

MINUTES, REGULAR MEETING  
CITY COUNCIL, CITY OF LA CRESCENT, MINNESOTA  
MAY 24, 2021

Pursuant to due call and notice thereof, the second meeting of the City Council of the City of La Crescent for the month of May was called to order by Mayor Mike Poellinger at 5:30 PM in the La Crescent City Hall, La Crescent, Minnesota, on Monday, May 24, 2021.

Pursuant to Minn. Stat. § 13D.021 and due to the COVID-19 pandemic, members of the City Council and City Staff were given the option to attend the meeting by telephone or Zoom. Upon a roll call taken and tallied by the City Administrator, the following members were present: Members Ryan Hutchinson, Cheryl Jostad, Teresa O'Donnell-Ebner, Dale Williams, and Mayor Mike Poellinger. Members absent: None. Also present was City Administrator Bill Waller, City Attorney Skip Wieser, City Engineer Tim Hruska, and City Administrative Assistant Angie Boettcher.

Mayor Poellinger asked if anyone wished to take action to change the agenda as presented. There were no changes requested.

**ITEM 1 – CONSENT AGENDA**

At this time, the Mayor read the following items to be considered as part of the Consent Agenda for this regular meeting:

- 1.1 MINUTES – MAY 10, 2021
- 1.2 BILLS PAYABLE THROUGH MAY 20, 2021

At the conclusion of the reading of the Consent Agenda, Mayor Poellinger asked if the Council wished to have any of the items removed from the Consent Agenda for further discussion. It was recommended to revise the May 10, 2021 Minutes regarding Item 1 – Consent Agenda to include Mayor Mike Poellinger as voting Yes to the Motion and changing “Member” to “Members” in roll call sentence. Also, in 3.1 – Planning Commission Minutes – May 4, 2021 to correct the address of South 6<sup>th</sup> Street in two places from “536” to “436”. There was also a change to the Bills Payable. Member O'Donnell-Ebner made a motion, seconded by Member Hutchinson, as follows:

**A MOTION TO APPROVE THE CONSENT AGENDA AS PRESENTED INCLUDING THE REVISIONS TO THE MAY 10, 2021 MINUTES AS STATED ABOVE AND TO THE BILLS PAYABLE.**

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cheryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

**ITEM 3.1 – WILDWOOD STORMWATER PROJECT QUOTES**

City Engineer Hruska reviewed with City Council two quotes for the Wildwood Stormwater project. This project was previously presented to City Council. This project would extend storm sewer from the intersection of Wildwood and Rosewood to the backyards of Lot 3 & 4. The project would need easements from the two adjacent property owners to proceed. The two quotes reviewed by City Council were from Zenke, Inc. and Gerke Excavating. Zenke, Inc. quote was in the amount of \$44,326.00. The City Engineer presented several reasons why the City should not consider paying for this project. The City Engineer stated it uncertain what is creating the problem described by property owners. Discussion regarding that no water is infiltrated the basements, no dead grass in the yards, and setting precedence for future stormwater issues. Questions were asked to City Attorney about the need for public easements, and release agreements. Extended discussion followed. Following discussion, Member Williams made a motion, seconded by Member Hutchinson, as follows:

**MOTION TO ACCEPT THE PROPOSAL FROM ZENKE, INC. IN THE AMOUNT OF \$44,326.00 FOR THE WILDWOOD STORMWATER PROJECT AND TO AUTHORIZE THE CITY ATTORNEY TO PREPARE THE EASEMENTS AND RELEASE AGREEMENTS WITH THE PROPERTY OWNERS.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Dale Williams	Yes

Member Cheryl Jostad, Member Teresa O’Donnell-Ebner and Mayor Mike Poellinger voted against the same. The motion failed by a 2-3 vote.

Following discussion, Member O’Donnell-Ebner made a Motion requiring the affected property owners to contribute to the costs of the stormwater improvements. Member O’Donnell-Ebner withdrew the Motion before a second was obtained.

Following further discussion, Member O’Donnell-Ebner made a motion, seconded by Member Jostad, as follows:

**MOTION TO AUTHORIZE CITY STAFF TO CONTACT AFFECTED PROPERTY OWNERS REGARDING THE PROPERTY OWNERS AND HOMEOWNER’S ASSOCIATION CONTRIBUTING TO THE COST OF THE STORMWATER IMPROVEMENTS.**

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Cheryl Jostad	Yes
Teresa O’Donnell-Ebner	Yes
Mike Poellinger	Yes

Member Ryan Hutchinson and Member Dale Williams voted against the same. The motion was declared duly carried by 3-2 vote.

**ITEM 3.2 – WALNUT STREET PROJECT ALTERNATIVES**

City Engineer Hruska reviewed with City Council the alternatives and cost estimates for the reconstruction of Walnut Street. The project is tentatively planned for 2022. The project will utilize a combination of funding sources that may include the following: bonding authority through the City's 2021-2025 Street Reconstruction Plan; Municipal State Aid funds; water/sewer revenue bonds; American Rescue Plan funds; and possibly a Local Road Improvement Program grant application. The intersection of Main Street and Walnut Street is proposed to be redesigned, reducing the overall amount of pavement in the intersection. It was recommended to City Council to authorize a demonstration project for Main and Walnut similar to the one that will be installed this summer on Elm Street between South 4<sup>th</sup> and South 6<sup>th</sup> Street. It was also recommended that a portion of the June 28<sup>th</sup> City Council meeting be held at the intersection as a means to introduce the project to the community and receive feedback. It was the consensus of City Council to have a letter sent out to the Walnut Street property owners and to the Chamber of Commerce. At the June 14, 2021, the City Council will finalize the June 28 Agenda for this item. This item was informational, and no action was taken.

**ITEM 3.3 – TRUSS SPECIALISTS LEASE EXTENSION**

City Administrator Waller reviewed with City Council that the City has for many years leased the property commonly referred to as the “old dump property” to Truss Specialists. The current lease expires in June of 2021, and it was recommended to City Council to approve a new three-year lease agreement with Truss Specialists with a 3% annual increase in the lease amount. City Council reviewed the new Lease Agreement between the City and Truss Specialists. Following discussion, Member Williams made a motion, seconded by Member Jostad as follows:

**MOTION TO APPROVE A NEW THREE YEAR LEASE AGREEMENT BETWEEN THE CITY AND TRUSS SPECIALISTS FROM JUNE 15, 2021 TO JUNE 15, 2024 FOR THE PROPERTY COMMONLY REFERRED TO AS THE “OLD DUMP PROPERTY” WITH A 3% ANNUAL INCREASE IN THE LEASE AMOUNT.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O’Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

**ITEM 3.4 – HTM PAVING/CITY LOT ALTERNATIVES**

City Engineer Hruska reviewed with City Council two informational items that did not require action at the meeting. Discussed first was the alternatives regarding the installation of the second lift of black top at the Horse Track Meadows development. The first lift, the base course, was installed in the fall of 2020. The plans for the project included that the second lift of black top, the wear course, be installed in 2021. Due to the amount of current and anticipated building activity in 2021, it was discussed whether the City may want

to consider holding on the installation of the second lift of black top for a year or two. The pluses and minuses with each of these options were discussed.

The second item discussed was regarding the redevelopment options for the parcel of property that the City purchased adjacent to the Horse Track Meadows development. City Council reviewed two redevelopment alternatives, one with 5 two-unit structures, and the second with 6 single family lots. In the development agreement for the project, there is a provision that the City will not resell this property until the developer has sold 75% of the platted lots or May 1, 2025, whichever occurs first. In addition, the property will need to be added to the sewer service agreement with the City of La Crosse and platted before the City will be able to sell any of the lots. The City had planned that the two-unit option would be the best use for the property, and utilities were stubbed into the property based on that plan. However, based on lot sales to date in the Horse Track Meadows development, the sale of the single family lots is going faster than the sale of the two-unit lots. The local realtor that is handling the sale of the lots in the Horse Track Meadows development has indicated that the two-unit option is the most desirable option for the City. The 5 two-unit lot development is expected to generate approximately \$500,000 in anticipated lot sales and will create \$3,000,000 in new market value; while the 6 single family lot development will generate approximately \$450,000 in anticipated lot sales and create \$2,400,000 in new market value.

These two items were informational, and no action was taken.

### **ITEM 3.5 – STORMWATER ORDINANCE**

City Engineer Hruska reviewed with City Council the City's revised Stormwater Ordinance which updates items required by the MS4 Permit. Below is a non-inclusive list of sections that have been revised:

- Provides guidance on acceptable Best Management Practices (BMP) for projects.
- Requirements for needing a permit, review responsibilities and timing.
- Engineering calculations that would be required with submittals.
- Stormwater volume reduction requirements along with defining areas where infiltration is prohibited.
- Erosion and sediment control measures that shall be in place during construction and up to vegetative state.
- Mechanisms for enforcing erosion and sediment violations.
- Items required on Grading Plans.
- Financial Securities required for applicants before construction begins.
- Post-Construction Stormwater Management that includes reduction in water volume, Total Suspended Solids (TSS) and Phosphorus (TP) for new developments and redevelopment projects.
- Includes maintenance agreements for BMP's constructed on private property.

Following discussion, Member Jostad introduced the following Ordinance with added definition, and moved its passage and adoption:

## ORDINANCE NO. 551

### AN ORDINANCE OF THE CITY OF LA CRESCENT RESTATING, SUPPLEMENTING AND AMENDING THE STORM WATER AND EROSION CONTROL ORDINANCE AND AMENDING THE CITY OF LA CRESCENT CODE

The City Council of the City of La Crescent, Houston County, Minnesota hereby ordains:

SECTION 1. The Storm Water and Erosion Control Ordinance of the City is here restated in relevant part with amendments thereto with respect to definitions and amending, appending certain procedural and substantive regulation.

SECTION II. The entire text of the Storm Water and Erosion Control Ordinance here enacted, and the subject matter of this ordinance is incorporated hereat verbatim, including the restated provisions and amendments, eliminated portions lined-out, supplemental amendment provisions underscored:

#### **12.185 POST CONSTRUCTION STORMWATER MANAGEMENT AND EROSION AND SEDIMENTATION CONTROL**

1. Purpose. The purpose of this ordinance is to prevent or reduce water pollution after construction activities have been completed, in accordance with the U.S. Clean Water Act, the Small Municipal Separate Storm Sewer Systems General Permit (MS4), Minnesota Statutes and Rules and Federal Laws and Regulations.

The ordinance establishes standards and specifications for design, conservation practices, planning activities, and construction activities which minimize storm water pollution, soil erosion, and sedimentation. It protects public health and property while encouraging retention of natural topographic features and existing vegetation and encouraging alternative approaches to conventional flatland development practices on steep slopes including imaginative and innovative techniques suited to the natural surroundings to enhance the existing and future appearances of hillsides.

2. Scope. Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, State agency, or political subdivision proposing a land disturbance activity within the City shall apply to the City for the approval of the stormwater pollution prevention plan. No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.
3. Definitions. These definitions apply to this ordinance. Unless specifically defined below, the words or phrases used in this ordinance shall have the same meaning as they have in common usage. When not 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 words "shall" and "must" are always mandatory and not merely directive.

**Applicant:** Any person or group that applies for a building permit, subdivision approval, or a permit to allow land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

**Average Slope:** Average slope shall be determined by use of the following formula:

$$S = 0.0023 \times I \times L \div A$$

S = average slope (%)

.0023 = conversion factor (square feet to acres)

I = contour interval (distance between adjacent contour lines on a map) in feet (not to exceed 10 feet)

L = the total length of the contour lines within the subject parcel

A = the area in acres of the subject parcel

Slopes exceeding thirty-five (35) percent shall be excluded from lot area computations.

**Best Management Practices (BMP's):** Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by State or designated area-wide planning agencies. (Examples of BMP's) can be found in the current version of the Minnesota Pollution Control Agency's Stormwater Best Management Practices Manual:

**Bond:** Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the governing body. All bonds shall be approved by the governing body wherever a bond is required by these regulations.

**Buffer:** A protective vegetated zone located adjacent to a natural resource, such as a water of the State, that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat. The buffer strip begins at the "ordinary high-water mark" for wetlands and the top of the bank of the channel for rivers and streams. This start point corresponds to the Minnesota Department of Natural Resources' definition of a "shoreline" in Minnesota Rules 6115.0030. Therefore, a stream with a width of thirty (30) feet between banks and one hundred (100-foot buffer strips has a total protected width of two hundred thirty (230) feet. Acceptable buffer vegetation includes preserving existing pre-development vegetation and/or planting locally distributed native Minnesota trees, shrubs and grassy vegetation. Alteration of buffers is strictly limited. Buffer areas are designated with permanent markers.

**Building Pad:** A building pad is the area on a lot within which the principal building will be constructed.

**Certificate of Occupancy:** A certificate issued by the Building Official after final inspection when it is found that the building and project complies with the provisions of the State Building Code, the City Code, and other laws which are enforced by the City. No building shall be occupied until the Building Official has issued a Certificate of Occupancy, or a temporary certificate when warranted.

**City:** The City Council or its authorized representative charged with the administration and enforcement of this Ordinance or their regularly authorized deputy.

**Common Plan of Development or Sale:** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

**Cribbing:** The use of timbers in such a fashion so as to lend support to soil, to direct runoff or to prevent erosion.

**Developer:** Any person, group, firm, corporation, sole proprietorship, partnership, State agency, or political subdivision thereof engaged in a land disturbance activity.

**Development:** Any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.

**Discharge:** The release, conveyance, channeling, runoff, or drainage, of storm water, including snow melt, from a construction site.

**Energy Dissipation:** This refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to, aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

**Erosion:** Any process that wears away the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of people and nature.

**Erosion Control:** Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

**Erosion and Sediment Practice Specifications or Practice:** The management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by either the State, County, City, or local watershed group, whichever is more stringent.

**Escrow:** Cash invested in the name of the City in a financial institution for the benefit of the City and the depositor.

**Exposed Soil Areas:** All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile area, borrow areas and disposal areas with the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered "exposed soil" until it meets the definition of "final stabilization."

**Filter Strips:** A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.

**Final Stabilization:** All soil disturbing activities at the site have been completed, and that a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of seventy (70) percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or range land, final stabilization constitutes returning the land to its pre-construction agricultural use. (Examples of vegetative cover practices can be found in the current version of the Minnesota Department of Transportation's publication "Supplemental Specifications to the 1994 Standard Specifications for Construction.")

**Grade:** The vertical location of the ground. Existing grade is the grade prior to grading. Rough grade is the stage at which grade approximately conforms to the approved plan. Finish grade is the final grade of the site which conforms to the approved plan.

**Grading Permit:** A permit required to complete land disturbance activities.

**Impervious Surface:** A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of

flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

**Land Disturbance Activity:** Any land change that may result in the alteration of existing surface drainage patterns or soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this rule, land disturbance activity does not mean:

- A. Minor land disturbance activities that do not alter existing surface drainage patterns such as home gardens and an individual's home landscaping, repairs, and maintenance work.
- B. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
- C. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.

**Linear project:** Construction of new or fully reconstructed roads, trails, sidewalks, or rail lines that are not part of a common plan of development or sale. For example, roads being constructed concurrently with a new residential development are not considered linear projects because they are part of a common plan of development or sale. [Minn. R. 7090]

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

- a. Owned or operated by a state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over 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 tribe organization, or a designated and approved management Agency under section 208 of the federal Clean Water Act, United States Code, title 33, section 1288, that discharges into waters of the state;
- b. Designed or used for collecting or conveying stormwater;
- c. That is not a combined sewer; and
- d. That is not part of a publicly owned treatment works as defined in 40 CFR 122.2.

**Native Vegetation:** The pre-settlement (already existing in Minnesota at the time of statehood in 1858) group of plant species native to the local region, that were not introduced as a result of European settlement or subsequent human introduction.

**Natural and Undisturbed State:** No cut or fill work shall be done. The only acceptable use would be for conservation and recreation and then only if significant topological change and vegetation removal is not required.

**Paved Surface:** A constructed hard, smooth surface made of asphalt, concrete or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots.

**Permanent Cover:** Final stabilization. Examples include grass, gravel, asphalt, and concrete. See also "Final Stabilization"



**Permit:** Within the context of this rule, a permit is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities.

**Phased Project or Development:** Clearing a parcel of land in distinct phases, with at least seventy-five (75) percent of the project's preceding phase meeting the definition of "final stabilization" and the remainder proceeding toward completion, before beginning the next phase of clearing.

**Registered Professionals:** A registered professional civil engineer, soils engineer, geologist, landscape architect, or other registered professional with experience and knowledge in the application of principles required to comply with this Ordinance.

**Rip Rap:** The use of stones, rocks or other loose objects placed in such a fashion so as to lend support to the soil and/or to protect against runoff and erosion.

**Runoff Coefficient:** The fraction of total precipitation that is not infiltrated into or otherwise retained by the soil, concrete, asphalt, or other surface upon which it falls, that will appear at the conveyance as runoff. This coefficient is usually estimated for an event or on an average annual basis.

**Runoff Rate:** The rate of flow running over the surface of a site after the soil has reached saturated conditions, measured in units of volume versus time.

**Sediment:** The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest on the earth's surface either above or below water level.

**Sedimentation:** The process or action of depositing sediment.

**Sediment Control:** The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices are silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

**Significant Redevelopment:** Alterations of a property that changes the "footprint" of a site or building in such a way that results in the disturbance of over one (1) acres of land. This term is not intended to include activities, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls, such as exterior remodeling.

**Slope:** The inclination of the ground surface measured and expressed as a ratio of horizontal distance to vertical distance.

**Soil:** The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this document, temporary stockpiles of clean sand, gravel, aggregate, concrete or bituminous materials (which have less stringent protection) are not considered "soil" stockpiles.

**Special Assessment:** A cost levied by the City against a property for the purposes of recovering costs incurred by the City.

**Stabilized:** The exposed ground surface after it has been covered by sod, erosion control blanket, rip rap, pavement, or other material that prevents erosion. Simply sowing grass seed is not considered stabilization.

**Steep Slope:** Any slope steeper than ten (10) percent (ten (10) feet of rise for every one hundred (100) feet horizontal run).

**Storm Water:** Under Minnesota Rule 77077.0105, subpart 41b storm water means “**precipitation runoff**, storm water runoff, snow melt runoff, and any other surface runoff and drainage.” (According to the Code of Federal Regulations (CFR) under 40 CFR 122.26(b)(13) “Storm Water means storm water runoff, snow melt runoff and surface drainage.”) Storm water does not include construction site dewatering.

**Storm Water Pollution Control Plan:** A joint storm water and erosion and sediment control plan that is a document containing the requirements of Section 4, that when implemented will decrease soil erosion on a parcel of land and off-site non-point pollution. It involves both temporary and permanent controls.

**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.

**Subdivision:** Any tract of land divided into building lots for private, public, commercial, industrial, etc. development. Minnesota Rule 6120.2500, subpart 17 defines subdivision as “land that is divided for the purpose of sale, rent, or lease, including planned unit development.”

**Substantial Building Permit:** A building permit for an improvement which involves land disturbing activities. This shall not include activities such as roofing, siding, windows, or similar activities.

**Temporary Protection:** Short term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.

**Terrace:** A relatively level step or bench constructed in the face of a sloped surface for drainage and maintenance purposes.

**Urban:** Of, relating, characteristic of, constituting a City.

**Vegetated or Grassy Swale:** A vegetated earthen channel that conveys storm water, while treating the storm water by biofiltration. Such swales remove pollutants by both filtration and infiltration.

**Very Steep Slope:** Any slope steeper than one (1) foot of rise for each three (3) feet of horizontal run (thirty-five (35) percent slope).

**Wet Detention Facility:** A permanent man-made structure, containing a permanent pool of water, used for the temporary storage of runoff.

**Wet Retention Facility:** See wet detention facility.

#### 4. General Requirements

- A. Every applicant for a substantial building permit, subdivision approval, or a permit to allow land disturbing activities involving disturbing twenty thousand (20,000) cubic feet of land or more must comply with the provisions of this Ordinance and submit a grading plan to the City Engineer for review. No substantial building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the grading plan by the City.
- B. Drainage discharge onto adjacent property(s) shall be managed so post-development runoff is equal to or less than pre-development.

- C. No stormwater runoff or natural drainage water shall be so diverted or directed as to overload existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public lands without proper and approved provisions being made for avoiding these conditions.
- D. If construction involves clearing, grading and/or excavation that disturbs one (1) or more acres OR clearing, grading and/or excavation that disturbs less than one (1) acre but is part of a larger common plan of development which disturbs one (1) or more acres; The project must meet the requirements of the current permits:
  - 1) MPCA National Pollution Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater (CSW) Permit
- E. The Developer shall obtain all applicable permits from Local, State and Federal Agencies prior to the commencement of any earthmoving activities.
- F. Shoreland Protection. All land disturbing activities shall be subject to the applicable standards and requirements found in Ordinance No. 12.24 of the City Code entitled "Shoreland Management District."
- G. Floodplain Protection. All land disturbing activities shall be subject to the applicable standards and requirement found in Ordinance No. 282 of the City Code entitled "La Crescent District Floodplain Management Ordinance."
- H. Engineered Grading Standards. All land disturbing activities shall be subject to the applicable standards and requirements found in Appendix A of Ordinance 421.

#### 5. Plan Review and Permit Issuance

- A. The City Engineer shall review all grading plans with the exception of single lot development grading plans. The review shall be completed no later than fourteen (14) days upon receipt of the submittal by the applicant.
- B. City staff shall review single lot development grading plans. City staff may refer such plans to the City Engineer for review.
- C. If the City determines that the post construction stormwater management BMP's, Stormwater Pollution Prevention Plan (SWPPP), erosion and sedimentation control BMP's and grading plan meet the requirements of this Ordinance, the City shall issue a grading permit valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of the post construction stormwater management BMP's, erosion and sedimentation control BMP's and items depicted on the approved grading plan and SWPPP.
- D. If the City determines that the post construction stormwater management BMP's, SWPPP, erosion and sedimentation control BMP's and grading plan do not meet the requirements of this Ordinance, the City shall not issue a grading permit for the land disturbance activity.
  - 1) All land use and building permits for the site in question shall be suspended until the applicant has approved post construction stormwater management BMP's, SWPPP, erosion and sedimentation control BMP's and grading plan.

- E. If the post construction stormwater management BMP's, SWPPP, erosion and sedimentation control BMP's and grading plan are not being implemented, the City can suspend or revoke the grading permit authorizing the land disturbance activity.

## 6. Modification of Plans

- A. An approved SWPPP and grading plan may be modified in accordance with the following:
  - 1) Written application for modification must be received by the City. In reviewing such an application, the City Engineer may require additional reports and data.
  - 2) The City shall retain the written records of such modifications for at least three (3) years.

## 7. Calculation Methodology

- A. A hydrograph method based on sound hydrologic theory shall be used to analyze runoff for the design of post construction stormwater Best Management Practices (BMP's) or analysis of flows and water levels.
- B. The design of any permanent stormwater treatment system intended to meet the requirements of this Ordinance shall be verified by routing the design storm hydrograph through the proposed facility using the storage indication method or other methodology demonstrated to be more appropriate.
- C. A stormwater report signed by a registered professional engineer which includes pre and post development plans, routings, hydrographs and any calculations required to demonstrate compliance with this Ordinance shall be submitted to the City for approval.
- D. Runoff rates for proposed activities and development shall:
  - 1) Apply land cover conditions based on the last ten (10) years of how the property was used for existing conditions in pre-development runoff calculations.
  - 2) Post-Development runoff rates shall be less than or equal to Pre-Development twenty-four (24) hour runoff rates for 2-year, 10-year and 100-year design storms, unless otherwise permitted by the City Engineer.
  - 3) Atlas 14 precipitation data shall be utilized for Pre and Post development runoff computations, or as approved by the City Engineer.

## 8. Stormwater Collection and Conveyance System

- A. The minimum storm sewer pipe is twelve (12) inches.
- B. Storm sewers shall be designed to convey the 10-year design storm.
- C. A safe overflow elevation shall be provided for the 100-year design storm. Finish floor elevation or the grade adjacent to the structure shall be at least one (1) foot above any overflow elevation, and at least two (2) feet above any pond 100 year water surface elevation, whichever is greater and minimum of one (1) foot above the FEMA 100 year flood elevation.

- D. Drainage channels shall be designed to convey the 25-year design storm within the graded portion of the channel and the 100-year design storm shall be contained within the drainage easement.
- E. Storm sewers, drainage channels, natural drainageways or other conveyance facilities shall be sized to accommodate the potential runoff from its entire developed upstream drainage area.
- F. Permitted gutter flow width shall be determined based on the required roadway in conjunction with providing a twelve (12) foot unobstructed travel lane for emergency vehicles.

9. Maximum Impervious Area and Maximum Disturbed Area

- A. The percentage of lot area covered by impervious surface shall comply with the following table:

10 – 15% slope	32% lot area impervious coverage
16 – 20% slope	25% lot area impervious coverage
21 – 25% slope	18% lot area impervious coverage
26 – 30% slope	10% lot area impervious coverage
31 – 35% slope	5% lot area impervious coverage

An exception may be made to these coverage limits where it is shown that the runoff rate from the lot is controlled in a manner which mitigates the effect of covering the lot with impervious surface, or where individual lot runoff is controlled at the subdivision level and no damage is likely to be incurred by adjacent properties. In no case shall lot coverage by buildings exceed that limit set forth in other parts of the City Code. Slopes exceeding thirty-five (35) percent shall be excluded from lot area computations.

- B. Maximum Disturbed Area. No more than three (3) times the allowable impervious area may be disturbed in areas where average slopes exceed ten (10) percent.

10. Post Construction Stormwater Management

- A. The applicant shall install, construct, or pay the City fees for all permanent storm water management facilities necessary to manage increased runoff from the site.
- B. A Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the City for review and approval prior to start of construction activity for any project that involves clearing, grading and/or excavation that disturbs one (1) or more acres OR clearing, grading and/or excavation that disturbs less than one (1) acre but is part of a larger common plan of development which disturbs one (1) or more acres.
- C. The design and construction of structural storm water BMP's shall be in accordance with the Minnesota Stormwater Manual and the current MPCA National Pollution Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater (CSW) Permit.

- D. The developer and or contractor shall be responsible for compliance with all aspects of the project's NPDES permit. The applicant shall treat the water quality volume on any project where the sum of the new impervious surfaces and the fully reconstructed impervious surfaces equals one (1) or more acres.
- E. For construction activities (excluding linear projects), the water quality volume shall be calculated as one (1) inch times the sum of the new and the fully reconstructed impervious surfaces.
- F. For linear projects, the water quality volume shall be calculated as the larger of one (1) inch times the new impervious surfaces or one-half (0.5) inch times the sum of the new and the fully reconstructed impervious surfaces. Where the entire water quality volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way, easements, or property to treat the required water quality volume shall be made during the planning process. Volume reduction practices shall be considered first as noted in F. below. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, easements or property cannot be obtained, the developer shall maximize the treatment of the water quality volume prior to discharge from the MS4.
- G. Volume reduction practices (e.g. infiltration or other) to retain the water quality volume on-site shall be considered first when designing the permanent stormwater treatment system. Wet sediment basins and filtration systems are not considered to be volume reduction BMP's. Part H below identifies areas where infiltration is prohibited. Other volume reduction practices, wet sediment basins, or filtration basins may be considered in those areas.
- H. Infiltration systems shall be prohibited when the system would be constructed in the following areas:
  - 1) That receive discharges from vehicle fueling and maintenance areas, regardless of the amount of new and fully reconstructed impervious surface.
  - 2) Where high levels of contaminants in soil or groundwater may be mobilized by the infiltrating stormwater. To make this determination, the owners and/or operators of construction activity must complete the Agency's site screening assessment checklist, which is available in the Minnesota Stormwater Manual, or conduct their own assessment. The assessment must be retained with the site plans.
  - 3) Where soil infiltration rates are greater than 8.3 inches per hour unless soils are amended to slow the infiltration rate below 8.3 inches per hour.
  - 4) With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.
  - 5) Of predominately Hydrologic Soil Group D (clay) soils.
  - 6) In an Emergency Response Area (ERA) within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, Subp. 13, classified as high or very high vulnerability as defined by the Minnesota Department of Health.

- 7) In an ERA within a DWSMA classified as moderate vulnerability unless the permittee performs or approves a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater.
  - 8) Outside of an ERA within a DWSMA classified as high or very high vulnerability unless the permittee performs or approves a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater.
  - 9) Within 1,000 feet up-gradient or 100 feet down gradient of active karst features.
  - 10) That receive stormwater runoff from these types of entities regulated under NPDES for industrial stormwater: automobile salvage yards; scrap recycling and waste recycling facilities; hazardous waste treatment, storage, or disposal facilities; or air transportation facilities that conduct deicing activities.
- I. For non-linear projects, where the water quality volume cannot be cost effectively treated on the site of the original construction activity, the applicant shall identify, locations where off-site treatment projects can be completed. If the entire water quality volume is not addressed on the site of the original construction activity, the remaining water quality volume must be addressed through off-site treatment and, at a minimum, ensure the requirements of items I. through L. below are met.
  - J. All off-site treatment project areas must be selected in the following order of preference:
    - 1) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
    - 2) Locations within the same Department of Natural Resource (DNR) catchment area as the original construction activity.
    - 3) Locations in the next adjacent DNR catchment area up-stream.
    - 4) Locations anywhere within the city's jurisdiction.
  - K. Off-site treatment projects shall involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. Routine maintenance of structural stormwater BMPs already required by the City's MS4 Permit cannot be used to meet this requirement.
  - L. Off-site treatment projects must be completed no later than twenty-four (24) months after the start of the original construction activity. If the applicant determines more time is needed to complete the treatment project, the applicant must provide the reason(s) and schedule(s) for completing the project to the city.
  - M. If the city receives payment from the applicant of a construction activity for off-site treatment, the payment shall be applied to a public stormwater project that must comply with the requirements in items H. and J. above.
  - N. Infiltration BMP's shall be fenced prior to the start of any earthmoving activities.
  - O. Accelerated channel erosion must not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or a monetary contribution to the development and maintenance of community storm water management facilities

designed to serve multiple land disturbing and development activities undertaken by one (1) or more persons, including the applicant.

- 1) All calculations and information utilized in determining these peak storm discharge rates shall be included in the stormwater report.

## 11. Erosion and Sedimentation Control

- A. All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
- B. Erosion and sedimentation control best management practices shall be installed prior to the start of any earthmoving activities.
- C. Erosion and sedimentation control BMP's shall be implemented and installed in accordance with the following:
  - 1) The current version of the MnDOT Erosion Control Handbook.
  - 2) The current version of the Minnesota Stormwater Manual
- D. Construction sequencing shall be implemented when practical so as to minimize the amount of exposed soil at any one given time.
- E. For soil stockpiles greater than ten (10) cubic yards, the toe of the pile shall be more than twenty-five (25) feet from a road, drainage channel or storm water inlet. If such stockpiles will be left for more than seven (7) days, they must be stabilized with mulch, vegetation, tarps, or other means and have perimeter control silt fence installed. If left for less than seven (7) days, erosion from stockpiles shall be controlled with a silt fence perimeter.
  - 1) If for any reason a soil or non-soil stockpile of any size is located closer than twenty-five (25) feet from a road, drainage channel or storm water inlet, and will be left for more than seven (7) days, it shall be covered with tarps or stabilized in some other manner.
  - 2) A perimeter silt fence shall be installed around all non-soil (clean sand, gravel, concrete or bituminous) stockpiles.
- F. All sand, gravel or other mining operations taking place on the development site shall apply for all appropriate permits from the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources.
- G. Construction dumpsters shall not be located on any surface other than the street or driveways.
- H. In addition to tracking BMPs, streets shall be cleaned and swept within twenty-four (24) hours whenever tracking of sediments occurs and before the site is left idle for weekends and holidays. A regular sweeping schedule shall be established. Each violation of this requirement may result in the issuance of ticket by City police.
- I. Water (impacted by the construction activity) removed from the site by pumping shall be treated to remove eighty (80) percent of suspended solids temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls prior to discharging. Such water shall not be



discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property or a wetland. Water quality standards may be more stringent so that storm water shall be discharged into the waters of the state in such quantity or in such manner alone or in combination with other substances as to cause pollution as defined by law.

- J. All storm drain inlets shall be protected during construction with inlet protection or an equivalent barrier that meets accepted design criteria, standards and specifications as contained in the current MnDOT Erosion Control Handbook and the current Minnesota Stormwater Manual.
- K. Slopes exceeding thirty-five (35) percent and land within twenty (20) feet of slopes exceeding thirty-five (35) percent shall be left in a natural and undisturbed state.
- L. All newly constructed and reconstructed buildings must route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.
- M. The removal of one (1) or more acres of topsoil from the project site shall be prohibited, unless written permission is given by the City Engineer. Excessive removal of topsoil from the project site can cause significant soil erosion and sedimentation problems.

## 12. Grading Plans

- A. Post construction stormwater BMP's, erosion and sedimentation control BMP's, the area to be retained in the natural and undisturbed state and the location of buffer areas shall be depicted on the grading plan, and identified on the project site with flags, stakes, etc. prior to the commencement of earthmoving activities. No land shall be disturbed or permits issued until these slope stakes are accepted in writing by the City of La Crescent. Slope stakes shall remain in place until all disturbed areas on the lot or plat have been permanently stabilized.
- B. Grading plans shall contain the following information:

<b>Information</b>	<b>Multi-Lot Development</b>	<b>Single Lot Development</b>
1. Name and address of applicant	Yes	Yes
2. Location of Project	Yes	Yes
3. Final Plan signed by registered professional.	Yes	No
4. Plan drawn at 1 inch = 40 feet or larger scale with a north arrow shown.	Yes	Yes
5. Property limits are shown, and all streets are labeled.	Yes	Yes
6. Existing and proposed contours shown at two-foot intervals.	Yes	Yes
7. Lot and block information shown if property is platted; street address shown if not platted.	Yes	No
8. Area and dimensions of all lots.	Yes	Yes
9. Existing public and private utilities.	Yes	Yes
10. Drainage arrows indicating direction of surface drainage.	Yes	Yes

11. Areas of each lot that exceed 10% and 35% slope identifying land to be left in the natural undisturbed state.	Yes	Yes
12. Slope stakes at the 20-foot offset to the 35% slope identifying land to be left in the natural undisturbed state.	Yes	Yes
13. Proposed structures by type, building pads, paves areas, and utilities; all landscaping, walls, cribbing, rip rap, dams, terraces, or other structures needed for slope protection and runoff control.	Yes	Yes 1
14. Location and design of temporary and permanent sedimentation ponds.	Yes	No
15. Location of proposed erosion and sedimentation control BMP's	Yes	Yes
16. Location of proposed post construction stormwater BMP's	Yes	No
17. Amount of impervious surface and total disturbed area on each lot.	Yes	No
18. Proposed elevation of the top of foundation of the principal structures on all lots.	Yes	Yes
19. All proposed lot corner elevations	Yes	Yes
20. Location of all wetlands	Yes	No
21. Location, size and type of trees to be removed and new trees to be planted.	Yes	Yes 2
22. Percent of slope shown for streets and drainage swales.	Yes	Yes 3

1. Proposed structures, paved area, walls, and terraces only
2. Location, size and type of trees to be removed only
3. Percent of slope of drainage swales only

### 13. Inspections and Maintenance

- A. The contractor shall perform site inspections of post construction stormwater BMP's and erosion and sediment control BMP's and retain project records as outlined in this Ordinance and the current MPCA National Pollution Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater (CSW) Permit.
- B. The City of La Crescent shall perform site inspections of post-construction stormwater BMP's and erosion and sedimentation control BMP's to ensure compliance with this Ordinance and the current MPCA Small Municipal Separate Storm Sewer Systems General Permit (MS4).
- C. Any noted deficiencies shall be immediately addressed by the developer.
- D. All storm water pollution control management facilities must be designed to minimize the need of maintenance, to provide easy vehicle (typically eight (8) feet or wider) and personnel access for maintenance purposes and be structurally sound. These facilities must have a

plan of operation and maintenance that ensures continued effective removal of the pollutants carried in storm water runoff.

- E. The City or its designated representative shall inspect all storm water management facilities during construction, during the first year thereafter. The City will keep all inspection records on file for a period of five (5) years.
- F. It shall be the responsibility of the applicant to obtain any necessary easements other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.
- G. City Inspections shall include the following:
  - 1) Annual inspection of all structural pollution control devices, such as trap manholes, grit chambers, sumps, floatable skimmers and traps, separators, other small settling or filtering devices, all exposed stockpiles, and storage material handling areas.
  - 2) Twenty (20) percent of the MS4 Outfalls, sediment basins and ponds each year on a rotating basis, during the effective period of the permit.
  - 3) Based on inspection, determine if repair, replacement or maintenance measures are necessary for proper operation and to prevent environment impacts such as erosion.
  - 4) Record keeping of inspection results, including as appropriate the date, antecedent weather conditions, sediment storage and capacity remaining, and any maintenance performed or recommended. If patterns of maintenance become apparent, the frequency of inspections shall be adjusted.
  - 5) Annual report summarizing the results of all inspections.
- H. Follow up inspections shall be performed by the City on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases, the inspectors will attempt to work with the applicant and/or builder to maintain proper erosion and sediment control at all sites.
  - 1) In cases where cooperation is withheld, construction stop orders may be issued by the City, until all erosion and sediment control BMP's are in compliance. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.

#### 14. Maintenance Agreement.

- A. A maintenance agreement shall be required for post construction stormwater management BMP's and erosion and sediment control BMP's between the City of La Crescent and the responsible party. The agreement shall provide for maintenance of approved post construction stormwater management BMP's and erosion and sedimentation control BMP's during construction and in perpetuity. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the post construction stormwater management BMP's and erosion and sedimentation control BMP's.

- B. The maintenance agreement shall contain the following information and provisions and be consistent with the approved plans including but not limited to the SWPPP and the grading plan:
- 1) Identification of the post construction stormwater management BMP's and erosion and sediment control BMP's and designation of the drainage area served by the facilities.
  - 2) A schedule for regular maintenance for the post construction stormwater management BMP's and erosion and sediment control BMP's consistent with the approved plans including but not limited to the SWPPP and the grading plan.
  - 3) Identification of the responsible party(s), organization or city, county, or town responsible for long term maintenance of the post construction stormwater management BMP's and erosion and sediment control BMP's identified in the approved plans including but not limited to the SWPPP and the grading plan.
  - 4) Requirement that the responsible party(s), organization, or city, county, or town shall review post construction stormwater management BMP's and erosion and sediment control BMP's in accordance with the schedule included in Section 12.185.14.B.2 of this Ordinance.
  - 5) Authorization for the City of La Crescent to access the property to conduct inspections of post construction stormwater management BMP's and erosion and sediment control BMP's as necessary to ascertain that the BMP's are being maintained and operated in accordance with the agreement.
  - 6) The City of La Crescent shall maintain public records of the results of the site inspections, inform the responsible party of required maintenance activities, and to specifically indicate any corrective actions required to bring the post construction stormwater management BMP's and erosion and sediment control BMP's into proper working condition.
  - 7) Agreement that the party designated under Section 12.185.14.B.3 of this Ordinance, as responsible for long term maintenance of the post construction stormwater management BMP's and erosion and sediment control BMP's shall be notified by the City of La Crescent of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the City of La Crescent.
  - 8) Authorization of the City of La Crescent to perform the corrected actions identified in the inspection report if the responsible party designated under Section 12.185.14.B.3 of this Ordinance does not make the required corrections in the specified time period. The City of La Crescent shall enter the amount due on the tax rolls and collect the money as a special assessment against the property pursuant to Minnesota State Statutes.
  - 9) Authorization of the City of La Crescent to protect/preserve structural stormwater BMPs. If structural stormwater BMPs change, causing decrease effectiveness, new, repaired, or improved structural stormwater BMPs must be implemented to provide equivalent treatment to the original BMP.
  - 10) There may be a statement obligating the developer to grant a deed for the pond outlot(s) to the City after final stabilization of the site has been approved by the City in the development agreement.

15. Financial Security.

A. Amount of Financial Security.

- 1) Multi-Lot Developers. The applicant shall provide a financial security for the performance of the work described and delineated on the approved SWPPP and grading plans and any post construction stormwater management BMP's, erosion and sediment control BMP's and grading plan related remedial work at a rate of three thousand dollars (\$3,000) per acre for the maximum acreage of soil that will be simultaneously exposed to erosion during the project's construction. (See the definitions of "exposed soil area" and "final stabilization" for clarification.) This security must be available prior to commencing the project.
- 2) Single Lot Builders. Where individual lots are sold to a builder that is different from the developer, additional financial security for the performance of the work described and delineated on the approved grading plan for the lot(s) in question must be submitted by the builder. The amount of the financial security shall be determined as follows:

Over 1 acre	\$3,000
From ¾ to 1 acre	\$2,000
From ½ to ¾ acre	\$1,500
From ¼ to ½ acre	\$1,000
From 1/8 to ¼ acre	\$750
Less than 1/8 acre	\$500

This deposit will be for the maximum area that will be simultaneously exposed to erosion during the construction on the lot in question. (See the definitions of "exposed soil area" and "final stabilization" for clarification.) This security must be available prior to commencing the project.

- 3) The City may request a greater financial security, if the City considers that the development site is especially prone to erosion, or the resource to be protected is especially valuable.
  - 4) If more soil is simultaneously exposed to erosion than originally planned, the amount of the security shall increase in relation to this additional exposure.
- B. Form of Financial Security. The form of the security must be money, certified bank check, an irrevocable letter of credit, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one (1) or more financial institutions, subject to regulation by the State and Federal government where said financial institution pledges that the funds are on deposit and guaranteed for payment. This security shall save the City free and harmless from all suits or claims for damages resulting from the negligent grading, removal, placement of storage of rock, sand, gravel, soil, or other like material within the City. The type of security must be of a type acceptable to the City.
- C. Maintaining the Financial Security. If at any time during the course of the work, this amount falls below fifty (5) percent of the required deposit, the applicant shall make another deposit in the amount necessary to restore the deposit to the required amount within ten (1) days. Otherwise, the City may:

- 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 in question.
- D. Proportional Reduction of the Financial Security. On projects where the initial required financial security exceeds ten thousand dollars (\$10,000), the City can reduce the total required amount of the financial security by one-third (1/3), when more than one-third (1/3) of the applicant's maximum exposed soil area achieves final stabilization, if recommended in writing by the City Engineer. When more than two-thirds (2/3) of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security to two-thirds (2/3) of the initial amount, if recommended in writing by the City Engineer.
- E. Action Against the Financial Security. The City may act against the financial security, if any of the conditions listed below exist. The City shall use funds from this security to finance any corrective or remedial work undertaken by the City or a contractor under contract to the City and to reimburse the City for all direct cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.
- 1) The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the City approved grading plan.
  - 2) The applicant fails to conform to any City approved grading plan and/or the storm water pollution control plan as approved by the City, or related supplementary instructions.
  - 3) The techniques utilized under the storm water pollution control plan fail within one (1) year of installation.
  - 4) The applicant fails to reimburse the City for corrective action taken under Section 15.
  - 5) Emergency action under Sections 14 and 15.
- F. Emergency Action. If circumstances exist such that non-compliance with this Ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City Engineer, the City may take emergency preventative action. The City shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the City may be recovered from the applicant's financial security.
- G. Returning the Financial Security. Any unspent amount of the financial security deposited with the City for faithful performance of the storm water pollution control plan and any storm water pollution control plan related remedial work must be released not more than one (1) full year after the completion of the installation of all such measures, the establishment of final stabilization, and the issuance of a Certificate of Occupancy.

## 16. Enforcement.

- A. Notification by the City. The City shall notify the party or parties listed on the application and/or the SWPPP and grading plan as contacts when there is a violation of the provisions of this Ordinance or when there is a failure of the storm water pollution and erosion control measures. Except during an emergency action under Section 15.F. twenty-four (24) hours after notification by the City or forty-eight (48) hours after the failure of erosion and sedimentation control BMP, which is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as

quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish contact, the City may proceed with the corrective work.

- 1) There are conditions when time is of the essence in controlling erosion. During such a condition, the City may take immediate action, and then notify the applicant as soon as possible.
- B. Erosion Off Site. If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within twenty-four (24) hours. If in the discretion of the City, the applicant does not repair the damage caused by the erosion, the City may do the remedial work required and charge the cost to the applicant.
- C. Erosion into Streets, Wetlands or Water Bodies. If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, prevention strategies, clean up and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- D. Failure to Do Corrective Work. When an applicant fails to conform to any provision of this Section 16 within the time stipulated, the City may take the following actions.
- 1) Withhold the issuance of building permits, scheduling of inspections and/or the issuance of a Certificate of Occupancy.
  - 2) Suspend or revoke any permit issues by the City to the applicant for the site in question.
  - 3) Direct the correction of the deficiency by City forces or by a separate contract. The issuance of a permit for land disturbance activity constitutes a right-of-entry for the City or its contractor to enter upon the construction site for the purpose of correcting erosion control deficiencies.
  - 4) All costs incurred by the City in correcting storm water pollution control deficiencies must be reimbursed by the applicant. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities as described in Section 14.
  - 5) If there is an insufficient financial amount in the applicant's financial securities as described in Section 14, to cover the costs incurred by the City, then the City may assess the remaining amount against the property. As a condition of the permit for land disturbance activities, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of the assessment.
  - 6) Any person, firm, or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. Each day that a separate violation exists shall constitute a separate offense.

#### 17. Variance.

- A. In any case where, upon application of the responsible person or persons, the City finds that by reason of exception circumstances, strict conformity with this Ordinance would be

unreasonable, impractical, or not feasible under the circumstances; the City in its discretion may grant a variance in accordance with the criteria and procedures found in Section 12.08 of this Chapter. The variance must be specific and must not affect other approved provisions of the approved plans including but not limited to the SWPPP and grading plan.

B. The following must be shown by the applicant:

- 1) Variance request shall be in writing and include the reason for requesting the variance.
- 2) Economic hardship is not sufficient reason for granting a variance and,
- 3) The City shall respond to the variance request in writing and include justification for granting or denying the request.

#### 18. Right-of-Entry and Inspection.

A. Powers. The applicant shall promptly allow the City and their authorized representatives, upon presentation of credential, to:

- 1) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
- 2) Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.
- 3) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
- 4) Inspect the post construction stormwater management BMP's and erosion and sediment control BMP's.
- 5) Sample and monitor any items or activities pertaining to the post construction stormwater management BMP's and erosion and sediment control BMP's .
- 6) Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be borne by the applicant.

#### 19. Abrogation and Greater Restrictions.

A. It is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

#### 20. Severability.

A. The provisions of this Ordinance are severable, and if any provisions of this Ordinance, or application of any provision of this Ordinance to any circumstance, if held invalid, the applicant of such provision to other circumstances, and the remainder of this Ordinance must not be affected thereby.

SECTION III. Ordinance No. 452, an Ordinance restating, supplementing and amending the storm water and erosion control ordinance and amending the City of La Crescent Code dated February 9, 2009 is hereby



repealed upon this Ordinance becoming effective. These provisions shall become effective from and after due passage and enactment and publication, according to law.

ADOPTED this 24<sup>th</sup> day of May, 2021.

SIGNED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator

The foregoing motion was duly seconded by Member Hutchinson and upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The ordinance was declared duly passed and adopted.

City Attorney Wieser then reviewed with Council the Summary Ordinance for publication. The Council made the following findings of facts: that publication of the summary informs the public of the intent and effect of the Ordinance.

Member Williams then made a motion, seconded by Member O'Donnell-Ebner as follows:

**MOTION THAT A PRÉCIS FORMAT OF SAID ORDINANCE 551 BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE CITY AND WITH "OFFICIAL COPY" SO MARKED BE KEPT ON FILE IN THE OFFICE OF THE CITY ADMINISTRATOR**

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

**ITEM 3.6 – 2021 STREET PROJECT – PLANS/SPECIFICATIONS**

City Engineer Tim Hruska reviewed with City Council the plans and specifications for the 2021 street reconstruction project. The project includes the reconstruction of Spruce Drive between South 7<sup>th</sup> and South 11<sup>th</sup> Street, and Balsam Avenue. It was recommended to City Council to approve the plans and specifications, and authorize to advertise for bids. The bid results will be presented at a future City Council meeting. Following discussion, Member Williams made a motion, seconded by Member Hutchinson as follows:

**MOTION TO APPROVE THE PLANS AND SPECIFICATIONS FOR THE 2021 STREET RECONSTRUCTION PROJECT, AND AUTHORIZE TO ADVERTISE FOR BIDS, INCLUDING CEDAR DRIVE.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

**ITEM 3.7 – HAZARDOUS BUILDING UPDATE**

City Attorney Wieser reviewed with City Council a Court Order enforcing the June 8, 2020 Resolution declaring that the building located at 226 3<sup>rd</sup> Street North in La Crescent is a hazardous building. The Court Order permits the City to raze and remove the building. The next step in the process will be for the City to obtain quotes for the removal of that building which would come before the City Council at a future meeting. The City will then assess the cost of the removal, including court costs and attorney fees, back on to the property to be repaid through a special assessment on the real estate taxes.. This item is informational only, and no action was taken.

**ITEM 3.8 CONTRACT FOR DEED – LANCER YOUTH HOCKEY**

City Attorney Wieser reviewed with City Council that in December of 2019, the City Council approved the purchase of a parcel of property adjacent to Abnet Field and the Community Ice Arena. City Council reviewed a map of the parcel of property. The purchase price was \$150,000.00 and was to be split equally between Lancer Youth Hockey and the City. However, before the City was able to finalize the agreement with Lancer Youth Hockey, the current health pandemic occurred, and the agreement was delayed due to Covid-19. It was recommended to City Council to approve a Contract for Deed with Lancer Youth Hockey that would include a down payment of \$40,000.00, with the remaining balance to be split equally over three years at 0% interest. The City would sell the north-half of the property to Lancer Youth Hockey and the City would retain ownership of the south one-half of the property. The agreement would also include language about uses of the property, as well as a provision regarding the re-sale of the property. The City

Attorney would then finalize the agreement. City Council also made a finding that the proposed sale would be consistent with the intent of the original purchase. Following discussion, Member Williams made a motion, seconded by Member Jostad as follows:

**MOTION TO APPROVE THE FINAL EARNEST MONEY CONTRACT OF SALE AND CONTRACT FOR DEED WITH LANCER YOUTH HOCKEY FOR \$75,000.00 FOR THE PURCHASE OF THE NORTH-HALF OF THE PARCEL OF PROPERTY ADJACENT TO ABNET FIELD AND THE COMMUNITY ICE ARENA, TO AUTHORIZE THE CITY MAYOR AND CITY ADMINISTRATOR TO SIGN THE DOCUMENTS, AND TO ADOPT THE FINDING STATED ABOVE.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

**ITEM 3.9 – AGENDA REQUEST – OUTDOOR MOVIE NIGHT**

City Council reviewed an Agenda Request from La Crescent-Hokah Community Education regarding the use of the Michael E. Albrecht Water Treatment Plant building wall at Vetsch Park to project an outdoor movie. The movie would be shown on Friday, July 30, 2021 (rain date of August 6) beginning at 8:30 p.m. Beth Theede from Community Education addressed City Council. Following discussion, Member O'Donnell-Ebner made a motion, seconded by Member Williams as follows:

**MOTION TO APPROVE THE AGENDA REQUEST FROM LA CRESENT-HOKAH COMMUNITY EDUCATION TO USE THE MICHAEL E. ALBRECHT WATER TREATMENT PLANT BUILDING WALL AT VETSCH PARK TO PROJECT AN OUTDOOR MOVIE ON JULY 30, 2021 BEGINNING AT 8:30 P.M.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

**ITEM 3.10 – PERSONNEL COMMITTEE RECOMMENDATIONS**

City Administrator Waller reviewed with City Council the following recommendations from the Personnel Committee:

1. The Personnel Committee is recommending that the City Council appoint Cassandra Buehler to the position of Deputy Fire Marshal. City Council reviewed a memo from the Fire Chief regarding this recommendation.
2. The Personnel Committee is recommending that the City Council appoint Jay Meier to the position of Training Officer. City Council reviewed a memo from the Fire Chief regarding this recommendation.
3. The Personnel Committee is recommending that the position of Training Officer be posted, and that a recommendation be presented to the City Council in the future regarding filling this vacancy. City Council reviewed a memo from the Fire Chief regarding this recommendation.
4. The Personnel Committee is recommending that the City Council accept Alivia Beach's resignation as a Lead Worker at Pine Creek Golf Course.
5. The Personnel Committee is recommending that the City Council authorize that the position of Lead Worker at Pine Creek Golf Course be advertised, and that a hiring recommendation be presented at a future City Council meeting.

Following discussion, Member Jostad made a motion, seconded by Member O'Donnell-Ebner, as follows:

**MOTION TO APPOINT CASSANDRA BUEHLER TO THE POSITION OF DEPUTY FIRE MARSHAL FOR THE LA CRESCENT FIRE DEPARTMENT.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

Following discussion, Member Williams made a motion, seconded by Member Hutchinson, as follows:

**MOTION TO APPOINT JAY MEIER TO THE POSITION OF TRAINING OFFICER FOR THE LA CRESCENT FIRE DEPARTMENT.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

Following discussion, Member Hutchinson made a motion, seconded by Member Williams, as follows:

**MOTION TO AUTHORIZE THAT THE POSITION OF TRAINING OFFICER FOR THE LA CRESCENT FIRE DEPARTMENT BE POSTED, AND THAT A RECOMMENDATION BE PRESENTED TO THE CITY COUNCIL IN THE FUTURE REGARDING FILLING THIS VACANCY.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

Following discussion, Member Williams made a motion, seconded by Member O'Donnell-Ebner, as follows:

**MOTION TO ACCEPT THE RESIGNATION OF ALIVIA BEACH AS A LEAD WORKER AT PINE CREEK GOLF COURSE.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

Following discussion, Member Hutchinson made a motion, seconded by Member Williams, as follows:

**MOTION TO AUTHORIZE THAT THE POSITION OF LEAD WORKER AT PINE CREEK GOLF COURSE BE ADVERTISED, AND THAT A HIRING RECOMMENDATION BE PRESENTED AT A FUTURE CITY COUNCIL MEETING.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes

Mike Poellinger                      Yes

and none voted against the same. The motion was declared duly carried.

**ITEM 3.11 – REVIEW EMERGENCY EXECUTIVE ORDER 21-23**

City Administrator Waller reviewed with City Council the Emergency Executive Order 21-23 that lifts face-covering requirements in most settings. City Council also reviewed a memo from the League of Minnesota Cities about mask policies, and information about vaccination rates in Houston County. City Council discussed the following: whether face coverings would be required at public meetings; whether face coverings would be required by the public to enter City Hall to transact business; whether face coverings would be required of City employees, excluding public safety, that are in direct contact with the public, realizing that not all City employees have or will get vaccinated. Following discussion, Member Williams made a motion, seconded by Member Hutchinson, as follows:

**MOTION TO APPROVE THAT FACE COVERINGS AT PUBLIC MEETINGS WILL NOT BE REQUIRED BUT ENCOURAGE FACE COVERINGS IF NOT VACCINATED.**

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O’Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

It was the consensus of City Council that face coverings would not be required of the public to enter City Hall but strongly encourage face coverings if not vaccinated and that City Employees are strongly encouraged to wear face coverings if not vaccinated.

**ITEM 5.1 – MAYOR’S COMMENTS - STUDENT LETTERS**

City Council reviewed letters to Mayor Poellinger from students regarding litter in the City and the number of chickens allowed in the City. A response will be provided to the students.

**ITEM 6.1 – STAFF CORRESPONDENCE/COMMITTEE UPDATES – PARK AND RECREATION COMMISSION MINUTES – MAY 18, 2021**

City Council reviewed the Minutes from the May 18, 2021 La Crescent Park and Recreation Commission meeting. No action taken.

**ITEM 6.2 – STAFF CORRESPONDENCE/COMMITTEE UPDATES – RECOGNITION AS 5<sup>TH</sup> SAFEST CITY IN MINNESOTA**

City Council reviewed a Memo from La Crescent Police Chief Doug Stavenau dated May 12, 2021 regarding Safewise ranking the City of La Crescent as the 5<sup>th</sup> Safest City in the State of Minnesota. No action taken.

**ITEM 6.3 – EXPLORE LA CROSSE**

City Council reviewed the Minutes from the March 16, 2021 and April 20, 2021 La Crosse County Convention & Visitors Bureau Online Board Meeting. No action taken.

**ITEM 8 – CHAMBER OF COMMERCE**

Beth Theede of the La Crescent Chamber of Commerce reported that Executive Director Eileen Krenz would be retiring at the end of June and that the Chamber is in the process of filling the vacancy.

There being no further business to come before the Council at this time, Member Williams made a motion, seconded by Member O’Donnell-Ebner, to adjourn the meeting. Upon a roll call vote taken and tallied by the City Administrator, the following Members present voted in favor thereof, viz;

Ryan Hutchinson	Yes
Cherryl Jostad	Yes
Teresa O’Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried and the meeting duly adjourned at 7:00 PM.

APPROVAL DATE: \_\_\_\_\_

SIGNED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator