

ORDINANCE NO. 2021-19

AN ORDINANCE AMENDING CHAPTER 1, CHAPTER 16, AND APPENDIX A OF THE CITY CODE, AND THE SCHEDULE OF CIVIL FINES FOR ADMINISTRATIVE OFFENSES UNDER CHAPTER 1, ARTICLE II OF THE CITY CODE PERTAINING TO THE CITY'S STORM WATER MANAGEMENT, STORM UTILITY AND WETLANDS REGULATIONS AND CODES.

The City Council of the City of Bloomington, Minnesota, ordains:

Section 1. That Chapter 1 of the City Code is hereby amended by deleting those words within brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

**CHAPTER 1
INTERPRETATION AND ENFORCEMENT OF THE CITY CODE**

ARTICLE II: CIVIL HEARING PROCESS

SEC. 1.11 CITY CODE PROVISIONS THAT ARE ADMINISTRATIVE OFFENSES.

A violation of the following provisions of the city code shall be an administrative offense that may be subject to the administrative mediation and hearing process of this Article II.

36) Chapter 16, Article II, Stormwater Management, and Article III, Stormwater Pond Aeration Permit;

Section 2. That Chapter 16 of the City Code is hereby amended by deleting those words within brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

CHAPTER 16

STORMWATER MANAGEMENT, STORM UTILITY, AND WETLANDS

ARTICLE I. GENERAL PROVISIONS

SEC. 16.03. DEFINITIONS

The following words and terms when used in this chapter will have the following meanings unless the context clearly indicates otherwise:

AERATION EQUIPMENT. Electrical or mechanical equipment used to place oxygen into contact with water or mixing water with atmospheric oxygen. Also refers to floating fountains.

COMPREHENSIVE SURFACE WATER MANAGEMENT PLAN. The adopted citywide plan to guide the administration and implementation of water resource activities within the City of Bloomington, as required by the Metropolitan Surface Water Management Act (Chapter 103B) and the Board of Water and Soil Resources Rules 8410.

FLOATING FOUNTAIN. A free floating structure that is tethered, anchored, or otherwise secured to prevent movement from which an artificially produced jet of water arises.

ILLICIT DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 16.10 this city code.

ILLICIT CONNECTION. An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system, including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

IMPERVIOUS SURFACE. A surface that has been compacted or covered with a layer of material, or is likely to become compacted from expected use, so that it is highly resistant to infiltration by water.

ISSUING AUTHORITY. The City Engineer or his/her designated representative.

POLLUTANT. A pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into the water.

POLLUTANT LOADING. The amount of pollutant delivered to the storm water drainage system, measured in pounds per acre per year, that is generated from a given land use.

PRIVATE ~~[INSTITUTIONAL]~~ PROPERTY. Private property refers to property owned by a person or group and kept for their exclusive use. ~~[Institutional property, for the purposes of chapter 16, article III of this ordinance, will be defined as property owned by a governmental unit that is developed and used for active governmental purposes. Examples of Institutional properties, as defined in chapter 16, article III of this ordinance, include but are not limited to: Creekside Community Center, Public Health Building, Veterans Services Building, Bloomington Ice Garden, Dwan and Hyland Greens Golf Courses, Public Schools, Water Treatment Plant, Hennepin County Hazardous Waste Disposal, Salt and Sand Storage Building, Utility Storage Building, Old Town Hall Museum, Civic Plaza, Western Maintenance Facility, and Metropolitan Council Park and Rides.]~~

PRIVATE STORM WATER POND. A body of standing water wholly located within a single private ~~[/institutional]~~ property or multiple adjoining private properties that provides water quality protection and/or flood protection, either natural or man-made, that is part of the infrastructure for land use management.

PUBLIC STORM WATER POND. A body of standing water that provides water quality protection and/or flood protection, either natural or man-made, is a part of the infrastructure for land use management, is wholly or partially located on property which is dedicated to the use of the public or is owned and managed by a federal, state, or local government, or a political subdivision. ~~[and is not considered private property by the definition of private property as defined in chapter 16, article III of this ordinance]~~

QUALIFIED PROFESSIONAL. A person whose training and experience qualifies him/her to make water quality recommendations. ***QUALIFIED PROFESSIONALS*** include, but are not limited to: registered engineers, hydrologists, scientists, vendors, or technically trained individuals functioning under the direct supervision of a qualified professional.

REPRESENTATIVE. An agent, deputy, or substitute who is acting or speaking in the place or on behalf of another or others.

TOTAL SUSPENDED SOLIDS (TSS). The sum of all suspended matter, described by the dry weight of the suspended matter found in a specific volume of water (milligrams per liter, for example).

SEC. 16.04. INSPECTIONS AND ENFORCEMENT.

- (a) **Inspections.** The issuing authority is hereby authorized to make inspections as are reasonably necessary to verify compliance with permit and ordinance, enforce any provision of this ordinance, or whenever the issuing authority has cause to believe that there exists, or potentially exists, in or upon any premises any conditions which constitutes a violation of this ordinance.
- (b) **Citations.** The issuing authority is hereby authorized to issue written notices or citations for the purpose of enforcing the provisions of this ordinance.

SEC. 16.05. PENALTIES AND SEVERABILITY.

- (a) A violation of or failure to comply with this ordinance will be considered a misdemeanor under Minnesota law. Civil penalties will be subject to assessment pursuant to Section 12.15 of the city charter and Section 1.19 of this city code. However, nothing in this ordinance will be construed to limit the city's other available legal remedies for any violation of the law, including without limitation, criminal, civil, and injunctive actions.
- (b) In accordance with Section 1.06 of this city code, City Enforcement Officers have authority to issue ordinance civil administrative citations of tags pursuant to Section 2.99 of this city code for violations of this chapter relating to illicit discharge, grading, aeration, and erosion control. Each day of violation of this ordinance will constitute a separate offense.
- (c) If any division, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision does not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have adopted the ordinance in each division, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more divisions, sections, subsections, sentences, clauses, or phrases be declared invalid.

ARTICLE III. STORM WATER POND AERATION PERMIT

SEC. 16.11. STORM WATER POND AERATION PERMIT REQUIRED.

- (a) **Required.** A storm water pond aeration permit is required to install, alter or relocate storm water pond aeration equipment on public or private storm water ponds as defined in Chapter 16 [~~and as described in the Stormwater Pond Aeration Policy and Procedure document~~]. Only removable aeration equipment may be installed. Aeration equipment is permitted from April 1 through October 15. Permanently installed aeration equipment and winter aeration are prohibited, unless specifically authorized by the Minnesota Department of Natural Resources. Aeration equipment must be located and operated in a manner where it does not cause a nuisance to other abutting property owners. The issuing authority may limit any lighting and the height and width of spray on fountain type aeration equipment. The issuing authority may at any time restrict the hours aeration equipment may operate. Only one permit will be issued for a storm water pond. Storm water ponds operating aeration systems other than what is listed on the approved permit will be prohibited and any existing storm water pond aeration permits may be revoked.
- (b) **Application.**
 - (1) Application for a permit under this Article III must be made in writing to the Engineering Division and must be on a form provided by the Engineering Division. All storm water pond aeration permits will be issued by the issuing authority.
 - (2) The application must be accompanied with the following:
 - (A) Completed application form, including signatures from 75[400]% of the abutting property owners and signed agreement included with the application form.

- (B) Aeration system specifications, including sizing criteria, type and details of the equipment and power supply details provided by a qualified professional.
- (C) Documentation indicating the installer is a qualified professional and will properly install all equipment.
- (D) Removal and maintenance documentation.
- (E) Payment of fee as established in Appendix A, City of Bloomington Schedule of Fees

(3) Public storm water ponds are only eligible for a permit if the permit applicant agrees to coordinate, conduct, and provide research data to the City of Bloomington in accordance with the terms placed upon the permit by the Engineering Division.

- (c) **Expiration.** If installation, alteration or relocation of the aeration equipment for which a storm water pond aeration permit was issued has not commenced within 180 days from the date of its issuance, or if work authorized by the storm water pond aeration permit is suspended or abandoned for a period over 180 days, the permit will expire by operation of law and will no longer be of any force or effect and a new permit must be obtained. The Director of Public Works may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances, but in no event will the continuance exceed a period of 60 days.
- (d) **Renewal.** The initial storm water pond aeration permit requires [~~an annual renewal~~] renewal after the first season of operation, after which the permit may be renewed in increments of an additional 3 years. A renewal fee may apply. If more than 25 percent of the [any] property owners adjacent to the storm water pond oppose[s] aeration at any time, the permit will not be renewed and the storm water aeration equipment must be removed.
- (e) **Exemptions.** The following are exemptions to the requirements of this Article III:
 - (1) Storm water pond locations where a DNR permit already exists for aeration year round do not require a City of Bloomington storm water pond aeration permit and are allowed to aerate year round, per the DNR permit.
 - (2) A [P]public agency[ies] governmental unit, or political subdivision with a Pond or Lake Management Plan or other master plan, such as a Park or Natural Resource Master Plan, is [are] not required to obtain a City of Bloomington Storm water pond aeration permit for a public storm water pond.[aeration on public property.]
 - (3) Private storm water ponds as defined in Chapter 16 that are not connected to a public storm sewer are not required to obtain a City of Bloomington storm water pond aeration permit for storm water pond aeration.

SEC. 16.12. OTHER PERMITS REQUIRED.

- (a) **Electrical Permit.** An electrical permit pursuant to this Code will be required and the electrical works must be done by a licensed electrician.
- [~~(b) Department of Natural Resources Aeration Permit.~~ It is the responsibility of the applicant to contact the Department of Natural Resources (DNR) to determine if a permit is

~~needed and obtain all required permits prior to the installation, alteration, or relocation of the aeration equipment.~~

~~(e) **Watershed District Permit.** Depending on the Watershed District for which the storm water pond is located, a permit may be required. It is the responsibility of the applicant to contact the correct Watershed District, determine if a permit is needed and obtain all required permits prior to installation, alteration, or relocation of the aeration equipment.]~~

(b[d]) **Other Approvals.** It is the responsibility of the applicant to determine if any other permits are required and to obtain those permits before a city permit will be issued and prior to installation, alteration, or relocation of the aeration equipment. [Federal, state, and local units of government, including but not limited to, the U.S. Army Corps of Engineers, water management organizations, and Hennepin County, may require a permit. It is the responsibility of the applicant to contact the proper entities, determine if a permit is needed, and obtain all required permits prior to installation, alteration, or relocation of the aeration equipment.]

Section 3. That the Schedule of Civil Fines is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

**SCHEDULE OF CIVIL FINES
FOR ADMINISTRATIVE OFFENSES UNDER CHAPTER 1,
ARTICLE II OF THE CITY CODE**

<u>ADMINISTRATIVE OFFENSE</u>	<u>FINE</u>
* * *	
Water Resources Violations (Chapter 16)	
General:	
Minor Violations	\$250.00
Major Violations	\$1,000.00
Specific:	
Illicit Discharge (16.10)	\$500.00
<u>Storm Water Pond Aeration (16.11)</u>	\$250.00

Section 4. That the Appendix A: Fee Schedule is amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CODE SECTION	DESCRIPTION	FEE

<u>16.11</u>	<u>Stormwater Aeration permit – Initial Application</u>	<u>\$150</u>
<u>16.11</u>	<u>Stormwater Aeration permit - Renewal</u>	<u>\$50</u>

Passed and adopted this 14th day of June, 2021.

/s/ Tim Busse
Mayor

ATTEST:

/s/ Denise M. Christenson
Secretary to the Council

APPROVED:

/s/ Melissa J. Manderschied
City Attorney