

CHAPTER 9
BUILDING REGULATIONS

	<u>Page</u>
Section 1 Building Code	9-3
Section 2 Fire Code	9-5
Section 3 Individual Sewage and Wastewater Treatment	9-7
Section 4 Erosion and Sediment Control	9-15
Section 5 Post Construction Stormwater Management	9-25
Section 6 Private Water Supply	9-41

SECTION 1
BUILDING CODE

Section:

- 9-1-1 Building Code
- 9-1-2 Application, Administration and Enforcement
- 9-1-3 Permits and Fees
- 9-1-4 Violations and Penalties

9-1-1: BUILDING CODE:

- A. The Minnesota State Building Code, established pursuant to Minnesota Statutes 326B.101, including all of the amendments, rules and regulations established, adopted, and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference as to the building code for this jurisdiction, excepting of the optional chapters unless specifically adopted in Section 9-1-1.B of this Chapter. The code is hereby incorporated in this Section as if fully set out herein.
- B. The Minnesota State Building Code, established pursuant to Minnesota Statutes 326B.101 allows the Municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this Municipality.
 - 1. Reserved. (Ordinance #12B, adopted February 13, 2007)

9-1-2: APPLICATION, ADMINISTRATION AND ENFORCEMENT: The application administration and enforcement of this Section shall be in accordance with the Minnesota State Building Code. The code shall be enforced within the extra territorial limits permitted by Minnesota Statutes 326B.101 when so established by the City Code:

- A. The issuance of building permits and the collection of fees shall be as authorized in Minnesota Statute §326B.151.
- B. A surcharge fee shall also be collected on all permits issued for work governed by this Section in accordance with Minnesota Statutes §326B.148.
- C. Building permit fees shall be assessed in accordance with Section 1-2-2 of the City Code for work governed by this Section. (Ordinance #38, adopted October 11, 2011)

9-1-3: EXTERIOR COMPLETION: Exterior construction of a building shall be fully completed within one hundred eighty (180) days from the date a building permit is issued unless extended by the Building Official. For the purposes of this Section, exterior construction shall include installation of all exterior siding and finishes, roofing materials, doors and windows such that the building is weatherproof. (Ordinance #38, adopted October 11, 2011)

9-1-4: CONSTRUCTION HOURS:

- A. The erection (including excavation), demolition, alteration, or repair of any building shall occur only between the following hours:
 - 1. Monday through Saturday: 7:00 AM to 10:00 PM
 - 2. Sunday: 8:00 AM to 10:00 PM
- B. The Building Official may, in cases of emergency, grant permission to repair at any time when they find that such repair work will not affect the health and safety of the persons in the vicinity. (Ordinance #39, adopted October 12, 2011)

9-1-5: VIOLATIONS AND PENALTIES: Violation of this Code is a misdemeanor pursuant to Minnesota Statute 16B.69 as may be amended. (Ordinance #12B, adopted February 13, 2007)

SECTION 2

FIRE CODE

Section:

- 9-2-1 Fire Code
- 9-2-2 Definitions
- 9-2-3 Permits and Inspections

9-2-1: FIRE CODE: The Minnesota Uniform Fire Code and the Uniform Fire Code standards, as such may be from time to time amended, supplemented, or replaced in the future, pursuant to Minnesota Statutes and any rules thereunder is hereby adopted and incorporated by reference in this Section as is set forth in full as the Fire Code for the City of Nowthen. One (1) copy of said code, as it may be from time to time amended, supplemented, or replaced under the above rules and statutes shall be on file in the office of the City Clerk. (Ordinance #39, adopted October 12, 2011)

9-2-2: DEFINITIONS:

- A. Whenever the word “jurisdiction” is used in the Minnesota Uniform Fire Code, it shall be held to mean the City of Nowthen, Minnesota.
- B. Whenever the term “corporation counsel” is used in the Minnesota Uniform Fire Code, it shall be held to mean the City Attorney for the City of Nowthen, Minnesota. (Ordinance #39, adopted October 12, 2011)

9-2-3: PERMITS AND INSPECTIONS:

- A. A permit required by the Fire Code shall be obtained by submission of an application to the Department of Building Safety along with any fee established in Section 1-2-2 of the City Code.
- B. Inspections as required by the Fire Code shall be scheduled by the City and shall require payment of any fee established in Section 1-2-2 of the City Code. (Ordinance #39, adopted October 12, 2011)

SECTION 3

INDIVIDUAL SEWAGE AND WASTEWATER TREATMENT

Section:

- 9-3-1 Purpose, Applicability, and Authority
- 9-3-2 General Provisions
- 9-3-3 Standards Adopted
- 9-3-4 Permits
- 9-3-5 Violations and Penalties

9-3-1 PURPOSE, APPLICABILITY, AND AUTHORITY:

- A. Purpose. It is the purpose and intent of this Section to establish standards for the design, location, construction, operation, and maintenance of Subsurface Sewage Treatment Systems (SSTS).
- B. Applicability. This Section shall apply to those sites or facilities which are licensed, permitted, or otherwise regulated by the City Code of Ordinances. The sewer provisions of this Section shall also apply to any premises in the City of Nowthen (referred to herein as "City") that are not served by a sewage treatment system permitted by the Minnesota Pollution Control Agency.
- C. Authority. This Section is adopted pursuant to the authorization and requirements contained in Minnesota Statutes §145A.05, 115.55 and Minnesota Administrative Rules Chapter 7082.

9-3-2 DEFINITIONS

- A. The following definitions shall apply in the interpretation and enforcement of this Section:

Building Drain: The building drain is that part of the lowest piping of the drainage system which receives sewage discharge inside the walls of the building and conveys it to the building sewer beginning at least one foot outside the building footings

Building Sewer: The building sewer is that part of the drainage system which extends from the end of the building drain and conveys its discharge to an individual sewage treatment system.

Individual Sewage Treatment System: An individual sewage treatment system is a sewage treatment system, or part thereof, serving a dwelling or other establishment or group thereof which utilizes subsurface soil treatment and

disposal. Unless otherwise indicated, the word "system" as it appears in this part of this chapter means "individual sewage treatment system."

Septage/Sewage: Sewage is any water-carried domestic waste, exclusive of footing and roof drainage, from any industrial, agricultural or commercial establishment or any dwelling or any other structure. Domestic waste includes but is not limited to liquid waste produced by bathing, laundry, culinary operations and liquid wastes from toilets and floor drains and specifically excludes animal waste and commercial process water.

9-3-3 GENERAL PROVISIONS:

- A. Treatment Required. All sewage generated, in unsewered areas shall be treated and dispersed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency.
- B. Administrative Policy and Procedures. The provisions of the Nowthen City Code, Chapter 1, Section 4 apply to the administration and enforcement of SSTS, unless otherwise expressly provided for in this Section.
- C. Administration. This Section shall be administered by the City Building Official.
- D. Compliance. No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this Section.
- E. Conditions. Violation of any condition imposed by the City on a license, permit, or variance, shall be deemed a violation of this Section and subject to the penalty provisions set forth in this Chapter.
- F. Site Evaluation, System Design, Construction, Inspection, and Servicing. Site evaluation, and system design, construction, inspection and system servicing shall be performed by Minnesota Pollution Control Agency licensed SSTS businesses or qualified employees of local governments or persons exempt from licensing in Minn. R. 7083.0700. For lots platted after April 1, 1996, a design shall evaluate and locate space for a second soil treatment area.
- G. Inspection.
 - 1. No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the City. If any part of the system is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the City Building Official.

2. The City shall require such inspections as are necessary to determine compliance with this Section. It shall be the responsibility of the permittee to notify the City that the system is ready for inspection. If the integrity of the system is threatened by adverse weather if left open and the City Building Official is unable to conduct an inspection, the permittee may, after receiving permission from the City, document compliance with this Section by photographic means that show said compliance and submit that evidence to the City Building Official prior to final approval being sought.
3. If upon inspection the Building Official discovers that any part of the system is not constructed in accordance with the minimum standards provided in this part of this Section, he shall give the applicant written notification describing the defects. The applicant shall pay an additional fee as set forth by Section 1-2-2 of the City Code for each re-inspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated
4. The licensed installer shall provide an "as built" drawing on the form supplied by the Building Official or other City staff. (Ordinance #1, adopted August 8, 2010)

H. Compliance Inspection Required. SSTS compliance inspection is required:

1. For a new or replacement SSTS, the Building Official will issue a letter stating that the system was installed in accordance with the approved plans after the final inspection has passed.
2. When altering an existing structure to add a bedroom, a septic system may need to be expanded or upgraded to accommodate the additional square footage or number of bedrooms.
3. When a parcel having an existing system undergoes development, subdivision, or split.
4. Point-of-Sale. When property ownership is being transferred from one person(s) to another person(s).

I. Imminent Public Health and Safety Threat; Failing System; and Surface Discharge.

1. A subsurface sewage treatment system which poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the City and be brought into compliance with this Section within forty-five (45) days or in accordance with a schedule established by the City, not exceeding six (6) months except as may be dependent upon weather conditions and with the Building Official's approval.

2. A failing system, an SSTS that is not protective of groundwater, shall be brought into compliance within twenty-four (24) months after receiving notice from the City.
 3. An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.
- J. Conflict Resolution. For SSTS systems regulated under this Section, conflicts and other technical disputes over new construction, replacement and existing systems will be managed in accordance with the Minnesota Rules 7082.0700 Subpart 5.
- K. Septic Tank Maintenance.
1. The owner of a sewage tank, or tanks, shall regularly, but not less frequently than every three (3) years (unless otherwise approved by the City due to limited use), inspect the tank(s) and measure the accumulations of sludge, and scum. If the system is pumped, measurement is not needed.
 2. The owner shall remove and sanitarily dispose of septage whenever the top of the sludge layer is less than twelve (12) inches below the bottom of the outlet baffle or the bottom of the scum layer is less than three (3) inches above the bottom of the outlet baffle. Removal of septage shall include complete removal of scum and sludge.
 3. If necessary, risers shall be installed to bring the manhole cover to within twelve (12) inches of the ground surface.
 4. Maintenance activities require reporting on forms provided by the City. Pumpers are to obtain pumping permits from the City prior to pumping, and are to leave a completed copy of the pumping permit with the property owner, and forward one copy back to the City for its records. (Ordinance #1, adopted August 8, 2010)
 5. Fees shall be paid in accordance with the City's fee schedule adopted annually as part of Section 1-2-2.
- L. Non-Compliant Systems. Existing systems which are non-compliant, but not an imminent health or safety threat, failing, or discharging to surface, may continue to be used so long as the property use is not changed or expanded. If the property use changes or is expanded, thereby requiring a building permit or special use permit by the City, the non-conforming elements of the existing system must be brought into compliance.
- M. Non-Complying Work. New individual sewage treatment system construction that is non-compliant, or other work on a system that is non-compliant, must be brought into compliance with this Section in accordance with a schedule established by the

City which schedule will not exceed seven (7) days unless the City finds extenuating circumstances.

- N. Change In Use. A Certificate of Compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.
- O. Setback Reduction. Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the City may reduce property line and/or building setbacks provided said reduction does not endanger or unreasonably infringe on adjacent properties and with written agreement of adjacent property owners.
- P. Floodplain. An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this Section and all of the rules and statutes incorporated by reference.
- Q. Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency.

9-3-4 STANDARDS ADOPTED

- A. Minnesota Rules Adopted. Minnesota Rules, Chapters 7080 and 7081, that are in effect on the date of passage of this Section, relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this Section as if fully set forth herein.
- B. Rules Amended. The rules, adopted in Section 9-3-3(A) are amended as follows:
 - 1. Compliance Inspection - 15 Percent Vertical Separation Reduction. MR 7080.1500 Subp. 4D is amended to allow 15 percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling and variable interpretation of soil characteristics.
 - 2. The following setbacks apply within the City of Nowthen:

Table 1 - Minimum Setback Distances (Feet)

Sewage Treatment Feature	Tank	Area
Water supply well less than fifty (50) ft. deep and not encountering at least ten (10) ft. of impervious materials:	50	100
Any other water supply well or buried water suction pipe:	50	50
Buildings occupied:	10	20
Buried pipe distributing water under pressure:	10	10
Property Lines:	10	10
The ordinary high water mark of lakes and streams:	50	50

3. No experimental or alternative systems shall be allowed unless the City Council has reviewed and approved an application to permit an alternative system. The applicant must provide sufficient materials as required by the City Council to show that such an alternative system is consistent with the spirit and intent of this Section and Minnesota Rules Chapter 7080 and will not create a threat to the public health, safety and welfare of the residents of the City.
 4. No more than one (1) dwelling, commercial, institutional, or industrial unit shall be connected to the same sewage treatment system unless a multiple connection was specified in the application submitted, approved by the City Council, and provided for in the permit issued for the system.
- C. Holding Tanks. Holding tanks may be allowed for the following applications; as replacement to a failing existing system, an SSTS that poses an imminent threat to public health and safety, or for an existing lot in which a SSTS cannot feasibly be installed and the City finds extenuating circumstances. Holding tanks require an operating permit which defines routine pumping and maintenance procedures to be approved by the City Building Official.
- D. System Abandonment. An SSTS, or component thereof, that is no longer intended to be used must be abandoned in accordance with the adopted standards of this Section. Replacement systems which result in discontinued use of any or all components of an existing system shall initiate the requirement

of pumping permits and/or abandonment procedures as may be required by the City Building Official.

9-3-5 PERMITS

- A. Permit Required. No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the City Building Official. No person shall construct, alter, extend, convert, or modify any structure which is or will utilize subsurface sewage treatment system without first obtaining a permit.
1. All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing as specified in Minnesota Rules 7083.0700. Permit applications shall be submitted by the person doing the individual subsurface sewage treatment system construction on forms provided by the City and accompanied by required site and design data, and permit fees.
 2. Permits shall only be issued to the person doing the individual sewage treatment system construction.
 3. Permit applications for new and replacement SSTS shall include a management plan for the owner that includes a schedule for septic tank maintenance.
 4. A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components or otherwise change the original system's design, layout, or function.
- B. Operating Permit. An operating permit shall be required of all owners of new holding tanks, Type IV and V systems; MSTs and other SSTS that the City has determined requires operational oversight.
1. Application. Application for an operating permit shall be made on a form provided by the City.
 2. Holding Tanks. The owner of holding tanks installed after the effective date of this Section shall provide the City with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

9-3-6 VIOLATIONS AND PENALTIES

- A. Misdemeanor. Any person who fails to comply with the provisions of this Section may be charged with a misdemeanor and upon conviction thereof, shall be punished therefore, as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

- B. Injunctive Relief. In the event of a violation or a threat of violation of this Section, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the City Attorney may institute a civil action.

- C. Civil Action. In the event of a violation of this Section, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City Attorney may institute such action. (Ordinance 2014-05, adopted April 8, 2014)

SECTION 4

EROSION AND SEDIMENT CONTROL

Section:

9-4-1	Purpose
9-4-2	Definitions
9-4-3	Permits
9-4-4	Grading, Drainage, and Erosion Control Plan Requirements
9-4-5	Design Requirements
9-4-6	Inspection
9-4-7	Enforcement
9-4-8	Severability

9-4-1: PURPOSE:

- A. During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat and for a healthy living environment for citizens of the City of Nowthen.
- B. The purpose of this Section is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement earth within the City of Nowthen. (Ordinance #13, adopted April 10, 2010)

9-4-2: DEFINITIONS: For the purposes of this Section, the following terms shall mean:

BMP Manual: The manual titled *Protecting Water Quality in Urban Areas (Best management Practices for Minnesota)* prepared by the Minnesota Pollution Control Agency, Division of Water Quality, Latest Edition.

Certified Contractor: An individual who has received training and is licensed by the State of Minnesota to inspect and maintain erosion and sediment control practices.

Clearing: Any activity which removes the vegetative surface cover.

Drainage Way: Any channel that conveys surface runoff throughout the site.

Erosion Control: Any measures that prevent erosion.

Grading, Drainage, and Erosion Control Plan: A set of plans prepared by or under the direction of a licensed professional engineer that depicts existing and proposed grading, temporary and permanent drainage facilities, and indicates the specific measures and sequencing to be used to control sediment and erosion on a development site before, during and after construction.

Grading: Excavation or fill of material, including the resulting conditions thereof.

Perimeter Control: A barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff, or diverting it to a sediment trap or basin.

Phasing: Clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.

Sediment Control: Any measures that prevent eroded sediment from leaving the site.

Site: A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site Development Permit: A permit issued by the municipality for which the purpose is construction or alteration of ground.

Stabilization: The use of practices that prevent exposed soil from eroding.

Start of Construction: The first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse: A body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

Waterway A channel that directs surface runoff to a watercourse, or to the public storm drain. (Ordinance #13, adopted April 10, 2010)

9-4-3: PERMITS: No land owner or land operator shall receive any of building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this Section prior to commencing the proposed activity. The permit application must be accompanied by the following in order that the permit application be considered: a Grading, Drainage, and Erosion Control Plan and a permit review escrow as established by Ordinance.

- A. This Section applies to any NON-RESIDENTIAL construction projects and any other construction activities disturbing ten thousand (10,000) square feet or more.
- B. No site development permit is required for the following activities:
 - 1. Any emergency activity which is immediately necessary for the protection of life, property or natural resources.
 - 2. Existing nursery and agricultural operations conducted as a permitted main or accessory use (except mining activities and/or the digging of ponds).
 - 3. Developments that do not disturb more than ten thousand (10,000) square feet of land, provided they are not part of a larger common development plan.
 - 4. Repairs to any erosion or sediment control practice deemed necessary by City Engineer.
- C. Each application shall include the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by the appropriate permit escrow.
- D. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Grading, Drainage, and Erosion Control Plan, and that a Certified Contractor shall be on site on all days where construction or grading activity takes place.
- E. Security:
 - 1. Upon request and at the discretion of the City Council, the applicant shall file with the City of Nowthen a faithful performance bond or bonds, letter of credit, cash escrow or other improvement security in an amount deemed sufficient by the City of Nowthen to cover all costs of improvements for such period as specified by the City of Nowthen for administration, engineering and inspection costs to cover the cost of failure or repair of improvements installed to the site. (Ordinance 2015-04, adopted September 8, 2015)
 - 2. Determination of other improvement securities will be upon completion of improvements and installation and establishment of landscape and turf. Establishment of landscape and turf will be at the discretion of the City Engineer. (Ord. 2019-01, adopted March 12, 2019)
- F. Review and Approval:

1. The City of Nowthen will review each application for a site development permit to determine its conformance with the provisions of this Section. Within sixty (60) days after receiving an application, the City Engineer shall, in writing:
 - a. Approve the permit application; or
 - b. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 - c. Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.
 2. Failure of the City of Nowthen to act on original or revised applications within sixty (60) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of Nowthen. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City of Nowthen.
- G. Permits issued under this Section shall be valid from the date of issuance through the date the City of Nowthen notifies the permit holder that the site has passed the final inspection as required under the permit. (Ordinance #13, adopted April 10, 2010)

9-4-4: GRADING, DRAINAGE, AND EROSION CONTROL PLAN REQUIREMENTS:

- A. The Plan shall meet the criteria set forth in the most recent version of the Engineering Manual.
- B. Modifications to the Plan:
 1. Major amendments of the Grading, Drainage, and Erosion Control Plan shall be submitted to the City of Nowthen and shall be processed and approved, or disapproved, in the same manner as the original plans.
 2. Field modifications of a minor nature may be authorized by the City Engineer by written authorization to the permittee. (Ordinance #13, adopted April 10, 2010)

9-4-5: DESIGN REQUIREMENTS: Grading, erosion control, and sediment control practices shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City Engineer. Any construction activity disturbing one (1) acre or more of land shall meet additional criteria outlined in Section 5 of this Chapter. The design shall conform to the most recent version of the Engineering Manual and as specified herein:

A. Clearing and Grading:

1. Clearing and grading of natural resources protection areas including Shoreland Overlay District, wetlands or wetland buffers shall not be permitted, except when in compliance all other Chapters of the City Code.
2. Clearing techniques that retain natural vegetation and retain natural drainage patterns shall be used to the satisfaction of the City Engineer.
3. Phasing shall be required on all sites disturbing greater than thirty (30) acres, with the size of each phase to be established at plan review and as approved by the City Engineer.
4. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
5. Proposed cut and fill slopes shall be in accordance with the Engineering Manual and in no case shall be greater than 3:1, except as approved by the City Engineer to meet other community or environmental objectives. (Ordinance 2015-04, adopted September 8, 2015)

B. Erosion Control:

1. Exposed soil (including stockpiles) must be stabilized immediately where activity has permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding fourteen (14) calendar days. (Ordinance 2015-04, adopted September 8, 2015)
2. If vegetative erosion control methods, such as seeding, have not become established within two (2) weeks, the City Engineer may require that the site be reseeded, or that a non-vegetative option be employed.
3. On steep slopes or in drainage ways, special techniques that meet the design criteria outlined in the Engineering Manual shall be used to ensure stabilization.

4. At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.
5. Best management practices shall be employed to prevent the blowing of dust or sediment from the site.
6. Best management practices that divert upland runoff past disturbed slopes shall be employed.

C. Sediment Controls:

1. Sediment controls shall be provided and maintained per the Engineering Manual. All control measures shall be installed prior to commencement of any upstream construction activities.
2. Where possible, detention basins shall be designed in a manner that allows adaptation to provide long term stormwater management. Detention basins must be cleaned after permanent erosion control measures are in place or final stabilization has been established. The design of the detention basins shall be per the Engineering Manual.
3. Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.
4. Soil stockpiles must be stabilized or covered at the end of each work day unless a perimeter control is in place.

D. Waterways and Watercourses:

1. When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided, and an approval obtained from Department of Natural Resources.
2. When in-channel work is conducted, the channel shall be stabilized before, during and after work.
3. All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the Engineering Manual.
4. Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.

E. Construction Site Access:

1. A temporary access road designed in compliance with the Engineering Manual shall be provided at all sites.
2. Other measures may be required at the discretion of the City Engineer in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains. (Ordinance #13, adopted April 10, 2010)

F. Compliance with MPCA NPDES Construction Permit.
(Ordinance 2015-04, adopted September 8, 2015)

1. All projects disturbing one acre or more of land shall be in conformance with the General Permit to Discharge Stormwater Associated with Construction Activity under the National Pollutant Discharge Elimination System/State Disposal System permit issued by the Minnesota Pollution Control Agency (MPCA), including but not limited to the following:
 - a. Stormwater Pollution Prevention Plan (SWPPP) – The applicant shall develop a SWPPP as per NPDES Construction Permit requirements.
 - b. Temporary Sediment Basins – Where 10 or more acres of disturbed soil drain to a common location, a temporary sediment basin as per NPDES Construction Permit requirements shall be provided.
 - c. Dewatering – turbid or sediment laden water from dewatering activities must be discharged to a temporary or permanent sediment basin or other BMP as per NPDES Construction Permit requirements.
 - d. Waste Controls – the applicant must provide proper waste controls as per the NPFES permit. Designated concrete washout areas will be required for all construction sites in-which on-site concrete washout is proposed.
 - e. Pipe Outlets must be provided with energy dissipation within 24 hours after connection to a surface water.
 - f. Inspections of the construction site must be performed by a trained person at least once every 7 days during active construction and within 24 hours after a rainfall event greater than 0.5 inches as per the NPDES Construction Permit requirements.

- g. Inspection reports shall be submitted to the City Engineer upon request.

9-4-6: INSPECTION:

- A. The City Engineer shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Grading, Drainage, and Erosion Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City of Nowthen shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the City of Nowthen at least two (2) working days before the following:
 - 1. Start of construction.
 - 2. Erosion and sediment control measures are in place and stabilized.
 - 3. Site clearing has been completed.
 - 4. Rough grading has been completed.
 - 5. Final grading has been completed.
 - 6. Close of the construction season.
 - 7. Final landscaping.
- B. The permittee or their agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan(s). The purpose of the inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City Engineer at the time interval specified in the approved permit.
- C. The City Engineer shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section 9-4-7.B of this Section.
- D. After final stabilization of the site has been established, the City Engineer shall inspect the site for compliance with the approved Grading, Drainage, and Erosion Control Plans. (Ordinance #13, adopted April 10, 2010)

9-4-7: ENFORCEMENT:

- A. Stop-Work Order and Revocation of Permit. In the event that any person holding a site development permit pursuant to this Section violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City Engineer may suspend or revoke the site development permit.

- B. Violation and Penalties:
 - 1. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Section.

 - 2. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this Section is committed, continued or permitted, shall constitute a separate offense.

 - 3. In addition to the other penalties authorized by this Section, any person, partnership, or corporation convicted of violating any of the provisions of this Section shall be required to bear the expense of such restoration.

 - 4. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal or state law or the City Code and it is within the discretion of the City of Nowthen to seek cumulative remedies. (Ordinance #13, adopted April 10, 2010)

9-4-8: SEVERABILITY: The provisions of this Section are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Section. (Ordinance #13, adopted April 10, 2010)

SECTION 5

POST CONSTRUCTION STORMWATER MANAGEMENT

Section:

9-5-1	Purpose
9-5-2	Definitions
9-5-3	Permits
9-5-4	Waivers
9-5-5	Stormwater Management Plan
9-5-6	Design Requirements for Stormwater Management
9-5-7	Inspection
9-5-8	Maintenance and Repair Requirements
9-5-9	Enforcement
9-5-10	Severability

9-5-1: PURPOSE:

- A. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;
- B. Stormwater runoff contributes to increased quantities of water-borne pollutants; and,
- C. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.
- D. The purpose of this Section is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public and environment in the watersheds within the City of Nowthen through the following objectives:
 - 1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels.
 - 2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality.

3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
 4. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.
- E. This Section is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Section should be considered minimum requirements, and where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence. (Ordinance #16, adopted April 13, 2010)

9-5-2: DEFINITIONS: For the purposes of this section, the following terms shall mean:

Accelerated Erosion: Erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

Applicant: A property owner or agent of a property owner who has filed an application for a stormwater management permit.

Building: Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

BMP Manual: The manual titled *Protecting Water Quality in Urban Areas (Best management Practices for Minnesota)* prepared by the Minnesota Pollution Control Agency, Division of Water Quality, Latest Edition.

Channel: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Dedication: The deliberate appropriation of property by its owner for general public use.

Detention: The temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention Facility: A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer: A person who undertakes land disturbance activities.

Drainage Easement: A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Fee in Lieu: A payment of money in place of meeting all or part of the storm water performance standards required by this Section.

Grading, Drainage, and Erosion Control Plan: A set of plans prepared by or under the direction of a licensed professional engineer that depicts existing and proposed grading, temporary and permanent drainage facilities, and indicates the specific measures and sequencing to be used to control sediment and erosion on a development site before, during and after construction.

Hotspot: An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Hydrologic Soil Group (HSG): A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Impervious Cover: Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

Industrial Stormwater Permit: An National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration: The process of percolating stormwater into the subsoil.

Infiltration Facility: means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

Jurisdictional Wetland: means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land Disturbance Activity: Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading,

digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation,, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Landowner: The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Maintenance Agreement: A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

Nonpoint Source Pollution: Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC ' 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Offset Fee: A monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

Off-Site Facility: A stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

On-Site Facility: A stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Recharge: The replenishment of underground water reserves.

Redevelopment: Any construction activity where, prior to the start of construction, the areas to be disturbed have 15 percent or more of impervious surface. (Ordinance 2015-04, adopted September 8, 2015)

Site Development Permit: The permit issued by the municipality for which the purpose is construction or alteration of ground.

Stop Work Order: An order issued which requires that all construction activity on a site be stopped.

Stormwater Management: The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater Management Plan: The hydrologic analysis report and drainage area map(s) that provides the pre-development and post-development hydrologic site conditions.

Stormwater Retrofit: A stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater Runoff: Means flow on the surface of the ground, resulting from precipitation.

Stormwater Treatment Practices (STPs): means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

SWPPP: The Stormwater Pollution Prevention Plan required by the NPDES permit.

Water Quality Volume (WQ_v): The storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically (WQ_v) will vary as a function of long term rainfall statistical data.

Watercourse: A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water. (Ordinance #16, adopted April 13, 2010)

9-5-3: PERMITS: No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this Section prior to commencing the proposed activity. The permit application must be accompanied by the following in order that the permit application be considered: a Grading, Drainage, and Erosion Control Plan, a Stormwater Management Plan, and a permit review escrow as established in Section 1-2-2 of the City Code.

A. This Section shall be applicable to all site development permit applications, unless eligible for an exemption or granted a waiver by the City of Nowthen under the specifications of this Section. The Section also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by local environmental protection officials to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

- B. To prevent the adverse impacts of stormwater runoff, the City of Nowthen has developed a set of performance standards that must be met at new development and redevelopment sites. These standards apply to any construction activity disturbing one (1) acre or more of land or creating ten thousand (10,000) square feet of new or fully reconstructed impervious surface unless eligible for an exemption or granted a waiver. (Ordinance 2015-04, adopted September 8, 2015)
- C. No site development permit is required for the following activities:
 - 1. Additions or modifications to existing single family structures.
 - 2. Developments that do not disturb more than one (1) acre of land provided they are not part of a larger common development plan.
 - 3. Repairs to any stormwater treatment practice deemed necessary by City Engineer or any emergency activity which is immediately necessary for the protection of life, property or natural resources.
- D. When a development plan is submitted that qualifies as a redevelopment project as defined in Section 9-5-2 of this Section, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current Engineering Manual. These criteria are dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the City of Nowthen.
- E. The applicant shall file with the City of Nowthen a security as outlined in Section 9-4-3.E of this Chapter.
- F. The permit application shall follow the review and approval procedure outlined in Section 9-4-3.F of this Chapter.
- G. Permits issued under this section shall be valid from the date of issuance through the date the City of Nowthen notifies the permit holder that the site has passed the final inspection as required under the permit. (Ordinance #16, adopted April 13, 2010)

9-5-4: WAIVERS: Every applicant shall provide for stormwater management as required by this Section, unless a written request is filed to waive this requirement. Requests to waive the stormwater management requirements shall be submitted to the City of Nowthen for approval:

- A. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

1. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this Section.
2. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Nowthen and the implementation of the plan is required by local ordinance.
3. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
4. The City of Nowthen finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
 - a. Onsite non-structural practices will be used that reduce:
 - 1) The generation of stormwater from the site,
 - 2) The size and cost of stormwater storage and
 - 3) The pollutants generated at the site. These non-structural practices are explained in detail in the current BMP Manual and the amount of credit available for using such practices shall be determined by the City of Nowthen.

B. In instances where one of the conditions above applies, the City of Nowthen may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the City of Nowthen that the waiver will not result in the following impacts to downstream waterways:

1. Deterioration of existing culverts and other structures;
2. Degradation of biological functions or habitat;
3. Accelerated streambank or streambed erosion or siltation;
4. Increased threat of flood damage to public health, life, property.

- C. Where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the City of Nowthen authority. Mitigation measures may include, but are not limited to, the following:
1. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat,
 2. The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this Section.
 3. Monetary contributions (Fee-in-Lieu) to fund stormwater management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of stormwater management practices.)
 - a. Fee-in-Lieu of Stormwater Management Practices.
 - 1) Where the City of Nowthen waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City of Nowthen.
 - 2) When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance the adopted fee schedule. Nowthen is storm water authority established by the City of Nowthen, and based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.
 - b. Dedication of land: In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City of Nowthen for the granting of an easement or the dedication of land by the applicant, to be used

for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City of Nowthen prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit. (Ordinance #16, adopted April 13, 2010)

9-5-5: STORMWATER MANAGEMENT PLAN: The plan shall include a stormwater drainage report and where storm sewer structures and pipe are present or proposed, storm sewer capacity calculations. The plan shall conform to the most recent version of the Engineering Manual requirements.

A. The stormwater drainage report shall include:

1. A title page, table of contents, written summary of items critical to the review of the entire report, computer printouts of the hydrologic analysis stormwater model, and drainage area maps.
2. When storm sewer is proposed or present storm sewer sizing and spread calculations shall accompany the stormwater drainage report. Separate drainage area maps are required depicting the area draining to each storm sewer structure.

B. The Grading, Drainage, and Erosion Control Plan shall incorporate all stormwater facilities (i.e. ponds, infiltration basins, storm sewer, etc.) as shown in the Stormwater Management Plan.

C. Modifications to the plan:

1. Major amendments of the Stormwater Management Plan shall be submitted to the City of Nowthen and shall be processed and approved, or disapproved, in the same manner as the original plans.
2. Field modifications of a minor nature may be authorized by the City Engineer by written authorization to the permittee. (Ordinance #16, adopted April 13, 2010)

9-5-6: DESIGN REQUIREMENTS FOR STORMWATER MANAGEMENT: Projects shall be designed in accordance with the most recent version of the Engineering Manual, the latest edition of the MN Stormwater Manual as published by the MPCA, and the following: (Ordinance 2015-04, adopted September 8, 2015)

A. Rate Control

1. All projects will be required to control the rate of runoff from the site. Proposed discharge rates shall be equal to or less than the pre-development discharge rates for the 2-year, 10-year, and 100-year return frequency events.

B. Volume Control

1. A volume equal to 1 inch of runoff from the new or fully reconstructed impervious area of the site shall be retained on-site through infiltration or other volume reducing BMPs as approved by the City Engineer.
2. Infiltration prohibited. The use of infiltration techniques are prohibited when the infiltration structural stormwater BMP will receive discharges from, or be constructed in, the following areas:
 - a. Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit.
 - b. Where vehicle fueling and maintenance occur.
 - c. Where less than three (3) feet of separation from the bottom of the infiltration system to the elevation of the seasonably saturated soils or the top of bedrock exists.
 - d. Where high levels of contaminants in soil or groundwater will be mobilized by infiltrating stormwater.
3. Infiltration restricted. The use of infiltration techniques will be restricted when the infiltration device will be constructed in areas:
 - a. With predominately Hydrologic Soil Group D (clay) soils.
 - b. Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.
 - c. Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R 4720.5100, subp. 13.
 - d. Where soil infiltration rates are more than 8.3 inches per hour. In these restricted areas, the City Engineer may request additional information and/or testing to ensure that infiltration basins will perform properly and that groundwater is adequately protected.
4. Linear projects

- a. Linear projects that create one acre of new impervious shall meet the above volume control standard if adequate right-of-way allows for the installation of volume reducing BMPs.
 - b. Where the lack of right-of-way precludes the installation of volume reducing BMPs, an exception to the volume control standard will be allowed provided that Sections 5.a. thru 5.b. below are met.
 - c. Mill and overlay and other resurfacing activities are not considered fully reconstructed and an exception to the volume control standard will be allowed as the project will not alter the hydrologic response of the watershed.
 - d. A reasonable attempt must be made to obtain right-of-way during the project planning process for volume control practices.
5. Exceptions. A lesser volume control standard on the site of the original construction activity may be applied, at the discretion of the City, under the following circumstances:
- a. The owner and/or operator of a construction activity is precluded from infiltrating stormwater due to limitations under sections 9-5-6.B.2., 3, or 4, above, and
 - b. The owner and/or operator of the construction activity implements to the Maximum Extent Practical (MEP) volume reduction techniques, other than infiltration, on the site of the original construction activity that reduce stormwater discharge volume but may not meet the requirements of post-construction stormwater management.
 - c. The applicant provides water quality calculations showing that there is no net increase in stormwater discharges of Total Suspended Solids (TSS) and Total Phosphorous (TP) on an average annual basis for new development.
 - d. The applicant provides water quality calculations showing that there is a net decrease in stormwater discharges of TSS and TP on an average annual basis for redevelopment.
6. Mitigation. If the owner and/or operator of a construction activity believe that the requirements for TSS and/or TP cannot be met on the site of the original construction activity, the owner and/or operator must provide appropriate documentation to the City Engineer as support. Stormwater discharges that do not meet the TSS and/or TP standards on the site of the original construction activity may be mitigated off-site at the City's

discretion. The proposed mitigation must meet the following criteria:

- a. Mitigation project areas should be selected in the following order of preference and in consultation and with approval by the City.
 - 1) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
 - 2) Locations within the same Department of Natural Resource (DNR) catchment area as the original construction activity.
 - 3) Locations in the next adjacent DNR catchment area up-stream.
 - 4) Locations within the City.
- b. Mitigation projects must involve the creation of new structural stormwater BMPs, the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP.
- c. Routine maintenance of structural stormwater BMP's required by this section cannot be used to meet mitigation requirements.
- d. Mitigation projects must be completed within 24 months after the start of the original construction activity.
- e. If the mitigation project is a private structural stormwater BMP and the City is not responsible for long-term maintenance of the project, the City will require written and recorded documentation of maintenance responsibilities. These requirements are transferrable to any party that becomes the owner/operator of the site.
- f. A permanent public easement shall be provided to the City for access for inspection and/or maintenance purposes.
- g. If site configurations or structural stormwater BMPs change, causing decreased BMP effectiveness, new or improved structural stormwater BMPs must be implemented to meet the requirements of this section.

C. Flood Protection

1. The High Water Level (HWL) for all waterbodies on the site shall be determined by the applicant utilizing the methods outlined in the Engineering Manual, consistent with local and regional watershed plans

and acceptable to the City Engineer.

2. The lowest opening for all structures shall be set 2 feet above the HWL of adjacent water bodies and stormwater BMPs.
- D. Discharges to Impaired Waters with a United States Environmental Protection Agency ((USEPA) approved Total Maximum Daily Load (TMDL).
1. Additional BMPs will be required for projects that discharge to impaired waters with a SEPA TMDL. All BMPs deemed necessary to comply with the Waste Load Allocation or the local or regional watershed plans must be implemented. (Ordinance 2015-04, adopted September 8, 2015)

9-5-7: INSPECTION: The stormwater management practices shall be subject to the inspection procedures outlined in Section 9-4-6 of this Chapter and as specified herein:

- A. All applicants are required to submit actual "As-Built" plans for any stormwater management practices located on-site after final construction is completed.
1. The Grading, Drainage, and Erosion Control Plan must have survey elevations shown to adequately show the final grading of all pond, basins, ditches, swales, and berms are built per the stormwater management design. (Ordinance #16, adopted April 13, 2010)

9-5-8: MAINTENANCE AND REPAIR REQUIREMENTS

- A. Maintenance Easement: Prior to the issuance of any permit that has an stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City of Nowthen, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Section. The easement agreement shall be recorded by the Anoka County in the land records.
- B. Maintenance Covenants:
1. Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of Nowthen and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed

for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

2. The City of Nowthen, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
- C. Requirements for Maintenance Covenants: All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this Section and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the City of Nowthen, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.
- D. Inspection of Stormwater Facilities: Inspection programs may 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 stormwater 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 stormwater treatment practices.
- E. Right-of-Entry for Inspection: When any new drainage control 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 of Nowthen 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 it has a reasonable basis to believe that a violation of this Section is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Section.

- F. Records of Installation and Maintenance Activities: Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the City of Nowthen during inspection of the facility and at other reasonable times upon request.
- G. Failure to Maintain Practices:
1. If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of Nowthen, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.
 2. The City of Nowthen shall notify the party responsible for maintenance of the stormwater management facility of the violation in writing. Upon receipt of that notice, the responsible person shall have twenty four (24) hours to seven (7) days, as deemed appropriate by the City Engineer and depending on the nature of the violation, to effect maintenance and repair of the facility in an approved manner.
 3. After proper notice, the City of Nowthen may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as property taxes. (Ordinance #16, adopted April 13, 2010)

9-5-9: ENFORCEMENT:

- A. Stop-Work Order and Revocation of Permit. In the event that any person holding a site development permit pursuant to this Section violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City Engineer may suspend or revoke the site development permit.

- B. Violation and Penalties:
 - 1. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Section.

 - 2. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this Section is committed, continued or permitted, shall constitute a separate offense.

 - 3. In addition to the other penalties authorized by this Section, any person, partnership, or corporation convicted of violating any of the provisions of this Section shall be required to bear the expense of such restoration.

 - 4. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal or state law or the City Code and it is within the discretion of the City of Nowthen to seek cumulative remedies. (Ordinance #16, adopted April 13, 2010)

9-5-10: SEVERABILITY: If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Section shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Section. (Ordinance #16, adopted April 13, 2010)

SECTION 6

PRIVATE WATER SUPPLY

Section:

9-6-1 State of Minnesota Regulations Adopted by Reference

9-6-1 STATE OF MINNESOTA WELL CODE

- A. Minnesota Department of Health Rules Chapter 4725.0050 – 4725.7605 relating to water well construction and Minnesota Statutes Chapter 103I.001 – 103I.715 relating to wells, borings and underground uses are hereby adopted by reference and made a part of this Section as if fully set forth herein. (Ordinance 2014-05, adopted April 8, 2014)