

**ORDINANCE NO. 2011-**

**AN ORDINANCE THAT ADDS TEXT PERTAINING TO THE PURPOSE AND REQUIREMENTS OF A STORMWATER POND AERATION PERMIT; THEREBY AMENDING CHAPTER 16 OF THE CITY CODE**

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

Section 1. That Chapter 16 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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**CHAPTER 16**

**EXCAVATION, ENVIRONMENTAL ANALYSIS, AND WETLANDS PERTAINING TO LAND DEVELOPMENT**

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**ARTICLE II. STORMWATER POND AERATION PERMIT [RESERVED]**

**SEC. 16.14. PURPOSE. [RESERVED]**

The purpose of this Article of the City Code is to authorize the issuance of permits for stormwater pond aeration in the City of Bloomington in order to protect the health, safety, and welfare of the general public.

**SEC. 16.15. DEFINITIONS. [RESERVED]**

**Aeration Equipment** – Electrical or mechanical equipment used to place oxygen into contact with water by mixing water with atmospheric oxygen.

**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.

**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 II of this ordinance, shall be defined as a 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 II 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 Stormwater Pond** – A body of standing water wholly located within a single private/institutional property or multiple adjoining 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 Stormwater 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, and is not considered private property by the definition of private property as defined in Chapter 16, Article II 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.

**Stormwater Pond** – A body of standing water that provides water quality protection and/or flood protection, either natural or man-made, that is part of the infrastructure for land use management.

#### **SEC. 16.16. STORMWATER POND AERATION PERMIT REQUIRED. [RESERVED]**

- (a) **Required.** A Stormwater Pond Aeration permit is required to install, alter or relocate stormwater pond aeration equipment on public stormwater ponds as defined in Chapter 16, Article II of this ordinance 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. Aeration equipment shall be located and operated in a manner where it does not cause a nuisance to other abutting property owners. The City Engineer may limit any lighting and the height and width of spray on fountain type aeration equipment. Only one permit shall be issued for a stormwater pond. Stormwater ponds operating aeration systems other than what is listed on the approved permit shall be prohibited and any existing stormwater pond aeration permits may be revoked.
- (b) **Application.**
- (1) Application for a permit under this Article shall be made in writing to the Engineering Division and shall be on a form provided by the Engineering Division. All Stormwater Pond Aeration permits shall be issued by the City Engineer or the City Engineer's designee.
  - (2) The application shall be accompanied with the following:
    - (A) Completed Application form, including signatures from 100% 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
- (c) **Expiration.** If installation, alteration or relocation of the aeration equipment for which a stormwater pond aeration permit was issued has not commenced within one hundred eighty (180) days from the date of its issuance, or if work authorized by the stormwater pond aeration permit is suspended or abandoned for a period over one hundred eighty (180) days, the permit shall expire by operation of law and shall no longer be of any force or effect and a new permit shall 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 shall the continuance exceed a period of sixty (60) days.
- (d) **Renewal.** The Stormwater Pond Aeration Permit requires an annual renewal. If any property owner adjacent to the stormwater pond opposes aeration at any time, the permit will not be renewed and the stormwater aeration equipment must be removed.
- (e) **Exemptions.** The following are exemptions to the requirements of this Article:
- (1) Stormwater pond locations where a DNR permit already exists for aeration year round do not require a City of Bloomington Stormwater Pond Aeration Permit and are allowed to aerate year round, per the DNR permit.

- (2) Public agencies with a Pond or Lake Management Plan or other master plan, such as a Park or Natural Resource Master Plan, are not required to obtain a City of Bloomington Stormwater Pond Aeration Permit for stormwater pond aeration on public property.
- (3) Private stormwater ponds as defined in Chapter 16, Article II of this ordinance are not required to obtain a City of Bloomington Stormwater Pond Aeration Permit for stormwater pond aeration.

**SEC. 16.17. OTHER PERMITS REQUIRED. [RESERVED]**

- (a) Electrical Permit. An electrical permit pursuant to this Code shall be required and the electrical works shall 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.
- (c) Watershed District Permit. Depending on the Watershed District for which the stormwater 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.
- (d) Other Approvals. 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.

**SEC. 16.18. PENALTY. [RESERVED]**

A violation of this Article shall be considered a misdemeanor under Minnesota law.

**SEC. 16.19. SEVERABILITY. [RESERVED]**

If any division, section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid, such decision does not affect the validity of the remaining portion of this Article. The City Council hereby declares that it would have adopted the Article 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.

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Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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Mayor

ATTEST:

\_\_\_\_\_  
Secretary to the Council

APPROVED:

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City Attorney