


REQUEST FOR COUNCIL ACTION

Date: 8/8/11
Item No.: 13 . a

Department Approval



City Manager Approval



Item Description: Consider Updates to the Erosion and Sedimentation Control Ordinance

BACKGROUND

It has been five years since the City adopted the Erosion and Sedimentation Control Ordinance (ESC) Ordinance. Over the course of implementing the Ordinance, staff has been identifying items that should be changed within the ordinance to make implementation better meet the needs of the City of Roseville. The Minnesota Pollution Control Agency suggested additional changes to the ordinance during our SWPPP audit last year that we would like to incorporate to help clarify the ordinance.

The Public Works Environment and Transportation Commission recommends the City Council consider adopting the updates to the Erosion and Sedimentation Control Ordinance. This ordinance was originally adopted by the City Council on January 28, 2008. Attached is the draft ordinance for this discussion.

The City of Roseville is a Municipal Separate Storm Sewer System (MS4) city enrolled in the MPCA stormwater program. Under the stormwater program, MS4s are required to develop and implement a Stormwater Pollution Prevention Program (SWPPP). The SWPPP must cover six minimum control measures:

- Public education and outreach;
- Public participation/involvement;
- Illicit discharge, detection and elimination;
- Construction site runoff control;
- Post-construction site runoff control; and
- Pollution prevention/good housekeeping.

The MS4 must identify best management practices (BMPs) and measurable goals associated with each minimum control measure. An annual report on the implementation of the SWPPP must be submitted each year. The City's Erosion and Sedimentation Control (ESC) Ordinance is one of the requirements of the City's SWPPP.

This ordinance will be moved out of the Zoning Code and into the Storm Water Code, specifically 803.04. This is the same chapter as the Illicit Discharge Ordinance (803.3) and the future location of the City's Storm Water Drainage Ordinance.

POLICY OBJECTIVE

The City's Comprehensive Plan and the Comprehensive Storm Water Management Plan discuss the importance of protecting the city's water resources. This ordinance is consistent with that objective. The Public Works Environment and Transportation Commission has reviewed the proposed changes and recommends their adoption.

34 **FINANCIAL IMPACTS**

35 The adoption of this ordinance should not have a negative impact on city budgets or operations.
36 Erosion Control Permits Fees cover the staff time required to review and inspect these permits.

37 **STAFF RECOMMENDATION**

38 Staff recommends the Council consider adoption of the attached updates to the Erosion and
39 Sedimentation Control Ordinance.

40 **REQUESTED COUNCIL ACTION**

41 Discuss the proposed ordinance and provide staff direction on any desired changes.

Prepared by: Debra Bloom, City Engineer
Attachments: A: Draft Ordinance

Move this section of the code to 803.04.

CHAPTER 1018

EROSION AND SEDIMENTATION CONTROL ORDINANCE

SECTION:

- 1018.01: Purpose
- 1018.02: Scope
- 1018.03: Definitions
- 1018.04: ~~Storm Water Manual~~-Erosion and Sediment Control Plan
- 1018.05: ~~Plan~~ Review ~~of Plan~~
- 1018.06: ~~Plan~~ Implementation and Maintenance ~~of Plan~~
- 1018.07: ~~Plan~~ Modification ~~of Plan~~
- 1018.08: Escrow Requirement
- 1018.09: ~~Erosion and Sediment Control Permit~~ Enforcement

1018.01: PURPOSE:

The purpose of this article is to control or eliminate soil erosion and sedimentation resulting from construction activity within the City. This article establishes standards and specifications for conservation practices and planning activities that minimize soil erosion and sedimentation.

1018.02: SCOPE:

Except as exempted by the definition of the term “land disturbance activity” in Section 1018.03, any person, entity, state agency, or political subdivision thereof proposing land disturbance activity within the City shall apply to the City for the approval of the erosion and sediment control plan. No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth in this article.

1018.03: DEFINITIONS:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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1 *Certificate of Completion* means the certificate issued after the final inspection of the site has
2 been completed, temporary erosion control has been removed and the site has been fully
3 restored.

4
5 *City of Roseville Erosion Control Specifications* mean practices described in, but not limited to,
6 the following manuals:

- 7 • *Minnesota Stormwater Manual*
- 8 • *Minnesota Pollution Control Agency's "Protecting Water Quality in Urban*
9 *Areas" handbook*
- 10 • *Ramsey County Erosion and Sediment Control Handbook*

11
12 *Erosion* means any process that wears away the surface of the land by the action of water, wind,
13 ice, or gravity. Erosion can be accelerated by the activities of man and nature.

14
15 *Erosion and sediment control plan* means a document containing the requirements of Section
16 1018.04 that, when implemented, will prevent or minimize soil erosion on a parcel of land and
17 off-site sediment damages.

18
19 *Erosion and sediment control practice specifications* and *erosion and sediment control practices*
20 mean the management procedures, techniques, and methods to control soil erosion and
21 sedimentation as officially adopted by the City~~district~~.

22
23 *Land disturbance activity* means land change greater than 10,000 square feet, or land change on
24 a parcel of land located directly adjacent to a water resource or located within the shoreland
25 overlay district, that may result in soil erosion from water or wind and the movement of
26 sediments into or upon waters or lands of the city, including clearing, grading, excavating,
27 transporting and filling of land. Land disturbance activity does not mean the following:

- 28
29 1) Minor land disturbance activities such as home gardens and an individual's home
30 landscaping, repairs, and maintenance work.
- 31 ~~2) Construction, installation, and maintenance of electric, telephone, and cable television~~
32 ~~utility lines or individual service connections to these utilities, except where a~~
33 ~~minimum of 10,000 square feet of land disturbance can be anticipated.~~
- 34 ~~3) 2) Tilling, planting, or harvesting or agricultural, horticultural, or silvicultural crops.~~
- 35 ~~4) 3) Installation of fence, sign, telephone, and electric poles and other kinds of posts or~~
36 ~~poles.~~
- 37 ~~5) 4) Emergency work to protect life, limb, or property and emergency repairs. However,~~
38 ~~if the land ~~disturbing~~disturbance activity would have required an approved erosion~~
39 ~~and sediment control plan except for the emergency, the land area disturbed shall be~~
40 ~~shaped and stabilized in accordance with the requirement of the local plan-approving~~
41 ~~authority or the city when applicable.~~

42
43 *Permittee* means a person, entity, state agency, corporation, partnership, or political subdivision
44 thereof engaged in a land disturbance activity.

Move this section of the code to 803.04.

1 *Sediment* means solid mineral or organic material that, in suspension, is being transported or has
2 been moved from its original site by air, water, gravity, or ice, and has been deposited at another
3 location.

4
5 *Sedimentation* means the process or action of depositing sediment that is determined to have
6 been caused by erosion.

7
8 *Water Resource* includes any stream, channel, wetland, storm pond, or lake within the City.
9

10 **1018.04: ~~STORM WATER MANUAL: EROSION AND SEDIMENT~~**
11 **CONTROL PLAN:**

- 12
13 1) *Required.* Every Permittee for a building permit, a subdivision approval, or a permit
14 to allow land ~~disturbing~~disturbance activities must submit an erosion and sediment
15 control plan to the City Engineer. No building permit, subdivision approval, or
16 permit to allow land ~~disturbing~~disturbance activities shall be issued and no earth
17 disturbing activity shall commence until approval of the erosion and sediment control
18 plan by the City.

19
20 Projects coordinated by Ramsey County or Mn/DOT do not require a permit;
21 however, the City must be notified of the project and be provided a copy of the
22 erosion and sediment control plan, as well as an estimated schedule for
23 commencement and completion. The City will notify the designated contact if
24 erosion control measures should fail or require maintenance with the expectation that
25 the deficiencies will be corrected.

26
27 If no permit has been obtained, a stop work order shall be issued on the construction
28 and a fine shall be issued in an amount equal to twice the required permit fee. A
29 completed erosion and sediment control plan and permit application shall be
30 submitted before construction will be allowed to resume.

31
32 Obtaining a permit does not exempt the permittee from obtaining permits required by
33 other government regulatory agencies.

34
35 ~~Every Permittee must also obtain, when applicable, permits from agencies including,~~
36 ~~but not limited to, the following:~~

37 ~~e. Minnesota Pollution Control Agency (MPCA) National Pollutant Discharge~~
38 ~~Elimination System (NPDES). This permit is required for any construction~~
39 ~~activity disturbing:~~

- 40 ~~• One acre or more of soil.~~
41 ~~• Less than one acre of soil if that activity is part of a "larger common~~
42 ~~plan of development or sale" that is greater than one acre.~~
43 ~~• Less than one acre of soil, but the MPCA determines that the activity~~
44 ~~poses a risk to water resources.~~

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1 ~~g. The appropriate watershed district. Watershed districts in Roseville include~~
2 ~~Rice Creek Watershed District, Capital Region Watershed District and Grass~~
3 ~~Lake Watershed Management Organization~~

4 8)2) *Criteria addressed.* The erosion and sediment control plan shall address the
5 following criteria:

- 6 a. Conform to the natural limitations presented by topography and soil so as to
- 7 create the least potential for soil erosion.
- 8 b. Stabilize all exposed soils and soil stockpiles
- 9 c. Establish permanent vegetation
- 10 d. Prevent sediment damage to adjacent properties and other designated areas
- 11 e. Schedule of erosion and sediment control practices
- 12 f. Use temporary sedimentation basins
- 13 g. Stabilization of steep slopes
- 14 h. Control the storm water leaving ~~a the~~ site
- 15 i. Stabilize all waterways and outlets
- 16 j. Protect storm sewers from the entrance of sediment, debris and trash
- 17 k. Control waste, such as discarded building materials, concrete truck washout,
- 18 chemicals, litter and sanitary waste that may adversely impact water quality
- 19 l. When working in or crossing water ~~bodiesresources~~, take precautions to
- 20 contain sediment
- 21 m. Restabilize utility construction areas as soon as possible
- 22 n. Protect paved roads from sediment and mud brought in from access routes
- 23 o. Dispose of temporary erosion and sediment control measures
- 24 p. Maintain all temporary and permanent erosion and sediment control practices
- 25 q. Removal of sediment from streets at the end of each day

27 9)3) *Contents of Plan.* The erosion and sediment control plan shall include the following:

- 28 a. Contact information for the Permittee
- 29 b. Project description: the nature and purpose of the land ~~disturbingdisturbance~~
- 30 activity and the amount of grading involved
- 31 c. Phasing of construction: the nature and purpose of the land
- 32 ~~disturbingdisturbance~~ activity and the amount of grading, utilities, and building
- 33 construction
- 34 d. Existing and proposed site conditions: existing and proposed topography,
- 35 vegetation, and drainage
- 36 e. Adjacent areas, neighboring streams, lakes, wetlands, residential areas, roads,
- 37 etc., which might be affected by the land ~~disturbingdisturbance~~ activity
- 38 f. Soils: soil names, mapping units, erodibility
- 39 g. Critical erosion areas: areas on the site that have potential for serious erosion
- 40 problems
- 41 h. Erosion and sediment control measures: methods to be used to control erosion
- 42 and sedimentation on the site, both during and after the construction process
- 43 i. Temporary and Permanent stabilization: how the site will be stabilized during
- 44 and after construction (~~is completed~~), including specifications

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- j. Storm water management: how storm runoff will be managed, including methods to be used if the development will result in increased peak rates or volume of runoff
- k. Maintenance: schedule of regular inspections and repair of erosion and sediment control structures
- l. Calculations: any that were made for the design of such items as sediment basins, diversions, waterways, and other applicable practices

1018.05: PLAN REVIEW ~~OF PLAN~~:

- 1) *General.* The City appoints the City Engineer to review the erosion and sediment control plan to ensure compliance with the City of Roseville Erosion and Sediment Control ~~Specifications~~Standards.
- 2) *Permit required.* If the City determines that the erosion and sediment control plan meets the requirements of this article, the City shall issue a permit, valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of the erosion and sediment control plan.
- 3) *Denial.* If the City determines that the erosion and sediment control plan does not meet the requirements of this article, the City shall not issue a permit for the land disturbance activity. The erosion and sediment control plan must be resubmitted for approval before the land disturbance activity begins. No land use and building permits may be issued until the Permittee has an approved erosion and sediment control plan.
- 4) *Permit suspension.* If the City determines that the approved plan is not being implemented according to the schedule or the control measures are not being properly maintained, all land use and building permits must be suspended and stop work order issued until the Permittee has fully implemented and maintained the control measures identified in the approved erosion and sediment control plan.

1018.06: PLAN IMPLEMENTATION ~~AND MAINTENANCE OF PLAN~~:

All storm water pollution controls noted on the approved erosion and sediment control plan shall be installed before commencing the land ~~disturbing~~disturbance activity, and shall not be removed without City approval or issuance of approval of a Certificate of Completion. ~~Noncompliance with the grading and erosion control plan shall constitute grounds for an order from the City to halt all construction.~~

~~The plan implementation shall incorporate the following:~~

- ~~Existing vegetation shall be retained whenever feasible.~~
- ~~Land shall be disturbed in increments of workable size on which adequate erosion and sediment control can be provided and maintained, and staged so that the area is not exposed for long periods of time without stabilization.~~
- ~~The location of areas not to be disturbed must be identified with flags, stakes, signs, silt fence, etc. before construction begins.~~
- ~~Down gradient sediment controls must be in place before up gradient land disturbing activity begins.~~

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- ~~5) Black zip ties shall be used for long term silt fence installation.~~
- ~~6) All storm drains and inlets must be protected until all sources of potential discharge are stabilized.~~
- ~~7) Temporary stockpiles must have effective sediment control and can not be placed in surface waters or storm water conveyance systems.~~
- ~~8) Vehicle tracking from the site shall be minimized with the use of stone pads, concrete or steel wash racks, or equivalent systems.~~
- ~~9) Street sweeping must be used if BMPs are not adequate to prevent sediment from being tracked into the street.~~

The Permittee shall be responsible for proper operation and maintenance of all stormwater pollution controls and soil stabilization measures in conformance with best management practices. ~~and with the maintenance requirements in the NPDES General Construction Permit. The Permittee is responsible for the operation and maintenance of temporary erosion at the site. The Permittee is responsible until another Permittee has assumed control over all areas of the site that have not been finally stabilized or the site has undergone final stabilization, and has received an approved Certificate of Completion.~~ The Permittee ~~shall also be~~ responsible for maintenance, clean-up and all damages caused by flooding of the site or surrounding area due to in-place erosion ~~or and~~ sediment control. The foregoing responsibilities shall continue until a Certificate of Completion is issued to the Permittee by the City for the land disturbance activity.

1018.07: MODIFICATION OF PLAN:

An approved erosion and sediment control plan may be modified on submission of an application for modification to the City and subsequent approval by the City Engineer. In reviewing such application, the City Engineer may require additional reports and data.

1018.08: ESCROW REQUIREMENT:

~~After approval of an erosion and sediment control plan, t~~The City shall require the Permittee to escrow a sum of money sufficient to ensure the inspection, installation, completion, and maintenance, and completion of the erosion and sediment control plan and practices. Escrow amounts shall be set from time to time by the City Council. Upon project completion and the issuance of a Certificate of Completion any, the remaining amount held in escrow shall be returned to the Permittee.

1018.09: EROSION AND SEDIMENT CONTROL PERMIT ENFORCEMENT:

Corrective Work. If the City determines the erosion and sedimentation control is not being implemented or maintained according to the approved plan, the Permittee will be notified and provided with a list of corrective work to be performed. The corrective work shall be completed by the Permittee within forty-eight (48) hours after notification by the City. Notification may be given by:

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- 1) Personal delivery upon the Permittee, or an officer, partner, manager or designated representative of the Permittee
 - 2) E-mail or facsimile by sending such notice to the e-mail address or facsimile number provided by the Permittee
 - 3) Mail by sending such notice by U. S. Mail, postage prepaid, to the address provided by the Permittee in the permit application.
- ~~—The City shall notify the Permittee when the City is going to act on the financial securities part of this ordinance.~~

~~1) Notification by the City. The initial contact will be to a party or parties listed on the application and/or the storm water pollution control plan. Forty eight (48) hours after notification by the City or seventy two (72) hours after the failure of erosion control measures, whichever is less, the City, at its discretion, may begin corrective work.~~

~~2) Erosion Off Site. If erosion breaches the perimeter of the site, the Permittee shall immediately develop a cleanup and restoration plan, obtain the right of entry from the adjoining property owner(s), and implement the cleanup and restoration plan within forty eighty (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, shall more than seven (7) calendar days go by without corrective action being taken. If, in the discretion of the City, the Permittee does not repair the damage caused by the erosion, the City may do the remedial work required and charge the cost to the Permittee.~~

~~3) 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, prevention strategies, cleanup and repair must be immediate and entirely at the expense of the Permittee. The Permittee shall also pay all costs associated with traffic control and flagging required to protect the traveling public during the cleanup operations.~~

~~7)4) Failure to Do Corrective Work. If a ~~When an~~ Permittee fails to perform any corrective work or otherwise fails to conform to any provision of this ~~policy ordinance~~ within the time stipulated, the City may take any one or more of the following actions:~~

~~a. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.~~

~~b. Revoke any permit issued by the City to the Permittee for the site in question or any other of the Permittee's sites within the City's jurisdiction.~~

~~c. Direct the correction of the deficiency by City forces or by a separate contract. The issuance of a permit constitutes a right of entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.~~

~~d. All costs incurred by the City in correcting erosion and sediment control deficiencies shall be reimbursed by the Permittee. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the Permittee's financial securities, as described in Section 1018.08 of this Ordinance.~~

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- 1 a. If there is an insufficient financial amount in the Permittee's financial securities as
2 described in Section 1018.08 of this Ordinance to cover the costs incurred by the
3 City then the City may assess the remaining amount against the property. As a
4 condition of the permit, the owner shall waive notice of any assessment hearing to
5 be conducted by the City, concur that the benefit to the property exceeds the
6 amount of the proposed assessment and waive all rights by virtue of Minnesota
7 Statutes 429.081 to challenge the amount of validity of assessment. Issue a stop
8 work order whereupon the Permittee shall cease all land disturbance activity on
9 the site until such time as the City determines the corrective measures that are
10 necessary to correct the conditions for which the stop work order was issued.
11 Once the necessary corrective actions have been determined the Permittee shall
12 perform the corrective work. All corrective work must be completed before
13 further land disturbance activity will be allowed to resume.
- 14 b. Complete the corrective work using City forces or by separate contract. The
15 issuance of a land disturbance permit constitutes a right-of-entry for the City or its
16 contractor to enter upon the construction site for the purpose of completing the
17 corrective work.
- 18 c. Impose a monetary fine in an amount equal to twice the required permit fee.
- 19 d. Charge the Permittee for all staff time expended and costs incurred by the City to:
20 i) perform any corrective work required by the City, ii) perform such inspections
21 and reinspections of the site on which the land disturbance activity is occurring as
22 the City deems necessary, and/or iii) coordinate and communicate with the
23 Permittee regarding any corrective work, inspections, reinspections or other
24 remedial actions which the City deems necessary to implement as a result of the
25 failure of the Permittee to conform to the provisions of this ordinance, and iv)
26 remedy any other failure of the Permittee to conform to provisions of this
27 ordinance. The cost for staff time shall be determined by multiplying the staff
28 member's hourly rate times 1.9 times the number of hours expended, for all staff
29 members (including administrative employees) involved in such corrective work,
30 communications, coordination of activities, inspections, reinspections and other
31 remedial actions. All amounts charged shall be paid by the Permittee within 30
32 days of the delivery by the City of a written invoice which describes such charges.
- 33 e. Draw on the escrow amount for all staff costs incurred, and payments due to the
34 City as a result of the exercise by the City of any remedy available to the City
35 pursuant to this ordinance.
- 36 f. Assess that portion of any unpaid charges which are attributable to the removal or
37 elimination of public health or safety hazards from private property pursuant to
38 Minnesota Statutes Section § 429.101.
- 39 g. Pursue any other legal or equitable remedy which is available to the City.

40
41 The remedies listed in this ordinance are not exclusive of any other remedies available
42 under any applicable federal, state or local law and it is within the discretion of the City to seek
43 cumulative remedies.
44