

# **Chapter 60 UTILITIES**

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## **SECTION 60-160. GENERAL PROVISIONS**

### **60-160.1 - Purpose and Policy.**

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

The objectives of this title are:

1. To promote, preserve, and enhance the natural resources within the City of Dickinson, its extraterritorial jurisdiction and watersheds;
2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater management practices;
3. To protect the City's natural resources from adverse impacts caused by development or other activities;
4. To allow for land development, land disturbing, or other activities that may adversely and potentially irreversibly impact stormwater quality and environmentally sensitive lands related to property within the City of Dickinson, the extraterritorial jurisdiction and watersheds while controlling runoff and protecting property;
5. To regulate land development, land disturbing, or other activities that may have an adverse impact to stormwater quality and quantity;
6. To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);
7. To require detailed review standards and procedures for land development activities proposed throughout the City, and its extraterritorial jurisdiction, thereby achieving a balance between urban growth and development, and the protection of water quality; and
8. To provide for adequate stormwater system analysis and appropriate stormwater system design as necessary to protect public and private property, water quality, and existing natural resources. This title establishes and provides for the following stormwater management criteria:
  - a. The regulation of development through the issuance of stormwater management permits and through the enforcement of general stormwater drainage requirements throughout the City as they relate to managing stormwater volumes, rates of runoff, flow duration, and their subsequent impacts to downstream property and stormwater management facilities.
  - b. The regulation of, and the establishment of criteria for, existing public underground storm sewers, existing artificial and natural open channel drainage systems, existing stormwater detention and retention ponds, and existing private stormwater drainage systems discharging into the public system.

- c. Penalties for violating the provisions of this ordinance, and the orders, rules, regulations and permits issued hereunder. (Ord. No. 1282 § 2.)

## **60-160.2 - Definitions.**

For the purpose of this ordinance and title, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. Words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and the word “may” is permissive.

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

**Applicant:** Any person wishing to obtain a building permit, special use permit, zoning change, or subdivision approval, that requires a mandatory stormwater management permit.

**Approval:** Recognition that the project has addressed the applicable requirements to be issued a mandatory stormwater management permit.

**Best Management Practice:** A schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce increases in runoff rates and/or the pollution of downstream waters.

**Catchment:** The area of a development or redevelopment project that collects stormwater to a discrete Point of Discharge or Point of Analysis.

**Certification Report:** The required analysis documenting that the facilities identified in an approved Stormwater Management Plan have been constructed and function as intended. A Certification Report is a required submittal prior to project closeout.

**City:** The Board of City Commissioners

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

**Construction:** Any site under development which lacks vegetative or permanent cover.

**Construction Plans:** Engineered drawings detailing the size and character of post-construction stormwater management facilities and site development.

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

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

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

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

**Certification Report** The required analysis documenting that the facilities identified in an approved Stormwater Management Plan have been constructed and function as intended. A Certification Report is a required submittal prior to project closeout.

**Common plan of development or sale** A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan, e.g., a housing development of five ¼ - acre lots (40 CFR 122.26(b)(15)(i)).

**Conditional Approval** The issuance of a mandatory stormwater permit on the stipulation that additional materials and/or actions occur in the future to document and confirm the submitted and reviewed application materials.

**Construction Activities** As defined in 40 CFR part 122.26(b)(14)(x) and (b)(15). This includes a disturbance to the land that results in a change in topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater 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 part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility  
**Construction Plans** Engineered drawings detailing the size and character of post-construction stormwater management facilities and site development.

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

**Development Means any of the following activities:**

- a. Structural development, including construction of a new building or other structure;
- b. Expansion or alteration of an existing structure that results in an increase in the ground surface dimensions of the building or structure;
- c. Land disturbing activities; or
- d. Creation or expansion of impervious surfaces.

**EPA:** United States Environmental Protection Agency.

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

**Erosion and Sediment Control Plan:** A written description and site map containing best management practices designed to meet the requirements of this ordinance. A plan that conforms to the State of North Dakota Stormwater Pollution and Prevention Plan Permit requirements can also be used.

**Extraterritorial Jurisdiction:** The zoning or subdivision jurisdiction of the City, but outside its corporate limits.

**Excavation** Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or spread and shall include the resulting conditions.

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

**Hydric Soils** Soils that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. (Reference: USDA, NRCS. 2010. Field Indicators of Hydric Soils in the United States. [http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs142p2\\_050723.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_050723.pdf))

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

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

**Land Disturbing Activities** Any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff including, but not limited to, removal of ground cover, grading, excavating, and filling of land, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, and harvesting trees.

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

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

**Municipal separate storm sewer system or “MS4”** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management Agency under section 208 of the CWA that discharges to waters of the United States;

Designed or used for collecting or conveying stormwater;

Which is not a combined sewer; and

Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

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

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

**On-Site Post-Construction Facility or BMP** A permeant stormwater facility provided to serve only the project area and no significant areas outside of the project boundaries.

On-site facilities shall be sized to include the existing condition runoff flows from areas up gradient of the development boundary that flow onto the development under the existing condition.

**Outfall** The point where a municipal separate storm sewer system discharges from a pipe, ditch, or other discrete conveyance to receiving waters, or other municipal separate storm sewer systems. It does not include diffuse runoff or conveyances, which connect segments of the same stream or other water systems

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

**Pervious Surface** Any land cover that permits absorption of stormwater or snow melt into the ground.

**Point of Analysis** The location where runoff from development or redevelopment will be evaluated for compliance with the requirements of Chapter 60-160 of the City Municipal Code and this SWDSM. In general, this will be the location where post

developed flow rates must meet the existing conditions rates and water quality BMPs have been provided.

The Point of Analysis may be located downstream of the Point of Discharge(s). The Point of Analysis will be determined by the City Engineer. In practicality, there may be more than one Point of Analysis for a project.

**Permanent Development:** Any buildings, structures, parking lots, roads, landscaping and related features constructed as part of a development project approved under a stormwater management permit, that will remain after development is constructed.

**Permanent Facilities:** Any natural or constructed features of a stormwater system including, but is not limited to storm sewers, infiltration areas, detention/retention areas, channels, streets, and similar features, that will remain after development is constructed.

**Permittee:** Any person who has received a stormwater management permit from the City.

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

**Point of Discharge** A location where stormwater discharges from development or redevelopment areas into the Public Storm Sewer System or other receiving waters. In practicality, there may be more than one Point of Discharge on a site or for a project.

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

**Post-Construction Stormwater Management** The implementation of appropriate permanent BMPs to address the stormwater quantity, quality, and conveyance for new and redevelopment projects.

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

**Planning Commission:** An appointed Commission of the Dickinson City Commission, which is tasked with addressing land use in accordance with Chapter 44.

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

**Private Storm Sewer:** A storm sewer on privately owned land or easements.

**Public Drainage Channel:** A drainage channel located on public property that collects and conveys stormwater.

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

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

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

**Redevelopment** Any construction, alteration or improvement on a previously developed site that creates new impervious surfaces.

**Regional Detention:** An area which temporarily stores stormwater from more than one source.

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

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

**Sediment:** Solid or organic material that, in suspension, may be transported by air, water, gravity, or ice, and deposited at another location.

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

**State:** The State of North Dakota.

**Stabilized** Means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, or other material that prevents erosion from occurring. Grass seeding alone is not stabilization. Snow covered and frozen ground conditions are not considered stabilized.

**Standard Specifications** Refers to the current edition of the “Standard Specifications for Dickinson, North Dakota” available from the office of the City Engineer.

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

**Stormwater Design Manual:** a design and standards manual, as adopted and amended by the City of Dickinson, that contains the principal standards and design criteria for complying with the City’s stormwater management program. The Manual details criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, and requirements for easements and rights-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.

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

**Stormwater Detention:** Temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, and other similar features, for future or controlled release that is used to delay and attenuate flow.

**Stormwater Retention:** Permanent stormwater storage designed to eliminate subsequent surface discharge. Ponds are the most common types of retention storage.

**Stormwater Management Criteria:** Specific guidance provided to the designer to carry out stormwater management policies.

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

adverse impact to stormwater quality and quantity. A Stormwater Management Plan is a required submittal for a Post-Construction Stormwater Management Permit.

**Stormwater Permit** A permit allowing land development and land disturbing activities so as to protect the Public Storm Sewer System such that development or redevelopment activities are in conformance with the MS4 General Permit and Title 14.1 of the City Code of Ordinances. Mandatory permits are described in Section Error! Reference source not found.

**Stormwater Pollution Prevention Plan (SWPPP)** A site specific plan required for Construction Stormwater Permits that addresses all pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity and controlled through the implementation of Best Management Practices (BMPs).

**Sub-catchment** A smaller area of the hierarchical pattern of drainage from a Catchment. For Mandatory Stormwater Permits, sub-catchments are used to define unique drainage areas inside of the project Catchment.

**Sub-watershed** A smaller area of the hierarchical pattern of drainage from a Watershed. An area of land where all surface water is tributary to a larger drainage system.

**Unpolluted Water:** Any water of quality equal to or better than the effluent criteria in effect, or water that would not cause a violation of receiving water quality standards.

**Urban Area:** Land associated with, or part of, a defined city or town.

**User:** Any person who benefits from and/or is regulated by City stormwater management policies and facilities.

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

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

**Watershed Stormwater Master Plan** A stormwater management plan that characterizes and address runoff from a defined drainage area and makes recommendations for the implementation of regional facilities, or BMPs, to address peak flow and water quality compliance and/or regional drainage and conveyance systems.

Watershed Stormwater Master Plans that are adopted by the City Commission are planning documents that provide drainage area specific refinements to stormwater management performance requirements and design standards.

**Waters of the State** Any and all surface waters that are contained in or flow in or through the state of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.

**Water Shed:** The land area that drains water to a particular stream, river, or lake. It is a land feature that can be identified by tracing a line along the highest elevations between two areas on a map, often a ridge.

**Waterway:** any channel, open ditch, or river which carries natural flows or stormwater.

**Wetlands** Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (Reference: Definition of wetlands as used by the USACE and EPA since the 1970s for regulatory purposes: <https://www.epa.gov/cwa-404/section-404-clean-water-act-how-wetlands-are-defined-and-identified>)

### **60-160.3 - Illicit Discharge into Stormwater System.**

It shall be unlawful for any person to discharge, deposit, dump or drain, or cause to be discharged, deposited, dumped or drained any liquid, solid or material which may degrade stormwater quality and/or is prohibited by city, state or federal regulations or policies into the stormwater system. For the purposes of this chapter, illicit discharges do not include the following, unless information is available to indicate otherwise: Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from firefighting activities. (Ord. No. 1282 § 2.)

### **60-160.4 - Application.**

A proposed Stormwater Management Plan shall be filed with the City Engineer. The application shall include a description of the location upon which the approval is requested, verification that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this article and the City of Dickinson Stormwater Design Manual. Applicable fees as set forth in the city fee schedule shall be paid prior to commencement of any construction activities. (Ord. 1282 § 2.)

### **60-160.5 - Operation and Maintenance Considerations.**

All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. It shall be the responsibility of the applicant to obtain or provide any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purposes. (Ord. No. 1282 § 2)

### **60-160.6 - Mandatory Compliance with Other City Codes.**

In addition to this article, the applicant is responsible for adhering to the requirements of all city codes, including but not limited to the following:

1. Zoning regulations
2. The city's Flood Damage Prevention Ordinance, ordinance number 1404, Chapter 20
3. Regulations governing the subdivision of land.

(Ord. No. 1282 § 2.)

### **Secs. 60-161—60-169. - Reserved.**

## **SECTION 60-170. - STORMWATER MANAGEMENT PROGRAM**

### **60-170.1 - Stormwater Management Program Scope.**

Every applicant for a building permit, subdivision approval, or a permit to allow construction and/or land disturbing activities must comply with the provisions of this Article and the Stormwater Design Standards Manual. No building permit, subdivision approval, or permit to allow construction activities shall be issued until approval of the Stormwater Management Plan or a written waiver of the approval requirement has been obtained.

The City Engineer may waive any requirement of this title upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in Chapter 60-160 to 60-190. The City may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements.

The City of Dickinson is a designated Municipal Separate Storm Sewer System (MS4) under the Environmental Protection Agency's Stormwater Phase II Final Rule published on December 8, 1999 and is regulated under the North Dakota Pollutant Discharge Elimination System (NDPDES) by the North Dakota Department of Environmental Quality. To demonstrate compliance with the requirements of the MS4 General Permit, all development activities within the City's zoning jurisdiction must comply with the provisions contained herein related to construction stormwater management permits. (Ord. No. 1282 § 2.)

### **60-170.2 - Contents of Stormwater Management Plan.**

The City of Dickinson Storm Water Design Manual is the governing document for engineering standards that shall be followed.

a.

### **60-170.3 - Final Stormwater Management Plan.**

Upon completion of all required construction activities, the permit applicant shall submit to the City the final Stormwater Management Plan to document any change to the original Stormwater Management Plan concept. The final Stormwater Management Plan shall contain Record Drawings showing the final configuration for all improvements as constructed. For areas of development the final Stormwater Management Plan and Record Drawings shall be certified by a Professional engineer registered in the State of North Dakota. (Ord. No. 1282 § 2)

### **60-170.4 - Conditions.**

A Stormwater Management Plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this article are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, require the acquisition of certain lands or easements, and require the conveyance to the City of Dickinson or other public entity of certain lands or interests therein. The City may specify special requirements for specific watersheds within the City and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each sub watershed. Approval of a plan shall bind the applicant to perform all of the conditions and requirements of the plan prior to any land disturbing activities. A plan issued under this title runs with the land and is a condition of plat approval. Any owner or subsequent owner of any parcel within the plat must comply with the plan or any approval, revision or modification of the plan. (Ord. No. 1282 § 2)

### **Secs. 60-171—60-179. - Reserved.**

## **SECTION 60-180. – CONSTRUCTION STORMWATER MANAGEMENT PERMITS**

### **60-180.1 - Construction Stormwater Management.**

1. Mandatory Permits. Any person proposing a development or project which involves land development, land disturbing, or other activities as defined in this title, shall obtain a stormwater management permit before initiating those activities.
2. Permit Application. All person's subject to meeting the requirements for a mandatory stormwater management permit shall complete and file with the City Engineer an application in the form prescribed by the City and accompanied by a fee established by the City and adopted by the Board of City Commissioners. The permit application shall be accompanied by a Stormwater Management Plan as prescribed under Chapter 60, Article VI. The City Engineer will evaluate the data furnished as part of the Stormwater Management Plan and may require additional information. After evaluation and acceptance of the Stormwater Management Plan, the City may issue a stormwater management permit subject to any terms and conditions deemed necessary.
3. Permit Conditions. Stormwater management permits are issued subject to all provisions of this title and all other applicable regulations, user charges and fees established by the City. Permits may contain any of the following conditions:
  - a. The user fee for a stormwater outlet utilizing a regional stormwater management facility.
  - b. Limits on the maximum rate of stormwater discharge;
  - c. Limits on water quality degradation of stormwater discharge;
  - d. Requirements for the installation, operation and maintenance of stormwater detention/retention facilities; outlets, inlets and conveyance system.
  - e. Compliance schedule;
  - f. Requirements for notification to and acceptance by the City of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality; and
  - g. Other conditions as deemed appropriate by the City to ensure compliance with this title.
  - h. Stormwater management permits shall not be transferred to the homeowner or occupant.
4. Building Permits. Building permits will not be issued until the approved BMPs are installed
5. Permit Duration. Permits must be issued for a time period specified by the City. The applicant shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the City during the term of the permit as set forth in paragraph six (6).

6. Permit Modification. Permits may be modified by the City for just cause upon 30 days' notice. Just cause shall include but not be limited to:
  - a. Promulgation of a new applicable state or nationwide permit standard;
  - b. Changes in the requirements of this ordinance;
  - c. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and
  - d. Changes in the design or capability of receiving stormwater facilities.
  - e. A written request submitted by the permittee to the City and agreed upon by the city. The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
7. Permit Transfer. A permit runs with the property it covers and is transferable to new owners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel.
8. Monitoring Facilities. The City may require the applicant to provide and operate, at the applicant's expense, a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater facility component. Where at all possible, the monitoring facility shall be located on the property of the applicant as opposed to on public rights-of-way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.
9. Inspection. Any employee of the City of Dickinson may enter with or without notice to inspect the stormwater management facilities of any permittee to determine compliance with the requirements of this title. The City shall be allowed to set up equipment on the permittee's premises as required for the purpose of collecting samples and flow recording. The City shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions and penalties for noncompliance orders. Maintenance shall remain the responsibility of the subdivision and/or property owners. (Ord. No. 1282 § 2)

## **60-180.2 - Construction Activities.**

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

1. Site Dewatering. Water pumped from the site requires approval from the City prior to discharge and shall be treated by temporary sedimentation basins, grit chambers, sand filters, up flow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site; the receiving channels; or any wetland.
2. North Dakota Construction Stormwater Permit. Obtain state permit authorizing the discharge of stormwater associated with construction activities.

3. Waste and Material Disposal. All waste materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff or wind.
4. Tracking Management. At the end of each work day any material placed on a public or private road shall be removed (not by flushing) to prevent sediment tracking.
5. Water Quality Protection. The construction contractor shall be required to control oil and fuel spills, and the discharge of any chemicals to prevent such spills or discharges from entering any water course, sump, sewer system, water body, or wetland.
6. Site Erosion and Sedimentation Control. Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications. (Ord. No. 1282 § 2)

### **Secs. 60-181—60-189. - Reserved.**

## **60-190. – ENFORCEMENT AND PENALTIES**

### **60-190.1. - Emergency Suspension of Permits.**

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

Whenever the City orders the emergency suspension of a stormwater management permit and/or building permit pursuant to the emergency provisions of this section, the City shall serve notice on the permittee personally or by registered or certified mail before or after actually suspending activity depending on the individual situation. If any person is notified of the suspension order and/or a person fails to comply voluntarily with the suspension order, the City shall commence whatever steps are necessary to obtain compliance, including judicial proceedings.

Any applicant dissatisfied with an order the City issued pursuant to this section may request a hearing before the Board of City Commissioners by filing a written request for a hearing with the City, within fifteen (15) days of receipt of the order. The hearing must be held within thirty (30) days of receipt of the request, or as subject to the current meeting schedule, whereupon the Board of City Commissioners may affirm, modify or rescind the order. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending. (Ord. No. 1282 § 2)

## **60-190.2 - Revocation of a Permit.**

A stormwater management permit may be revoked following notice and an opportunity for a hearing in accordance with Sections 38.14.150.3 and 38.14.150.4. The City may revoke a stormwater management permit for cause, including but not limited to if upon permitted site there is:

1. One or more violation of any terms or conditions of the stormwater management permit;
  2. False statements on any required reports;
  3. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or
  4. Any other violation of this title or related ordinance.
- (Ord. No. 1282 § 2; Ord No. 1369 §1)

## **60-190.3 - Notification.**

Whenever the City finds that any person has violated or is violating this title, stormwater management permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the City shall serve upon such person a written notice stating the nature of the violation. Within the time period specified, a plan for the satisfactory correction thereof must be submitted to the City. (Ord. No. 1282 § 2)

## **60-190.4 - Hearing.**

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

If any person commences any land disturbing activities which result in increased stormwater quantity or stormwater quality degradation into the City stormwater management system contrary to the provisions of this title, federal or state requirements or any order of the City, the City Attorney may, following the authorization of such action by the Board of City Commissioners, commence legal action for appropriate legal and/or equitable relief. (Ord. No. 1282 § 2; Ord No. 1369 §1)

## **60-190.5 - Penalty.**

Any person who is found to have violated an order of the Board of City Commissioners made in accordance with this title, or who has failed to comply with any provision of this title and the orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day

on which a violation shall occur or continue shall be deemed a separate and distinct offense.  
(Ord. No. 1282 § 2)

### **60-190.6 - Costs of Damage.**

Any person violating any of the provisions of this title or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this title for the costs for any cleaning, repair or replacement work caused by the violation of stormwater discharge. (Ord. No. 1282 § 2)

### **60-190.7 - City Attorney's Fees and Costs.**

In addition to the civil penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this title or the orders, rules, regulations and permits issued hereunder. (Ord. No. 1282 § 2)

### **60-190.8 - Falsifying Information.**

Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, or other document filed or required to be maintained pursuant to this title, or stormwater management permit, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this chapter, shall be guilty of an offense. (Ord. No. 1282 § 2)

### **Sec. 60-191 – 60-199. - Reserved.**