

TITLE 14.1 - STORMWATER MANAGEMENT

Title 14.1 Becomes effective January 1, 2018

CHAPTER 14.1-01 - GENERAL PROVISIONS

14.1-01-01. Purpose and Need. 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 Title comply with all applicable state and federal laws. In the event of any conflict between the provisions of this Title and the provisions of any erosion control, shoreland protection, 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 Bismarck and its extraterritorial jurisdiction;

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 and surrounding area's natural resources from adverse impacts caused by development or other activities;

4. To regulate land development, land disturbing, or other activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

5. To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);

6. To require detailed review standards and procedures for land development activities proposed throughout the City, and its extraterritorial jurisdiction, thereby achieving a balance between growth and development, and the protection of water quality;

7. To provide for the protection of surrounding or adjacent properties from water and wind erosion through the use of best management practices that meet the intended use;

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; and

9. To comply with the requirements of the Municipal Separate Storm Sewer System (MS4) under the North Dakota Pollutant Discharge Elimination System (NDPDES).
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-01-02. Transfer of Authority. The City may, through the use of a joint powers agreement, transfer the authority for the administration and/or enforcement of this Title in the City's extraterritorial area to another entity.
(Ord. 5853, 11-22-11)

14.1-01-03. Definitions. For the purpose of this Title, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always 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, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision wishing to engage in a land disturbance and/or land development activity or obtain a building permit, special use permit, zoning change or subdivision approval that requires a mandatory stormwater management permit.

Basis of Design Report: A refinement report required to document conformance with an approved stormwater management plan. A basis of design report is a required submittal for a post-construction stormwater management permit.

Best Management Practices or "BMPs": A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce increases in run-off rates and/or the pollution of downstream waters.

Board of City Commissioners: The Board of City Commissioners of the City of Bismarck.

Catchment: The area of a development 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 for a post-construction stormwater management permit.

City: The City of Bismarck.

City Engineer: The City Engineer of the City of Bismarck or a duly authorized representative of the City Engineer.

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, such as a phased housing development.

Conditional Approval: Tentative approval of a post-construction storm water management plan issued by the City Engineer prior to submittal of construction plans and specifications.

Construction Activity: As defined by the current North Dakota stormwater discharge General Construction Permit NDR10-0000, including, but not limited to, 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 run-off, 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 plans are a required submittal for a post-construction stormwater management permit.

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

Construction Stormwater Management Permit: A permit requiring the implementation of construction BMPs during development and land disturbing activities so as to protect the Public Storm Sewer System and ensure that development activities are in conformance with the requirements of the MS4 General Permit and this Title.

County: The County of Burleigh.

County Engineer: The County Engineer of Burleigh County or a duly authorized representative of the County Engineer.

Development: Any of the following activities:

- a. Structural development, including construction or demolition of a new building or other structure;
- b. Non-structural development including the creation or paving of roads, parking lots, storage areas or similar activities;
- c. Expansion or alteration of an existing structure that results in an increase in the ground surface dimensions of the building or structure;
- d. Redevelopment of a previously developed site;
- e. Land disturbing activities; or
- f. Creation or expansion of impervious surfaces.

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.

Extraterritorial Jurisdiction: The territorial zoning and subdivision authority of the City which extends to all unincorporated land located within four (4) miles of the corporate limits of the City, or as amended by agreement, as authorized by Section 40-47-01.1 of the North Dakota Century Code.

FEMA: The Federal Emergency Management Agency.

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

Final Stabilization: The permanent cover of soils exposed or disturbed during development activities.

Illicit Connection: A physical connection to the City's MS4 that primarily conveys non-stormwater discharges other than uncontaminated groundwater into the MS4; or a physical connection not authorized or permitted by the City of Bismarck, where a local authority requires authorization or a permit for physical connections.

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, but are not limited to, construction material discharges, discharging of sanitary sewers and run-off 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 mandatory stormwater permits, all road, driveway or parking surfaces, including gravel surfaces, shall be considered impervious.

Land Disturbing Activity: Any land alteration or disturbance that may result in erosion, sedimentation, or change in run-off including, but not limited to, removal of ground cover, grading, excavating or 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.

Municipal Separate Storm Sewer System or "MS4": A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditched, man-made channels or storm drains:

- a. 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 the 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 Clean Water Act, that discharges to waters of the United States;

b. Designed or used for collecting or conveying stormwater;

c. Which is not a combined sewer; and

d. Which is not part of a publicly owned treatment works (POTW) as defined by 40 CFR 122.2.

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

NDDoH: The North Dakota Department of Health, Division of Water Quality.

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

Notice of Transfer: Notification to the City and/or the NDDoH indicating that the responsibilities of the mandatory stormwater management permit have been transferred along with the transfer of a parcel of land.

Owner: Any person firm, corporation, sole proprietorship, or partnership owning a lot, parcel of land, or premises connected to and discharging stormwater into the City's stormwater system.

Permittee: Any person who applies for and receives a stormwater or other permit under this Title.

Pervious Surface: Any land cover that generally permits absorption of stormwater or snowmelt into the ground.

Point of Analysis: The location where run-off from development will be evaluated for compliance with the requirements of this Title. In general, this will be the location where post development 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 on a site or for a project.

Point of Discharge: A location where stormwater discharges from development 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: Permanent structural and non-structural best management practices to mitigate adverse impacts to stormwater quality and water quantity, identified in the approved storm water management plan, which are part of any natural or constructed stormwater system that require periodic or minimal maintenance to retain their operations capabilities. This includes, but 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 development projects.

Post Construction Stormwater Management Permit: A permit requiring the implementation of permanent BMPs so as to protect the Public Storm Sewer System and ensure that development activities are in conformance with the requirements of the MS4 General Permit and this Title.

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.

Run-off: The rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface and into a public or private stormwater system.

Sediment: Solid material or organic material that, in suspension, is being transported or has been moved 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

the land development or land disturbing activity is proposed in the permit application.

State: The State of North Dakota.

Stormwater: Stormwater run-off, snowmelt run-off, surface run-off and drainage.

Stormwater Design Standards Manual: The current edition of the "Stormwater Design Standards Manual, Bismarck, North Dakota" available from the office of the City Engineer, which contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan.

Stormwater Management: The application of Best Management Practices (DMPs) to mitigate adverse impacts to stormwater quality and quantity, prevent sediments and other pollutants from entering surface or ground water; source controls, and treatment of run-off to reduce pollution.

Stormwater Management Plan (SWMP): A written document detailing stormwater run-off characteristics for a defined area and the management of that run-off 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 development and land disturbing activities so as to protect the Public Storm Sewer System such that development activities are in conformance with the MS4 General Permit requirements and this Title.

Stormwater Program Coordinator: The person designated by the City of Bismarck to administer the NDPDES (MS4) permit and oversee the compliance and regulation of stormwater permits issued by the City or a duly authorized representative of the Stormwater Program Coordinator.

Structure: Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

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 addresses run-off

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 management plans that are adopted by the Board of City Commissioners are planning documents that provide drainage area specific refinements to stormwater management and performance requirements and design standards.

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.

(Ord. 4817, 02-25-97; Ord. 5278, 09-23-03; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-01-04. Scope. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities for an approved development must comply with the provisions of this Title and the Stormwater Design Standards Manual. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until the mandatory stormwater permits have been issued in accordance with the provisions of this Title. In addition, no land disturbing activities shall occur until the Construction Stormwater Management Permit is issued and the necessary construction BMPs have been installed at the project site.

Exemptions to the requirements of this Title include:

1. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or
2. Emergency work to protect life, limb, or property.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

CHAPTER 14.1-02 - STORMWATER MANAGEMENT PROGRAM

14.1-02-01. Municipal Separate Storm Sewer System. The City of Bismarck 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 Health. In order 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 and post-construction stormwater management permits.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-02-02. Conformance with Local, State and Federal Regulations. In addition to the requirements contained herein, it is the responsibility of the applicant to obtain all required approvals from local, state and federal agencies for the proposed project. Agencies that may require consultation or permits include the Burleigh County Highway Department, the Burleigh County Water Resource District, the North Dakota Department of Transportation, the North Dakota State Water Commission, the North Dakota Department of Health, the North Dakota State Historic Preservation Officer, the United States Army Corps of Engineers, the Federal Emergency Management Agency or the United States Environmental Protection Agency.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-02-03. Stormwater Design Standards Manual. The Stormwater Design Standards Manual, as adopted and amended by the City of Bismarck, 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.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-02-04. Waiver. The City Engineer may waive any requirement of this Title upon making a finding that compliance with the requirement will involve an unnecessary non-economic hardship, and the waiver of such requirement will not adversely affect the standards and requirements contained herein. The City Engineer 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 Engineer may not waive any requirement within the City's extraterritorial area without written concurrence of the County Engineer.
(Ord. 6270, 08-22-17)

14.1-02-05. Illicit Discharges Prohibited. Illicit discharges, including dumping, into the public storm sewer system within the City of Bismarck or its extraterritorial area is prohibited.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

CHAPTER 14.1-03 - CONSTRUCTION STORMWATER MANAGEMENT PERMITS

14.1-03-01. Construction Stormwater Management Permits (CSMP) Required. A construction stormwater permit is required in order to facilitate implementation of appropriate best management practices (BMPs) and protect water quality during development construction activities in areas within the corporate limits and areas within the extraterritorial area that

contribute to the City's MS4. Submittal and review requirements for a CSMP are dependent upon the size and scope of the project.

1. Small Site Construction Stormwater Management Permit. A small site construction stormwater management permit is required for construction activities applied for after January 1, 2018 that meet one or more of the following criteria:

a. Land disturbance greater than or equal to 3,000 square feet and less than 10,000 square feet, occurring on land with slopes of less than 12 percent; or

b. Construction of a one- or two-family residential home if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.

2. Large Site Construction Stormwater Management Permit. A large site construction stormwater management permit is required for construction activities applied for after January 1, 2018, except for the construction of a one- or two-family residential home, that meet one or more of the following criteria:

a. Land disturbance greater than or equal to 10,000 square feet;

b. Construction activity disturbing any amount of land if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

c. Land disturbance greater than or equal to 3,000 square feet and disturbance of any size occurring on land with slopes of 12 percent or more;

d. Land disturbance activities that involves the excavation or filling in excess of 400 cubic yards of material regardless of surface area;

e. Land disturbing activity that disturbs more than 200 feet of road ditch, grassed waterway or other land area where surface drainage flows in a defined open channel. This includes the replacement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel, regardless of the surface area;

f. Land disturbing activity as a result of any new public or private road(s) or access drive(s) longer than 150 feet, regardless of the surface area;

g. When discharges from a construction site violate illicit discharge requirements of this Title, regardless of surface area; or

h. Any other activity, including the construction of a one- or two-family residential home, that the City Engineer determines to have a high risk of soil erosion or water pollution, or that may significantly impact an open waterway, stream or wetland area.

3. City Contracted Projects. Projects contracted by the City of Bismarck shall meet the submittal and approval requirements of a Large Site Construction Stormwater Management Permit.

4. North Dakota Department of Health Construction General Permit. All projects that result in land disturbance activity that meets the minimum threshold outlined in the North Dakota Department of Health Construction General Permit are required to obtain a Construction Stormwater Management Permit from the City and coverage from the North Dakota Department of Health under the Construction General Permit.

5. Exclusions. The following activities are excluded from obtaining a mandatory Construction Stormwater Management Permit:

a. Plowing or tilling for agricultural purposes;

b. Emergency activity that is immediately necessary for the protection of life, property or natural resources;

c. Construction of a one or two-family dwelling within the City's extraterritorial area, with the understanding that erosion control measures are implemented on-site during construction by the builder;

d. Construction of any project in the City's extraterritorial area, other than a one or two-family dwelling, that does not contribute to the City's MS4, with the understanding that erosion control measures are implemented on-site during construction by the builder; or

e. Other construction activities that are determined by the City Engineer to not have potential for adverse impact on stormwater quality.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-03-02. Small Site Construction Stormwater Management Permits.

1. Application Required. An application for a small site construction stormwater management permit shall be submitted prior to or concurrently with an application for a building permit for one- or two-family dwellings or other projects that meet the thresholds outlined in Section 14.1-03-01. Site development activities shall not commence until said application has been approved and best management practices (BMPs) are in place.

2. Submittal Requirements. The submittal requirements for a small site construction stormwater management permit are outlined in the City's Stormwater Design Standards Manual.

3. Review and Approval Procedures. The review and approval procedures are outlined in the City's Stormwater Design Standards Manual. A building permit will not be issued and no site development activities may commence until the small site construction stormwater management permit has been approved and BMPs are properly installed.

4. Transfer of Permit. Small site construction stormwater management permits cannot be transferred to a subsequent owner.

5. Termination of Permit. During construction, stormwater management best management practices (BMPs) must be installed and remain in place until final stabilization, as outlined in the City's Stormwater Design Standards Manual, has been achieved on the site. When final stabilization has been achieved, the applicant shall submit a Notice of Termination (NOT) request to the City Engineer. Upon review and approval by the City Engineer, the applicant will be notified that the authorization has been terminated.

(Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-03-03. Large Site Construction Stormwater Management Permits.

1. Application Required. An application for a large site construction stormwater management permit shall be submitted concurrently with the submittal of construction drawings or, if review of construction drawings is not

required, a minimum of 30 days prior to commencement of construction for projects that meet the thresholds outlined in Section 14.1-03-01. Site development activities shall not commence until the large site construction stormwater management has been approved and best management practices (BMPs) are in place.

2. Submittal Requirements. The submittal requirements for a large site construction storm water permit are outlined in the City's Stormwater Design Standards Manual. The submittal package shall be prepared and sealed by a registered professional engineer.

3. Review and Approval Procedures. The review and approval procedures are outlined in the City's Stormwater Design Standards Manual. A building permit will not be issued and no site development activities may commence until the large site construction stormwater management permit has been approved.

4. Transfer of Permit. Upon a change of ownership of a property subject to a large site construction stormwater management permit, the original permittee must submit a request for permit transfer/modification to the City Engineer. A permit transfer/modification request is not required for the legal transfer, sale or closing on a property between permittees covered by a separate construction stormwater management permit (such as the transfer of a lot from the developer to a builder).

5. Termination of Permit. During construction, stormwater management best management practices (BMPs) must installed and remain in place until final stabilization, as outlined in the Storm Water Design Standards Manual, has been achieved on the site. When final stabilization has been achieved, the applicant shall submit a Notice of Termination (NOT) request to the City Engineer.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

CHAPTER 14.1-04 POST-CONSTRUCTION STORMWATER MANAGEMENT PERMITS.

14.1-04-01. Post-Construction Stormwater Management Permits. A post construction stormwater management permit addresses the long-term or permanent function of drainage facilities for development projects. A post-construction stormwater management permit is required for development projects applied for after January 1, 2018 in areas within either the corporate limits or the extraterritorial area that meet one or more of the following criteria:

1. Development projects resulting in a cumulative addition of 20,000 square feet or more of impervious surface;

2. Any development project that results in construction activity disturbing any amount of land if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

3. Land disturbing activity that involves excavating and/or filling in excess of 400 cubic yards of material, regardless of surface area;

4. Any development activity that requires approval of a subdivision under Title 14 of the City Code of Ordinances or any development project that requires approval of a site plan; or

5. Any other activity that the City Engineer determines to have a high risk for water quality or quantity impacts to the public storm sewer system or adjoining property.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-04-02. Review and Approval Procedures. Post-Construction Stormwater Management Permit submittal, review and approval procedures are outlined in the City's Stormwater Design Standards Manual.

(Ord.5853, 11-22-11; Ord. 6270, 08 22 17)

14.1-04-03. Mandatory Stormwater Management Scoping Sheet. Prior to the submittal of an application for a post-construction stormwater management permit, the applicant shall complete a pre-submittal scoping sheet and submit it to the City Engineer. The City Engineer will review the basic project information submitted by the applicant and will add information to the scoping sheet regarding the required point of analysis and level of effort required for the stormwater management application. For projects within the extraterritorial area, the City Engineer shall obtain concurrence from the County Engineer prior to approving the scoping sheet. A copy of the approved scoping sheet is a required component of the post-construction stormwater management permit application.

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11; Ord. 6270, 08-22-17)

14.1-04-04. Conditional Approval. Conditional approval of a post-construction stormwater management permit is required prior to submittal of an application for approval of the associated final plat, minor subdivision final plat or site plan. In order to provide adequate time for review and approval, applications for conditional approval of a post-construction stormwater management permit should be submitted no less than thirty (30) days prior to the submittal of an

application for approval of a final plat, a minor subdivision final plat or a site plan. For projects that do not require approval of a site plan or a final plat, the application for conditional approval shall be submitted no less than sixty (60) days prior to construction.

1. Submittal Requirements. The submittal requirements for conditional approval of a post-construction stormwater management permit are outlined in the City's Stormwater Design Standards Manual. The submittal package shall be prepared and sealed by a registered professional engineer.

2. Review and Conditional Approval Procedures. The review and conditional approval procedures for a post-construction stormwater management permit are outlined in the Stormwater Design Standards Manual. For projects within the City's extraterritorial area, the City Engineer will provide copies of the stormwater management plan to the County Engineer for review and comment. For projects within the extraterritorial area, the City Engineer shall obtain written concurrence from the County Engineer prior to granting conditional approval of the post-construction stormwater management permit. Upon conditional approval of the post-construction stormwater management permit, the City Engineer will provide the applicant with the original signed copy of the conditional permit by mail or in person and a copy via e-mail. A copy of the conditional permit shall be submitted with the application for approval of a final plat, minor subdivision final plat or site plan.

3. Expiration of Conditional Approval. If a project receiving conditional approval is not initiated within one (1) year of the date of conditional approval, the conditional approval shall expire.

(Ord. 6270, 08-22-17)

14.1-04-05. Material Submitted After Conditional Approval. After obtaining conditional approval of a post-construction stormwater management permit, construction plans and specification, geotechnical reports and operation and maintenance plans may be submitted.

1. Construction Plans and Specifications.

a. Construction Plans and Specifications for Public Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of public stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

1. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.

2. Be in conformance with the requirements of the City of Bismarck Construction Specifications for Municipal Public Works Improvements, current special provisions, and any other necessary permits issued by other governmental agencies.

3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4. Be submitted to the City Engineer for approval.

5. Be submitted concurrently with the application for approval of a large site construction management permit.

No construction may commence until the construction plans and specifications have been approved by the City Engineer and all other applicable permits and approvals are received from outside agencies.

b. Construction Plans and Specifications for Private Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of private stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

1. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.

2. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

3. Be submitted to the City Engineer for approval.

4. Be submitted concurrently with the application for approval of a large site construction management permit.

No construction may commence until all applicable permits and approvals are received from the City and outside agencies.

c. Construction Plans and Specifications for Public Facilities within the Extraterritorial Area. The construction plans and specifications prepared for the construction of public stormwater management facilities within the extraterritorial areas must:

1. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.

2. Be in conformance with the requirements of the Burleigh County Highway Department and any other necessary permits issued by other governmental agencies.

3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4. Be submitted to the County Engineer for approval.

5. Be submitted concurrently with the application for approval of a large site construction management permit.

No construction may commence until the construction plans and specifications have been approved by the County Engineer and all other applicable permits and approvals are received from outside agencies.

2. Operations and Maintenance Manual. An operations and maintenance manual shall be submitted in conjunction with construction plans and specifications for public projects within the corporate limits and for private projects within both the corporate limits and the extraterritorial area. An operations and maintenance manual shall be submitted for each post-construction stormwater management control, in accordance with the provisions of the Stormwater Design Standards Manual.

3. Access and Drainage Easements. The City Engineer may require that an easement be recorded to allow for continued access to constructed stormwater management facilities within or adjacent to the corporate limits, to provided cross parcel drainage easements and for other elements that are deemed necessary. All required access

and drainage easements shall be prepared by a professional land survey, reviewed by the City Engineer and recorded at the Burleigh County Recorder's Office, with a copy of the recorded document provided to the City Engineer.

(Ord. 6270, 08-22-17)

14.1-04-06. Completion and Final Approval.

1. Completion and Certification. Upon completion of the project, a Certification Report shall be submitted to the City Engineer. The Certification Report shall certify that installed BMPs are consistent with the conditionally approved Post Construction Stormwater Management Plan (PCSMP), or report that BMPs are not consistent with the conditionally approved PCSMP. The Certification Report requirements are outlined in the Stormwater Design Standards Manual.

2. Record Drawings Required. For public projects, record drawings of the project shall also be submitted to the City Engineer.

3. Final Inspection. Upon submittal of the Certification Report and required record drawings, the City Engineer will perform a final inspection of the site. Upon satisfactory completion of the final inspection, final approval of the Post Construction Stormwater Management Plan will be issued.

(Ord. 6270, 08-22-17)

CHAPTER 14.1-05 ENFORCEMENT.

14.1-05-01. Remedies and Enforcement Powers. The City shall have the following remedies and enforcement powers:

1. Withhold Permits. The City may deny or withhold all permits, certificates or other forms of authorization as to any applicant for a construction stormwater management permit. Instead of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question. The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this Title or of a condition or qualification of a permit, certificate, approved stormwater management plan or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the

construction stormwater management permit or other approval is sought is the property in violation.

2. Revocation of Construction Stormwater Management Permits. A construction stormwater management permit may be revoked when the City Engineer determines that:

a. There is departure from the plans, specifications, or conditions as required under terms of a construction stormwater management permit or post-construction stormwater management permit;

b. The plans, specifications, or conditions were obtained by false representation or the construction stormwater management permit was issued by mistake; or

c. Any of the provisions of this Title are being violated as to the project under the construction stormwater management permit.

3. Revocation of a Post-Construction Stormwater Management Permit or Other Approval. When a violation of this Title involves a failure to comply with an approved post-construction stormwater management permit or conditions to which the approval of such permit was made subject, the City Engineer may, upon giving proper notice, revoke the permit approval or other approval, allow work to continue on condition of strict compliance with all applicable rules and regulations, or impose such other conditions as the City Engineer deems appropriate and necessary.

4. Suspension of Post-Construction Stormwater Management Permit or Construction Stormwater Management Permit. The City Engineer shall have authority to suspend a post-construction stormwater management permit or a construction stormwater management permit upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of suspension notice and order, all work in the area covered by the permit, shall cease immediately. If any person fails to comply with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the suspension order upon proof of compliance with all post-construction stormwater management permit or a construction stormwater management permit conditions.

Whenever the City Engineer orders the suspension of a post-construction stormwater management permit or a construction stormwater management permit and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the permittee personally, or by registered or certified mail. The permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

5. Stop Work Order. The City Engineer shall have authority to issue a stop work order, ordering suspension of all work and activity at the site, upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, the environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of a stop work order, all work in the area covered by the construction stormwater management permit, if a permit has been issued, shall cease immediately. If any person notified of such stop work order fails to comply, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the stop work order upon proof of compliance with all post-construction stormwater management permit or a construction stormwater management permit requirements and conditions.

Whenever the City Engineer issues a stop work order and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the person performing the work personally, or by registered or certified mail. The person performing the work, owner or permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

6. Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Title or of a construction stormwater management permit, a post-construction stormwater management permit, certificate or other form of authorization granted hereunder.

7. Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to

otherwise restore the premises in question to the condition in which they existed prior to the violation.

8. Restitution. The City may seek an order requiring restitution as a condition to be met by a person before the person's construction stormwater management permit is restored, before the person is allowed to lawfully discharge into the City's MS4, or before other action may be taken by the person as determined by an appropriate order.

9. Costs of Damage. Any person violating any of the provisions of this Title or who initiates an activity that causes a deposit, obstruction, or damage or other impairment to the City's MS4 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 the costs of any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property.

10. City Attorney's Fees and Costs. In addition to the fees and 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.

11. Other Remedies. The City shall have such other remedies as are and as may be from time to time provided by North Dakota law and municipal codes for the violation of this Chapter or related provisions.

12. Remedies Cumulative. The remedies and enforcement powers established in this Chapter are cumulative.

(Ord. 6270, 08-22-17)

14.1-05-02. Administrative Search Warrant. Whenever the City Engineer is denied access to a property to inspect for compliance with this Title, he/she may secure an administrative search warrant from the municipal judge in accordance with Chapter 29-29.1, N.D.C.C.

(Ord. 6270, 08-22-17)

14.1-05-03. Notice and Order. Except for emergency orders under Section 14.1-05-01(4) and (5), whenever the City Engineer finds that any person has violated or is violating this Title, a construction stormwater management permit and/or its conditions, an approved post-construction stormwater management permit, or any prohibition, limitation or requirement contained herein, the

City Engineer shall serve upon such person a written notice and order stating the nature of the violation. Within thirty (30) days of the date of the notice, unless a different time frame is set by the City Engineer due to the nature of the violation, the correction thereof must be completed to the satisfaction of the City Engineer.

(Ord. 6270, 08-22-17)

14.1-05-04. Appeal. All decisions of the City Engineer dealing with violations of a construction stormwater management permit or this Title or the issuance or non-issuance of the permits required by this Title are subject to appeal to the Board of City Commissioners upon written notice of appeal filed within fifteen (15) days of issuance of the decision. If no appeal is filed within the time period specified, the decision of the City Engineer is final. An appeal stays the City Engineer's decision unless the City Engineer declares the order to be an emergency and certifies to the Board that a stay would cause imminent danger to life and property in which case the decision may be stayed only by a restraining order from the Board of City Commissioners or a court of record.

(Ord. 6270, 08-22-17)

14.1-05-05. Hearing. Upon receiving the notice of appeal the Board of City Commissioners shall set a date for a hearing within thirty (30) days of receipt of the notice of appeal. Notice of the time and place for the hearing must be served upon the appellee by certified mail or in person not less than five (5) days prior to the hearing.

(Ord. 6270, 08-22-17)

CHAPTER 14.1-06 PENALTIES.

14.1-06-01. Penalty. Any person who fails to comply with a final or un-stayed decision of City Engineer or a decision of the Board of City Commissioners after a hearing 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 ordinance violation and subject to the provisions of Chapter 1-02 of the City Code (Penalties). Each day the violation continues constitutes a separate offense.

(Ord. 6270, 08-22-17)

14.1-06-02. Abatement. The imposition of a penalty provided by the provisions of this Title shall not preclude the City from instituting proceedings to restrain, correct or abate a continuing violation of this Title. If any person violates any of the provisions of this Title or initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's MS4 and within ten days of a final order issued under this Chapter, fails to obey that order, the City Engineer is hereby authorized to restrain, correct or abate the violation and have the costs incurred assessed against the property.

(Ord. 6270, 08-22-17)

14.1-06-03. 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 construction 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. 6270, 08-22-17)