

ORDINANCE NO. 1587

CITY OF BURNSVILLE, MINNESOTA

AN ORDINANCE REVISING TITLE 10: ZONING, CHAPTER 8 ENVIRONMENTAL OVERLAY DISTRICTS

THE CITY COUNCIL OF THE CITY OF BURNSVILLE ORDAINS AS FOLLOWS:

SECTION 1: "CHAPTER 10-8: ENVIRONMENTAL OVERLAY DISTRICTS" of the Burnsville Municipal Code is hereby *amended* as follows:

10-8-5: Wetlands Overlay District Standards

No development shall be allowed or development permit issued unless the City eCouncil finds that the proposed development complies with the following standards:

- A. State Regulations: The ~~w~~Wetland ~~e~~Conservation ~~a~~Act of 1991 (Minnesota laws, 1991, chapter 354, as amended) and that accompanying rules of the Minnesota ~~b~~Board of ~~w~~Water and ~~s~~Soil ~~r~~Resources (Minnesota rules chapter 8420, as amended) are incorporated herein by this reference.
- B. Delineation Of Wetlands: Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable city ordinances and regulations. The standards and requirements set forth in this chapter shall not be construed to allow anything otherwise prohibited in the zoning district where the wetland ~~area~~ is located.
 1. A wetland is land that meets the definition of "wetlands" set forth in this ~~chapter~~ Title. Wetland boundaries and wetland types as established by ~~officially-adopted-city maps~~ the Wetland Protection and Management Plan shall be prima facie evidence of the location and type of wetland. If an applicant questions whether a wetland exists or disputes its delineation, the applicant shall have the burden to supply detailed information for review supporting the applicant's position. The applicant shall provide appropriate technical information, including, but not limited to, topographical survey and soil data deemed necessary for the city to determine the exact wetland boundary. The city shall make a determination of the delineated wetland boundary or if the boundaries need to be corrected on city plans and maps based upon the data that is supplied. Data for wetland determination shall be certified by a qualified wetland consultant. The applicant may appeal the city's determination of the wetland boundary and type to the city council. Wetland boundaries shall be identified by permanent monumentation acceptable to the city. In residential subdivisions, a monument is required for each lot. In other situations, a monument is required for each three hundred feet (300') of wetland boundary.
- D. Standards: The following standards apply to all land within and abutting a wetland:

1. Septic and soil absorption system must be set back a minimum of seventy five feet (75') from a wetland **boundary**.
 2. The lowest ground floor elevation shall be a minimum of two feet (2') above the elevation of the wetland **boundary**.
 5. The **Minnesota Pollution Control Agency (MPCA)** **uUrban bBest mManagement pPractices** shall be followed.
 6. The standards of the city's **wWetland pProtection** and **mManagement pPlan** shall be followed.
- F. Wetland Alteration: An applicant for a permit to alter a wetland shall adhere to the following principles in descending order of priority:
1. Filling must be consistent with the city's **wWetland pProtection** and **mManagement pPlan** and the **wWater rResources mManagement pPlan**;
 5. Filling in wetland areas must be mitigated in accordance with the requirements of this chapter and the city's **wWetland pProtection** and **mManagement pPlan**.
- H. Filling: When a permit is issued allowing filling in a wetland, the following standards shall be followed:
1. Filling must be consistent with the **wWater rResources mManagement pPlan**.
 5. Filling in wetlands **areas** must be mitigated in accordance with the requirements of this chapter.
- I. Dredging/Excavating/Grading: When a wetland alteration permit is issued allowing dredging, excavating, or grading in a wetland, the following standards shall be followed:
5. Disposal of the dredged material is prohibited within the wetlands **area**, except to create islands that have been approved by the city as part of the mitigation plan.
 8. Dredging in wetlands must be mitigated in accordance with the requirements of this **titleSection** if the activity results in a loss of functional wetland. Dredging to create water quality improvement basins may be allowed by the city where reasonable alternatives are not available or where the wetland is of low quality and designated for this purpose by the city's **wWetland pProtection** and **mManagement pPlan** and the **wWater rResources mManagement pPlan**.
- J. Stormwater Runoff: When a permit is issued allowing stormwater runoff to discharge directly into a wetland, the following standard shall be followed:
1. Stormwater runoff from a development may be directed to the wetland if permitted by the city's **wWetland pProtection** and **mManagement pPlan** and the **wWater rResources mManagement pPlan**. Sheet flow and other overland drainage of runoff shall be encouraged.
- K. Mitigation:
3. Mitigation Techniques:
 - c. Mitigation shall provide a buffer strip as set forth in this chapter. The buffer strip acreage may be included in the total acreage for mitigation purposes to the extent allowed pursuant to Minnesota **rRules** 8420.0540.
 - g. Wetland mitigation should be undertaken on site. If this is not feasible as demonstrated to the city, mitigation should occur in accordance with the requirements of the **wWetland eConservation aAct**.
 4. Construction Management And Long Term Wetland Maintenance:

- a. The permit holder shall follow the Minnesota Pollution Control Agency ~~Urban~~ ~~Best~~ ~~Management~~ ~~Practices~~ to minimize direct impacts due to erosion and construction practices and to safeguard wildlife habitat.
- b. The permit holder shall conduct a monitoring program in accordance with the requirements of the ~~Wetland~~ ~~Conservation~~ ~~Act~~. A letter of credit or cash security in the amount of the estimated construction costs of the mitigation plan from the permit holder shall be held to ensure compliance. The letter of credit shall be in the form approved by the city and shall be from a ~~Federal Deposit Insurance Corporation (FDIC)~~ insured local bank. The letter of credit or cash security may be reduced to twenty five percent (25%) if the city approves the mitigation construction and the permit holder provides the city with as built plans showing compliance with the approved mitigation plans. At the end of the monitoring period, the city will release the last twenty five percent (25%) of the letter of credit or cash security if the permit holder demonstrates compliance with the designed wetland as built plans.

L. Application And Issuance Of Permit:

1. The applicant for a permit shall furnish the information required by the city including, but not limited to, a site plan, topographic data, hydrological data, and an assessment of the functions and value of the impacted wetland Minnesota Routine Assessment Methodology (MnRAM) assessment) for the review of a wetland alteration permit application. The Public Works ~~Director~~ or designee ~~of parks and natural resources~~ shall use discretion regarding the level and complexity of information required to review the request. A wetland alteration permit shall not be issued without having been first reviewed by city staff and approved by the city council following requirements and time schedules of Minnesota rules 8420.0230. The applicant shall have the burden of proving that the proposed use or activity complies with the purpose, intent, and other provisions of this chapter. The city council may establish reasonable conditions which are specifically set forth in the permit to ensure compliance with requirements contained in this ~~title~~ Chapter. Such conditions may, among other matters, limit the size, kind, or character of the proposed work; require the construction of other structures; require replacement of vegetation and wetland function and value; establish required monitoring procedures and maintenance activity; state the work over time; require the alteration of the site design to ensure buffering; and require the provision of a performance security.
2. The Public Works ~~Director~~ ~~of parks and natural resources~~ or designee shall serve on the ~~Technical~~ ~~Evaluation~~ ~~Panel~~ (TEP). Decisions under this section must not be made until after receiving the determination of the ~~technical evaluation panel~~ TEP regarding wetland public values, location, size, and/or type if the city council, the landowner, or a member of the ~~technical evaluation panel~~ TEP asks for such determinations. This requirement does not apply to wetlands for which such data is included in an approved ~~Comprehensive~~ ~~Wetland~~ ~~Protection~~ and ~~Management~~ ~~Plan~~ per Minnesota ~~Rules~~ 8420.0650. The city

council may seek and consider recommendations, if any, made by the ~~technical evaluation panel~~ **TEP** in making replacement plan decisions.

3. Decisions made under this section concerning implementation of the ~~w~~**W**etland ~~e~~**C**onservation ~~a~~**A**ct may be appealed to the ~~b~~**B**oard of ~~w~~**W**ater and ~~s~~**S**oil ~~r~~**R**esources under Minnesota ~~r~~**R**ules 8420.0250.
- O. Exemptions: Activities exempted by Minnesota-~~r~~**R**ules 8420.0122 shall be exempted from the provisions of this ~~title~~**Chapter**. However, ~~e~~**C**ertificates of ~~e~~**E**xemption must be obtained from the city prior to starting work. Applications for ~~e~~**C**ertificates of ~~e~~**E**xemption will be reviewed and approved by the ~~Public Works~~ ~~d~~**D**irector of ~~parks and natural resources~~ or designee. Applications that are denied may be appealed by the applicant to the city council. (Ord. 1163, 5-19-2009)

10-8-8: Controlling Erosion And Sediment From Land Disturbing Activities

~~A. Purpose: The purpose of this section is to control or eliminate stormwater pollution along with soil erosion and sedimentation within the city. It establishes standards and specifications for conservation practices and planning activities designed to minimize stormwater pollution, soil erosion and sedimentation.~~

~~B. Compliance: Any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity that involves ninety (90) or more cubic yards of earthwork shall comply with the requirements of this section. The city engineer may require that any land disturbing activity that does not meet the above requirements but has the potential for generating stormwater pollution due to erosion and sediment control issues be required to comply with portions of this section.~~

~~The following general criteria are minimum city requirements for controlling erosion and sedimentation from "land disturbing activities". These general criteria do not replace the requirement for individually developed erosion and sediment control plans; however, they do establish minimum standards of soil conservation practice which apply to all land disturbing projects.~~

~~Nothing in the general criteria shall limit the right of the city to impose additional or more stringent standards for controlling erosion and sedimentation during the plan approval and construction process up to and including final stabilization. The city may waive or modify any of the general criteria which are deemed inappropriate or too restrictive for site conditions. (Ord. 1162, 5-19-2009)~~

- ~~C. Stormwater Pollution Prevention Plan (SWPPP): An SWPPP shall be submitted to the city for approval. No land shall be disturbed until the plan is approved by the city and conforms to the standards set forth herein:~~
- ~~1. Minimum SWPPP Requirements: The SWPPP shall comply with the most recent regulations of the Minnesota pollution control agency's (MPCA's) NPDES/SDS permit program, where applicable. The SWPPP shall include, at minimum, the following information:~~

- a. ~~An existing conditions site plan that includes the following:
 - (1) Existing topography and land cover.
 - (2) Identification of all natural and artificial water features, including, but not limited to, lakes, ponds, streams, wetlands, detention areas and stormwater conveyance systems. The normal water level and 100-year flood elevations shall be shown for all water features.
 - (3) Watershed drainage areas.
 - (4) Location of steep, very steep and severe slopes.
 - (5) Location of utilities and easements. (Ord. 1265, 5-22-2012)~~
 - b. ~~A proposed conditions site plan that includes the following:
 - (1) Proposed grading and land cover, including temporary stockpiles and construction limits.
 - (2) Location of all proposed stormwater treatment devices, including, but not limited to, ponds, rain gardens, swales, underground systems, pervious pavement and stormwater conveyance systems. The normal water level and 100-year flood elevations shall be shown for all stormwater treatment devices.
 - (3) Locations of proposed runoff control, erosion prevention, sediment control, and temporary and permanent soil stabilization measures.
 - (4) Proposed watershed drainage areas.
 - (5) Location of proposed utilities and easements.~~
 - c. ~~Specifications that include the following:
 - (1) Identification of individuals responsible for implementation of the SWPPP.
 - (2) Description and details of the proposed erosion, sediment and stormwater pollution control devices.
 - (3) Schedule indicating the time of the construction activities, implementation, maintenance, and removal of erosion and sediment control measures, and permanent site stabilization measures.
 - (4) Information on the type of soils at the site.~~
 - d. ~~Additional information as requested by the city engineer.~~
- ~~2. SWPPP Performance Standards And Design Criteria: The erosion and sediment control measures shall conform to the practices as contained in the most recent version of the MPCA's best management practices (BMPs) manual "Protecting Water Quality In Urban Areas" and shall comply with the most recent regulations of the MPCA's NPDES/SDS permit program, where applicable, unless otherwise indicated. The following minimum standards and criteria shall apply:~~
- a. ~~Construction Scheduling: Construction activities shall be scheduled to lessen the impact on erosion and sediment creation and minimize the amount of exposed soil at any one time. Sediment control measures~~

- must be in place and inspected prior to issuance of permits.
- ~~b. Protection Of Adjacent Property: Soil shall be prevented from being deposited onto adjacent properties, rights of way, public storm drainage systems, wetlands and nondisturbed portions of the construction site.~~
 - ~~e. Soil Stabilization: Measures must be taken as soon as practicable to stabilize the soil in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after construction activity in that portion of the site has temporarily or permanently ceased.~~
 - ~~d. Slopes: Slopes shall not be steeper than three to one (3:1).~~
 - ~~e. Off Site Sediment Tracking And Dust Control: Measures must be taken to minimize off site vehicle tracking of sediment onto paved surfaces and the generation of dust. Sediment that is tracked off site must be removed at the end of each day or more frequently as determined by the city. Sediment shall be removed from roads by shoveling or sweeping and be transported to a sediment controlled disposal area.~~
 - ~~f. Soil Stockpiles: Soil stockpiles must be a minimum of twenty five feet (25') from all roads, water features, drainage channels, or stormwater inlets. Stockpiles must also be stabilized and protected with erosion and sediment control measures to prevent soil loss.~~
 - ~~g. Storm Sewer Inlet Protection: All storm drainage inlets receiving runoff from the construction site shall be protected with sediment control measures. The inlet protection shall remain in place until final stabilization of the site has been achieved.~~
 - ~~h. Storm Sewer Outlet Protection: All required energy dissipation measures must be installed within twenty four (24) hours of connection to a surface water.~~
- ~~3. Inspection And Maintenance: The applicant shall be responsible for the inspection and maintenance of the site. All inspection and maintenance practices shall comply with the most recent regulations of the MPCA's NPDES/SDS permit program.~~
- ~~4. Modification Of Plans: The SWPPP may be amended as necessary upon submittal of a written application to the city and written approval from the city.~~
- ~~D. Financial Securities: The applicant shall provide securities as required by city policy number 2.050. If the applicant fails to comply with the approved SWPPP, or in the event of an emergency, the city may take such action as it deems appropriate to control erosion and sediment and charge the costs to the applicant. If the applicant does not reimburse the city for any cost incurred for such work to remedy erosion and sediment concerns within ten (10) days, the city may draw down the required security to pay the costs.~~
- ~~E. Right Of Entry And Inspection: The applicant shall allow the city and its authorized representatives, upon presentation of credentials to:~~
- ~~1. Enter upon the permitted site for the purpose of obtaining information;~~

- ~~examination of records, conducting investigations or surveys.~~
 - ~~2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.~~
 - ~~3. Examine and copy any books, papers, records, or memorandums pertaining to activities or records required to be kept under the terms and conditions of this permitted site.~~
 - ~~4. Inspect the stormwater pollution control measures.~~
 - ~~5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.~~
 - ~~6. Correct deficiencies in erosion and sediment control.~~
- ~~F. Notification Of Noncompliance: The city shall notify the permit holder of any complaints per city policy number 2.050.~~
- ~~G. Failure To Comply: Should an applicant fail to comply with any requirement of this section, the city may take the following actions:~~
- ~~1. Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy.~~
 - ~~2. Revoke any permit issued by the city to the applicant for the site or project in question.~~
 - ~~3. Follow established procedures on issuing warnings or violation summons as deemed appropriate by the city.~~
 - ~~4. Correct the deficiency or hire contractors to correct the deficiency and draw down the required security to pay for the costs and to assess the property for any deficiency between the costs of correction and the amount of financial security.~~
- ~~H. Abrogation And Greater Restrictions: It is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail. (Ord. 1162, 5-19-2009)~~

No disturbance shall be allowed or permit issued for any activity that involves the following disturbance until the City Engineer finds that the activity complies with the City's Development Design Standards as part of the Water Resources Management Plan adopted by the City Council in 2002 and any future amendments:

- A. Disturbance involving 50 or more cubic yards of earthwork or greater than or equal to 1 acre of surface area.
- B. Disturbance within a Lower Minnesota River Watershed District High Value Resource Area or Lower Minnesota River Watershed District Steep Slopes Overlay District involving 50 or more cubic yards of earthwork or greater than or equal to 5,000 square feet of surface area.

10-8-11: Stormwater Management Overlay District Standards

No development shall be allowed or development permit issued within the eCity of Burnsville

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until the ~~council~~ City Engineer finds that the development will comply with the following:

- A. The land development shall comply with the ~~w~~Water ~~r~~Resources ~~m~~Management ~~p~~Plan adopted by the ~~e~~City ~~e~~Council in 2002 and any future amendments. The ~~e~~City ~~e~~Engineer shall determine whether the development meets the goals, policy and design standards of the adopted plan. Prior to development of land, storm sewer assessment fees must be paid in accordance with ~~f~~Fees and Charges Schedules ~~p~~olicies adopted by the city council. (Ord. 865, 12-2-2002)

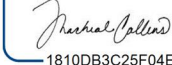
SECTION 2: This ordinance shall be effective immediately upon its passage and publication.

PASSED AND ADOPTED by the City Council of the City of Burnsville this 2nd day of May, 2023.

DocuSigned by:

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 Elizabeth B. Kautz, Mayor

ATTEST:

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 Macheal Collins, City Clerk