along with ordinary taxes by the county.

(f) *Wetlands*. Wetlands requirements are as follows:

- (1) Runoff must not be discharged directly into wetlands without presettlement of the runoff.
- (2) A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width must surround all wetlands, however actual buffer dimensions shall be as required by the CMSCWD, BWCD, MSCWMO, or the city's engineering design guidelines, whichever is greater.
- (3) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority:
 - a. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
 - b. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
 - c. Rectifying the impact by repairing, rehabilitating or restoring the affected wetland environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
 - e. Compensating for the impact by replacing or providing substitute wetland resources or environments. Compensation including the replacement ratio and quality or replacement must be consistent with the requirements outlined in the rules adopted by the board of water and soil resources to implementing the Wetland Conservation Act of 1991.

(g) *Catchbasins*. All newly installed and rehabilitated catchbasins must be provided with a sump area for the collection of coarse-grained material. The basins must be cleaned when they are half-filled with material. The requirements of this subsection may be waived by the public works department if the requirements are not feasible.

(h) *Drain leaders*. All newly constructed and reconstructed buildings must route drain leaders to storm sewer facilities or pervious areas wherein the runoff can be allowed to infiltrate. The flow ratio of water from the leaders must be controlled so no erosion occurs in the pervious areas.

(i) *Models; methodologies; computations*. Hydrologic models and design methodologies used for the determination of runoff and analysis of stormwater management structures must be approved by the director of public works. Plans, specifications and computations for stormwater management facilities submitted for review must be sealed and signed by a registered professional engineer. All computations must appear on the plans submitted for review, unless otherwise approved by the director of public works.

(j) *Watershed management plans; groundwater management plans*. Stormwater management plans must be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minn. Stat. §§ 103B.231 and 103B.255, respectively, and as approved by the state board of water and soil resources.

(k) *Easements*. It is the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

(l) *Other controls*. In the event of any conflict between the provisions of this subdivision and other provisions of this chapter, the more restrictive standard prevails.

Subd. 8. Right of entry. The issuance of a permit constitutes a right-of-entry for the city or its contractor to enter the construction site. The applicant shall allow the city and its authorized representatives, to:

- (a) Enter the permitted site for the purpose of obtaining information, examining records, conducting investigations or surveys;
- (b) Bring such equipment on the site as is necessary to conduct such surveys and investigations;
- (c) Examine and copy any books, papers, or digital files pertaining to activities or records required to be kept under the terms and conditions of the permitted site;
- (d) Inspect the stormwater pollution control measures;
- (e) Sample and monitor any items or activities pertaining to stormwater pollution control measures;
- (f) Correct deficiencies in stormwater and erosion and sediment control measures consistent with the city's ordinances and the engineering design guidelines.

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

Subd. 10. Penalty. Any person, firm or corporation violating any provision of this ordinance shall be fined not less than \$5.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(a) *Notice of violation*. When the city determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- (1) The name and address of the owner;
- (2) The address when available or a description of the land upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;

- (4) A description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action;
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
 - (6) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 15 days of services notice of violation.
- (b) *Stop work orders.* Persons receiving a notice of violation will be required to halt all construction activities. This stop work order will be in effect until the city confirms that the land disturbing activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.
 - (c) *Civil and criminal penalties.* In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be guilty of a misdemeanor and subject to prosecution. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
 - (d) *Restoration of lands.* Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which may, after notice and opportunity for hearing, be specially assessed against the property and collected along with the ordinary taxes by the county.

Subd. 11. Appeals. Any person aggrieved by the action of any official charged with the enforcement of this ordinance, as the result of the disapproval of a properly filed application for approval, issuance of a written notice of violation, or an alleged failure to properly enforce the ordinance in regard to a specific application, shall have the right to appeal the action.

- (a) The aggrieved person shall submit the appeal in writing and include supporting documentation.
- (b) Appeals shall be heard by an administrative hearing officer as provided in chapter 22-10 subd. 4.

Subd. 12. Other controls. In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control or shoreland protection ordinance, the more restrictive standard prevails.

(Ord. No. 996, § 1, 5-20-08; Ord. No. 1127, § 1, 6-18-19)

Editor's note— Ord. No. 1127, § 1, adopted June 18, 2019, set out provisions intended for use as § 35-26. At the editor's discretion, the former § 35-26 has been redesignated as § 35-27.

Editor's note— Ord. No. 1127, § 1, adopted June 18, 2019, enacted a new § 35-26 as set out herein. The former § 35-26 pertained to enforcement and derived from Ord. No. 873, § 6, 3-16-99.

Footnotes:

--- (3) ---

Editor's note— Ord. No. 1899, § 1, adopted April 8, 2015, repealed the former Div. 2, §§ 27-13—27-15, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to similar subject matter. See Code Comparative Table for complete derivation.

Sec. 27-13. - Purpose.

The purpose of this division is to set forth the minimum standards for preservation, protection and maintenance of wetlands in the city. These standards are designed to protect and preserve natural resources, promote water quality, reduce human disturbance and provide wildlife habitat.

(Ord. No. 1899, § 1, 4-8-2015)

Sec. 27-14. - Definitions.

Unless specifically defined below, words or phrases used in this division shall be interpreted so as to give them the same meaning as they have in common usage and to give this division its most reasonable application. For the purpose of this division, the words "must" and "shall" are mandatory and not permissive.

Buffer is land that is used to protect adjacent lands and waters from development and intensive land uses. The land is kept in a natural state of trees, shrubs, low ground cover and understory plants and functions to filter runoff, control sediment and nutrient movement, and protect wildlife habitat.

BMPs (best management practices) are erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water. BMPs include stationary, permanent practices that are designed, constructed and operated to prevent or reduce the discharge of pollutants, schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, surface waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

City is the City of Woodbury.

Construction is 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.

Grading is any excavating or filling or combination thereof.

LGU is the local government unit.

New development is all construction activity that is not defined as redevelopment.

Noxious weeds are annual, biennial, or perennial plants that the Minnesota Commissioner of Agriculture designates to be injurious to public health, the environment, public roads, crops, livestock, or other property.

Redevelopment is any construction activity that exposes native soils, adds additional impervious surface to an existing developed site and/or removes and replaces a building/structure. Aesthetic projects and maintenance activities are not defined as redevelopment for the purposes of this division.

Slope is an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

Wetlands (as defined in Minnesota Rules 7050.0186) are those areas that are inundated or saturated by surface water or groundwater 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; and
- (3) Under normal circumstances support a prevalence of such vegetation.

(Ord. No. 1899, § 1, 4-8-2015)

Sec. 27-15. - Protection of wetlands.

- (a) The city is within the boundaries of three watershed districts. The watershed districts serve as the LGUs for the Wetland Conservation Act and have wetland rules and management plans that specify buffer widths and standards for individual wetlands. This section incorporates by reference the most recent wetland rules and management plans of the watershed districts. The city also requires subparagraphs (b)—(f) be implemented for all wetlands where the requirement below is more restrictive than the applicable watershed district rules.

Wetland delineations shall be completed for all wetlands on a project site. Delineations will be completed as required by the appropriate watershed district.

- (b) (c) Wetlands will be placed on outlots dedicated to the city during platting. If, at the city's sole discretion, an easement dedicated to the city is deemed sufficient to protect the wetland and preferable to an outlot, an easement will be granted to the city.

The dedicated outlot or easement will include the wetland buffer area or the land one foot in elevation above the wetland's modeled Atlas 14, Volume 8 (or subsequent updates) 100-year high water elevation, whichever is greater. Access easements to the wetland will also be provided as required by the city. If a wetland is located in an easement, the limits of the easement must be identified by permanent markers such that each adjoining property owner may be reasonably aware of the existence of the easement and the restrictions associated with it.

- (d) Wetland buffers described in this section shall be required for any parcel where construction, new development or redevelopment activity occurs.
- (1) Buffer widths will be determined as described below:
- a. The buffer width will be determined by the applicable watershed district through the district's most recent wetland management document.
 - b. All wetlands will have a 25-foot minimum undisturbed buffer from the delineated wetland boundary. This undisturbed buffer will be established and maintained following the criteria below:
 1. The buffer will be measured from the approved delineated wetland boundary.
 2. No buffer area averaging is allowed within the minimum buffer.
 3. Activities including, but not limited to, grading, paving, or filling are prohibited within the minimum buffer.
 4. The minimum buffer shall be undisturbed at all times.
 5. The buffer shall be maintained in unmowed vegetation with the exception of buffer vegetation management described in subsection (4) below.
 6. Trails, regardless of surface material, are prohibited within the minimum buffer. Existing trails and replacement of trails that are currently within the 25-foot minimum buffer are exempt from this prohibition.
 7. Constructed stormwater management BMPs are prohibited within the minimum buffer.
 8. Wetland mitigation, as approved by the applicable watershed district, is an allowable disturbance. The 25-foot undisturbed buffer will apply to the newly created wetland.
- (2) Wetland buffers shall be required for any proposed development project if adjacent to a wetland, whether or not the wetland is located on the same parcel as the proposed development.
- (3) Activities, including, but not limited to, building, dumping, yard waste disposal or fertilizer application are prohibited within all buffers, including watershed district buffers. Mowing, cutting and application of pesticides are also prohibited unless done as part of an approved vegetation management plan.
- (4) Buffer vegetation.
- a. Where acceptable vegetation, as determined by the city and/or applicable watershed district, exists in buffer areas, the vegetation may be retained in an undisturbed state without additional vegetation planting. A buffer has acceptable vegetation if it:
 1. Has a continuous, dense layer of vegetation or overstory of trees and/or shrubs that have been uncultivated or unbroken for at least five consecutive years, and
 2. Is not composed of undesirable plant species as determined by the city (including, but not limited to, common buckthorn, purple loosestrife, leafy spurge, and other noxious weeds).
 - b. If acceptable vegetation does not exist, the buffer areas must be planted in appropriate native vegetation including grasses, forbs, shrubs, and trees. After becoming established, the vegetation in wetland buffer areas must be left undisturbed.
 - c. The requirement to leave the buffer area undisturbed does not prohibit the removal of dead, diseased, or dying vegetation, or the control of noxious weeds or other invasive non-native plants.
- (e) Grading and building constraints near buffers.
- (1) Grading adjacent to wetlands shall be done so that there is no more than a three to one (3:1) slope down to the wetland buffer.
 - (2) Grading around buildings adjacent to wetland buffers shall meet the following criteria as applicable:
 - a. A 15-foot usable flat area around the sides of the buildings;
 - b. A 25-foot usable flat area from the rear of the buildings.
 - (3) Grading for parking lots, streets, and driveways adjacent to wetland areas shall have a ten-foot flat area adjacent to the edge of the parking lot, street, or driveway.
 - (4) In no case shall a building be closer than 25 feet to the wetland buffer.
- (f) All requirements of this division apply to wetland mitigation areas in addition to natural wetlands.
- (g) If a landowner or a project proposer believes an alternative development plan is available that does not meet the above requirements, but would have beneficial environmental aspects that outweigh the impacts to the wetland and/or buffer, they may submit such a plan to the city and watershed district for consideration. The plan should clearly identify the environmental benefits obtained by the alternative development proposal.

(Ord. No. 1899, § 1, 4-8-2015)

DIVISION 6. - LANDSCAPING AND LAWN CARE

Sec. 27-64. - Purpose.

Some areas of the city are landscaped with closely manicured lawns that are typical of an urban setting. Other areas in the city have been, by design, allowed to remain or return to a natural state that provides a more natural character.

Natural areas provide environmental benefits. These areas serve as wildlife corridors and provide food, cover, and nesting habitat for wildlife. The additional vegetation alleviates the impacts of stormwater that can create erosion and can also remove sediment and nutrients from stormwater.

There are expectations, however, that properties in suburban areas should be maintained to a standard compatible with surrounding properties. Because of the difference between the appearances of natural areas versus more manicured areas, it is important that natural areas be established in appropriate locations.

The purpose of this regulation is to provide a minimum standard for lawn maintenance that will allow a variety of landscapes in appropriate locations throughout the community.

(Ord. No. 1839, § 1839.01, 3-9-2011)

Sec. 27-65. - Definitions.

Unless specifically defined below, words or phrases used in this division shall be interpreted so as to give them the same meaning as they have in common usage and to give this chapter its most reasonable application. For the purpose of this division, the words "must" and "shall" are mandatory and not permissive.

City is the City of Woodbury.

Designated natural area is an area approved by city to be a natural area.

Easement is a grant by an owner of land for specific use by a person or persons other than the owner. An easement may be granted for the purpose of constructing and maintaining walkways, roadways, utilities, and other uses.

Eight-inch standard is the height to which all weeds and grass must be maintained. Weeds and grass must not exceed a height of eight inches from the base at ground level to the highest tip of each stalk, stem, blade or leaf.

Fertilizer is a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the Minnesota Commissioner of Agriculture.

Garden is a cultivated area dedicated to growing vegetables, fruits, flowers, shrubs and similar plants that were specifically planted in that location.

Lawn is the portion of a lot capable of growing vegetation.

Lot is a parcel of land. Where a lot is adjacent to a street or road with a curb and gutter the lot shall include the right-of-way between the property and the curb.

Natural standard or *natural area* is an area purposely left to grow in a natural state. It contains vegetation that can maintain itself in a stable condition without human intervention. The vegetation can consist of primarily grasses, native plants, shrubs and trees. Flowers and non-native plants may be allowed. If weeds are present, they must be controlled so as to remain a minor portion of the vegetation. Natural areas may be unmowed or mowed intermittently.

Noxious weeds are annual, biennial, or perennial plants that the Minnesota Commissioner of Agriculture designates to be injurious to public health, the environment, public roads, crops, livestock, or other property.

Open space means open areas, including parks, natural areas, playgrounds, and trails.

Public open space is open space owned by the city, county, state, school district or a special district.

Prohibited noxious weeds are weeds that must be eradicated or controlled in accordance with the Minnesota Noxious Weed Law and designated by the commissioner of agriculture.

Steep slope means an average slope greater than 12 percent as measured over a horizontal distance of 50 feet or more.

Surface water or *waters* are all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.

Weeds are grasses exceeding the eight-inch standard where maintenance is required and/or a plant that is not valued where it is growing, was not planted, is not native, is invasive and/or is of vigorous growth and chokes out more desirable plants.

Wetlands (as defined in Minnesota Rules 7050.0130, subpart F) are those areas that are inundated or saturated by surface water or groundwater 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; and

(3) Under normal circumstances support a prevalence of such vegetation.

(Ord. No. 1839, § 1839.01, 3-9-2011; Ord. No. 1899, § 1, 4-8-2015)

Sec. 27-66. - Lawn maintenance.

Lawn areas must be maintained by the lot owner to meet either the eight-inch standard or the natural standard as follows:

(a) Prohibited noxious weeds as defined by state statute are prohibited in all areas including gardens and agriculture land.

(b) R-4 zoned residential lots one acre or less must meet the eight-inch standard. Any lot that is in compliance with the lawn maintenance ordinance and has had no violations within the calendar year may have a natural area not to exceed 35 percent of the rear yard area.

(c) R-4 zoned residential lots more than one acre must meet the eight-inch standard in the following areas:

(1) Five thousand square feet of front lawn area;

(2) Within 20 feet of the dwelling; and

(3) Within 20 feet of the curb or shoulder of the road.

Other areas may meet the natural standard.

(d) R-2 zoned platted residential lots must meet the eight-inch standard in the following areas:

(1) Within 20 feet of the dwelling; and

(2) Within 20 feet of the curb or shoulder of the road.

Other areas may meet the natural standard.

(e) R-2 zoned unplatted lots must meet the eight-inch standard within 20 feet of the dwelling. Other areas may meet the natural standard.

(f) R-1 zoned lots must meet the eight-inch standard within 20 feet of the dwelling. Other areas may meet the natural standard.

(g) Nonresidential lots and institutional lots in all zoning districts must meet the eight-inch standard in the following areas:

(1) Within 20 feet of the buildings;

(2) Within 20 feet of parking lots; and

(3) Within 20 feet of the curb or shoulder of the road.

Other areas may meet the natural standard.

(h) The following areas may be maintained to the natural standard in all zoning districts with no size or percentage of lot restrictions:

(1) Steep slopes.

(2) Buffer areas of surface waters including, but not limited to, wetlands and stormwater ponds.

(3) Nature preserves.

(4) Scenic easements.

(5) Parks and city recreation facilities.

(6) Undeveloped property.

(7) Vacant lots.

(8) Overhead power line easements.

(9) Land that has not been graded, disturbed or developed.

(10) Public open spaces.

(11) Land within 25 feet of natural areas, public open spaces, ponds, or wetlands.

(12) Golf courses.

(13) Berms more than four feet in height.

(14) Densely wooded areas.

(15) Designated natural areas.

(16) Areas similar to the above exceptions.

(i) The following areas are exempt from the eight-inch standard if weeds are controlled so as to remain a minor portion of the vegetation:

(1) Gardens.

(2) Agricultural land cultivated to grow corn, beans, oats, wheat, hay, vegetables and similar crops.

(3) Areas that are planted and maintained using vegetation native to Minnesota, areas that have been planted specifically to reduce the amount of lawn watering necessary, or areas that have been planted to promote infiltration.

(Ord. No. 1839, § 1839.01, 3-9-2011; Ord. No. 1899, § 1, 4-8-2015)

Sec. 27-67. - Lawn fertilizer.

M.S. § 18C.60—18C.62 are adopted by reference as if fully set forth in this division regarding restrictions and prohibitions related to the application of phosphorus fertilizer.

(Ord. No. 1839, § 1839.01, 3-9-2011)

Secs. 27-68—27-75. - Reserved.

DIVISION 8. - WATER SUPPLY PROTECTION

Sec. 27-91. - Purpose.

The residents of the City of Woodbury depend solely on groundwater for a safe drinking water supply. To ensure the protection of the city's municipal water supply, this ordinance establishes regulations and restrictions to promote the public health, safety and general welfare of the residents and visitors of the city by minimizing contamination of aquifers and preserving and protecting existing and future sources of drinking water supplies.

(Ord. No. 1876, § 1, 3-26-2014)

Sec. 27-92. - Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and to give this chapter its most reasonable application. For the purpose of this division, the words "must" and "shall" are mandatory and not permissive.

Aquifer is a geological formation, group of formations or part of a formation composed of rock, sand or gravel capable of storing and yielding groundwater to wells and springs.

City is the City of Woodbury.

Contamination is an impairment of water quality by chemicals, radionuclides, biologic organisms, or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

Emergency response area (ERA) is defined as a one thousand-foot radius from any municipal well.

Facility is something that is built, installed, or established for a particular purpose.

Hazardous material is any substance that: (1) conveys toxic, lethal, or other injurious effects or which causes sublethal alterations to plant, animal, or aquatic life; or (2) may be injurious to human beings. Hazardous materials include any matter identified as "hazardous waste" by the Environmental Protection Agency or a "controlled hazardous substance" by the Minnesota Pollution Control Agency.

Private well is any well not owned by the City of Woodbury that is drilled for potable water, nonpotable water or irrigation purposes including sand point or drive point wells. Drilling for such purposes as dewatering, groundwater monitoring, heating or cooling, elevator borings or environmental bore holes are not included in the definition of "private wells."

Release is any unplanned or improper discharge, leak, or spill of a potential contaminant including a hazardous material.

(Ord. No. 1876, § 1, 3-26-2014; Ord. No. 2016, 3-16-2022)

Sec. 27-93. - Private wells.

- (a) The owner and/or operator of property within the city shall properly abandon any and all groundwater wells not in current use.
- (b) No new private well is allowed within the city on property that is currently supplied or scheduled to be supplied by municipal water supply. The following exemptions apply to this section:
 - Replacement of an existing private well used for domestic consumption if municipal services are not available.
 - New wells used for domestic consumption installed as part of a subdivision approved by the city.
 - Private wells used for domestic consumption on new single family residential construction where municipal water supply is not immediately available.
 - Private wells on new commercial projects as expressly approved in design and use by the city with the requirement that the facility shall connect to the municipal water supply within six (6) months of availability.

(Ord. No. 1876, § 1, 3-26-2014)

Sec. 27-94. - Emergency response area (ERA).

- (a) The following activities/facilities/uses are prohibited in the ERA, subject to exception by permit, if the city can be assured that the use does not pose a significant risk of contamination to the groundwater supply. The use may be permitted if the city determines that it does not pose a contamination risk and meets appropriate performance standards outlined in section 27-95.
 - (1) Asphalt ingredients storage or processing plants;
 - (2) Automobile body/repair shop;
 - (3) Equipment maintenance/fueling areas;
 - (4) Gas station;
 - (5) Fleet/trucking/bus terminal;
 - (6) Cemetery;

Dry cleaning processing facility

dry cleaning processing facility;

(7)

(8) Electrical/electronic manufacturing facility;

(9) Landfill;

(10) Subsurface sewage treatment systems;

(11) Machine shop;

(12) Metal plating/finishing/fabricating facility;

(13) Photography studio involving developing of film or pictures;

(14) Chemical processing/storage facility including but not limited to fertilizer, herbicide and pesticide;

(15) Wood preserving/treating facility;

(16) Junk/scrap/salvage yard;

(17) Salt and/or deicing material storage;

(18) Recycling facilities;

(19) Mines/gravel pit;

(20) Irrigated nursery/greenhouse stock;

(21) Confined animal feeding operations;

(22) Injection wells/dry wells/sumps;

(23) Underground storage tanks;

(24) Stormwater infiltration basins;

(25) All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste (including municipal, commercial, industrial or animal wastes) having potentially harmful impacts on groundwater quality.

(Ord. No. 1876, § 1, 3-26-2014; Ord. No. 2016, 3-16-2022)

Editor's note— Ord. No. 2016, adopted March 16, 2022, changed the title of § 27-94 from emergency management zone (EMZ) to emergency response area (ERA).

Sec. 27-95. - ERA performance standards.

For any facility listed in section 27-94 to be permitted within the ERA, the following performance standards must be met:

- (a) Any facility involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or release from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and sumps that are accessible for inspection.
- (b) All permitted facilities must adhere to appropriate federal and state standards for storage, handling and disposal of any hazardous materials.
- (c) An acceptable contingency plan for all permitted facilities must be prepared for preventing hazardous materials from contaminating the aquifer should floods, fire, or other natural catastrophes, equipment failure, or releases occur.
- (d) The owner and/or operator shall report all incidents involving liquid or chemical material release to the city.
- (e) Construction vehicles and stationary equipment that are found to be leaking fuel, hydraulic fluid, and/or other hazardous materials shall be removed from the site and from the ERA. The vehicle or equipment may be repaired in place, provided the leakage is completely contained.
- (f) Storage and dispensing of flammable and combustible liquids from tanks, containers, and tank vehicles into the fuel and fluid reservoirs of construction vehicles or stationary equipment on a construction site shall be in accordance with applicable standards.

(Ord. No. 1876, § 1, 3-26-2014; Ord. No. 2016, 3-16-2022)

Editor's note— Ord. No. 2016, adopted March 16, 2022, amended the title of § 27-95 by changing "EMZ" to "ERA."

Sec. 27-96. - Liability.

Nothing in this article shall be construed to imply that the City of Woodbury has accepted any of a owner/developer's liability if a permitted facility or use contaminates groundwater in any aquifer.

(Ord. No. 1876, § 1, 3-26-2014)

Secs. 27-97—27-104. - Reserved.