

Chapter 16
GENERAL PERFORMANCE STANDARDS

SECTION:

XX-16-1: Purpose

XX-16-2: Platted and Unplatted Property

XX-16-3: Dwelling Unit Restriction

XX-16-4: Wetlands

XX-16-5: Drainage Plans and Soil Erosion and Sediment Control

XX-16-6: Utility Systems

XX-16-7: Public Rights-Of-Way

XX-16-8: Waste

XX-16-9: Bulk Liquid Storage

XX-16-10: Exterior Lighting

XX-16-11: Noise

XX-16-12: Dust and Other Particulate Matter

XX-16-13: Smoke

XX-16-14: Radiation Emission

XX-16-15: Electrical Emission

XX-16-1: PURPOSE: The purpose of this chapter is to establish general development performance standards intended and designed to assure compatibility of uses; to prevent blight, deterioration, and decay; and to enhance the health, safety, and general welfare of the town. (Ord. 900, 18 Apr 22)

XX-16-2: PLATTED AND UNPLATTED PROPERTY:

- A. Certificate of Survey. Any person desiring to improve property shall submit to the zoning administrator a certificate of survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information that may be necessary to ensure conformance with the provisions of this ordinance.
- B. Buildable Area: In addition to meeting the buildable lot area requirements of the applicable zoning district, all newly created lots for residential building purposes shall have a minimum of 40,000 contiguous square feet of the required minimum platted lot area at least three feet above the highest known water table.
- C. Future Roads. All buildings shall be so placed so that they will not obstruct future roads that may be constructed by the town in conformity with existing roads and according to the comprehensive plan and to the system and standards employed by the town and all buildings shall be placed so that they will not obstruct future utility routes or the potential re-subdivision of the property.

- D. Combined Lots. When a development is proposed that is to be located on two or more lots, and such lots are required to meet the minimum district area, width, and setback requirements, and/or are required to accommodate the use, the lots shall be combined in accordance with the subdivision ordinance, prior to the issuing of a building permit.
- E. Principal Buildings. Except for may be allowed within a PUD district, not more than one principal building shall be located on a lot; provided, that:
1. Residential Dwellings. There shall be no more than one residential dwelling allowed on a lot or parcel.
 2. Setbacks: Setbacks between multiple principal buildings within the same base lot shall be a minimum of 20 feet.
 3. Common Areas: All common areas including, but not limited to, open space, wetlands, greenways, stormwater basins, driveways, parking areas, sidewalks, etc., shall be maintained in one of the following ways:
 - a. All of the property including buildings and common areas shall be owned by a single entity.
 - b. Common interest community pursuant to Minnesota statutes 515B.
 - c. The property shall be divided into a base lot and unit lots to allow for individual ownership of the principal buildings or individual tenant spaces within the principal building, with each owner of a unit lot having an equal and undivided interest in the common area, subject to the following requirements:
 - (1) The tenant space related to each unit lot shall have an exclusive exterior entrance.
 - (2) A management association shall be established for all developments with multiple principal buildings subdivided in a base lot/unit lot configuration that is to be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of driveways and parking areas, subject to review and approval of the town attorney.
 - d. Utilities:
 - (1) Underground Or Exterior Service: All utilities including telephone, electricity, gas, and telecable shall be installed underground.

- (2) Exterior utility meters and fixtures shall be located in interior side or rear yards when possible and shall be screened from view of adjacent properties and the public right-of-way.
- (3) Water and Sewer Service:
 - (a) Separate private water and sewer utility services shall be provided to each unit unless exempted by the town engineer.
 - (b) Where more than one unit is served by a sanitary sewer service, all maintenance and cleaning shall be the responsibility of the maintenance association or owners.
- F. Accessory Buildings. No accessory building or structure other than a fence or temporary construction office may be constructed prior to the time of construction of the principal building or structure, except as provided for by this ordinance.
- G. Outlots. Outlots are deemed unbuildable unless platted as a lot and block in accordance with the subdivision ordinance, and no building permit shall be issued for such properties, except in the case of public park facilities and essential services.
- H. Monuments. For the purpose of this ordinance, all federal, state, county, and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to ensure that these markers are maintained in good condition during and following construction and development. All section, one- quarter section, and one-sixteenth section corners shall be duly described and tied. (Ord. 900, 18 Apr 22)

XX-16-3: DWELLING UNIT RESTRICTION:

- A. No garage, tent, accessory building, travel trailer, or motor home shall at any time be used as living quarters, temporarily or permanently.
- B. Play houses or similar structures may be used only for play or recreational purposes.
- C. Basements and cellars may not be used as temporary living quarters or rooms pending the completion of construction and issuance of a certificate of occupancy of the principal residential dwelling; energy conserving designs in housing are not prohibited by this subsection provided that a conditional use permit is approved by the town board and the structure complies with standards imposed by the State and the building code. (Ord. 900, 18 Apr 22)

XX-16-4: WETLANDS:

- A. A land use permit issued by Sherburne County shall be required for all properties with wetlands prior to any site disturbance or issuance of a building permit.
- B. Prior to approval of a preliminary plat or recording of any subdivision, a wetland delineation and any proposed wetland impacts shall be approved by Sherburne County.
- C. Wetland Permits:
 - 1. Approval Required: Landowners and/or developers shall obtain a wetland exemption certificate, no-loss certificate, wetland replacement approval, or wetland excavation prior issuance of a building permit, site grading, or impacting a wetland.
 - 2. Process: The application shall be processed in accordance with the provisions of chapter 8 of this ordinance.
 - 3. Conditions: A landowner and/or applicant may impact a wetland under the precise conditions as stated in the wetland exemption certificate, no-loss certificate, wetland replacement plan approval letter, or wetland excavation permit.
 - 4. Appeals:
 - a. Pursuant to Minnesota statute 103G.2242. Subd 9, appeal of a replacement plan, sequencing, exemption, wetland banking, wetland boundary or type determination, or no-loss decision may be obtained by mailing a petition and payment of a filing fee to the Minnesota board of water and soil resources.
 - b. Pursuant to Minnesota statute 103G.2242. Subd 9a, a landowner or other responsible party may appeal the terms and conditions of a restoration or replacement order within 30 days of receipt of written notice of the order to the Minnesota board of water and soil resources.
 - 5. Administration: Sherburne County shall make all necessary wetland decisions pursuant to the requirements of the Minnesota wetland conservation act. (Ord. 900, 18 Apr 22)

D. General Standards:

1. De Minimis: Each property is allowed one de minimis. When the total impact to wetlands on a property meet or exceed de minimis, no future impacts are exempt. Sale, transfer, or subdivision of the property does not negate past impacts for purposes of de minimis. If a portion of de minimis was used prior to subdivision, the remainder as determined at the time of subdivision may be split amount the resulting properties. If no de minimis is available to resulting properties, the developer's agreement shall state no wetland impact is allowed without a wetland replacement plan approved by the town.
2. Wetland boundary or type determinations are valid for five years unless the technical evaluation panel determines that the natural or artificial changes to the hydrology, vegetation, or soils of the area have been sufficient to alter the wetland boundary or type. Wetland exemptions are valid for two years.
3. Side slopes of excavated, filled or created wetlands shall not be steeper than 5:1 (horizontal to vertical) as averaged around the wetland unless otherwise approved by the technical evaluation panel.

E. Wetland Replacement and Enforcement:

1. A landowner and/or applicant required to restore or create a wetland shall escrow funds in an amount determined by the town engineer in accordance with section XX-10-2 of this ordinance.
2. Annual monitoring reports shall be completed by the landowner and/or applicant and submitted by September 15th of each year. If an annual monitoring report is incomplete or not submitted by September 15th, the town engineer may complete the monitoring report for the landowner and/or applicant and charge time and mileage to the landowner and/or applicant, paid from the escrowed funds.
3. The town engineer will monitor all replacement wetland sites annually to ensure progress is being made, and to ensure the town has adequate information to complete a monitoring report should the need arise.
4. If an as-built is incomplete or not submitted as required, town engineer may hire a surveyor to complete the work for the landowner and/or applicant at the landowner and/or applicant's expense. Payment will be taken from the escrowed funds. If the escrowed funds are insufficient to complete the work, the landowner and/or applicant shall be liable for any additional funds due and owing. (Ord. 900, 18 Apr 22)

XX-16-5: DRAINAGE PLANS AND SOIL EROSION AND SEDIMENT CONTROL:

A. Scope:

1. The town hereby adopts, by reference, the standards set forth in the Minnesota pollution control agency's general permit-authorization to discharge stormwater associated with construction activity under the national pollutant discharge elimination system permit program, along with any future amendments.
2. The town engineer shall be responsible for administration and enforcement of this section.
3. Construction Activity requirements as limited to this section are the same as those put forth in the NPDES construction stormwater permit program as promulgated by the Minnesota pollution control agency.

B. Permit Application and Plan:

1. No activity meeting the requirements for a permit shall occur until a permit is issued by the zoning administrator in confirming with this section and the provisions of chapter 8 of this ordinance.
2. Failure to comply with the approved terms and conditions of the permit or the stormwater pollution prevention plan shall be grounds for revocation of the permit with written notification of the revocation mailed to the current holder of the permit at least 10 days prior to the revocation.
3. All stormwater pollution prevention plans shall include the following:
 - a. The stormwater pollution prevention plan shall be prepared by an individual who has received training by an accredited governmental agency, professional organization, or educational institution in erosion prevention, sediment control, permanent stormwater management and the Minnesota NPDES/SDS construction stormwater permit. This individual shall sign the stormwater pollution prevention plan with a certification statement that the individual meets the requirement of this clause.
 - b. Delineation of the subject property, including all public and private easements thereon, the location of existing and proposed buildings, structures and impervious surfaces on the subject property, including quantities of impervious surface for both pre- and postconstruction/activity, and the building bench elevations for all existing and proposed buildings.

- c. Description of the construction activity or land disturbing activity to be performed on the subject property, including the area and volume of earth material to be moved, and proposed Project schedule.
- d. Identification of all water bodies located on and within 100 feet of the subject property's boundaries, including identification of any off-site receiving waters for the permit site's runoff.
- e. Identification of all wetlands located on the subject property.
- f. Identification of existing and proposed site drainage areas, including any contributing runoff from off-site, and show drainage patterns using arrows depicting direction of flow for surrounding properties.
- g. Topographical data, including existing (dashed) and proposed (solid) contours at vertical intervals of not more than two feet.
- h. Temporary benchmarks shall be established within the boundaries of the project area. All elevations, topography and vertical control data shall be tied to sea level datum, 1929 general adjustments.
- i. All erosion and sediment control, construction debris/waste control and stormwater management shall conform to this section and the current requirements of the NPDES construction stormwater general permit issued by the Minnesota pollution control agency.
- j. Supporting information including designs, calculations/quantification and narrative pertaining to best management practices for erosion and sediment control, construction debris/waste control, temporary and permanent/post-construction stormwater management.
- k. Applicant shall identify the party responsible for implementing the stormwater pollution prevention plan, and for maintenance and inspection during land disturbing activity.
- l. Identification of the party responsible for long-term operation and maintenance of the permanent stormwater management system.
- m. Description of best management practices inspection schedule by the responsible party, which shall include, at a minimum:
 - (1) Once every 7 days on exposed soil areas.
 - (2) Within 24 hours after a 0.5 inch rain event over 24 hours.

- (3) Once every 30 days on stabilized areas.
 - (4) As soon as runoff occurs or prior to resuming construction on frozen ground.
 - n. Description of best management practices maintenance schedule by the responsible party, which shall include, at a minimum:
 - (1) When sediment reaches one-third the height of the best management practices on perimeter control devices, sediment shall be removed within 24 hours.
 - (2) If the perimeter control device is not functional it shall be repaired or replaced within 24 hours.
 - (3) Temporary sediment basins shall be maintained when sediment reaches one half the outlet height or one half the basin storage volume. Basin shall be drained or sediment removed within 72 hours.
 - (4) Sediment tracked from construction site vehicle entrance and exit locations shall be removed from paved surfaces within 24 hours of discovery.
 - o. Before a Permit is issued, the applicant shall submit to the zoning administrator a copy of the applicant's NPDES construction stormwater permit issued by the Minnesota pollution control agency and any other supporting documentation.
5. Compliance with Plan:
- a. Compliance required:
 - (1) The applicant shall implement and comply with the stormwater pollution prevention plan prior to and during any construction activity and land disturbing activity to which this section applies.

- (2) All erosion and sedimentation control and tree preservation measures required under the stormwater pollution prevention plan shall be properly installed and remain in place until all construction activity and land disturbing activity is completed and final stabilization has occurred, or until a written request for removal of the protection measures provided for in the stormwater pollution prevention plan is made to and approved by the town engineer.
- (3) Permanent erosion control and stormwater management devices identified in the stormwater pollution prevention plan shall remain in place after construction, and shall be under a long-term maintenance agreement which shall be signed by the applicant before a permit is issued.
- (4) The applicant/owner shall be responsible for inspections and maintenance of temporary and permanent best management practices related to the project
- (5) Failure to comply with the approved terms and conditions of an stormwater pollution prevention plan shall constitute a violation of the permit and this section.
- (6) To remain in compliance, the applicant shall amend the stormwater pollution prevention plan as necessary to include additional or modified best management practices designed to correct problems identified or to address erosion, sedimentation and/ or construction debris/waste control issues, and shall keep all site plans (and stormwater management plan documentation) up to date with regard to stormwater runoff controls, and shall provide such plans and documents to the town engineer.

b. Non-Compliance:

- (1) In the event the town engineer determines that the permit holder is not in compliance with the permit and the stormwater pollution prevention plan, the town engineer may order the suspension of any land disturbing activity or construction activity on the subject property until compliance with the stormwater pollution prevention plan has occurred.
- (2) The stop-work order will be provided to the project manager and/or operator either in person or by U.S. mail, with a copy provided by electronic mail or U.S. mail to the property owner.

- (3) The permit holder shall immediately comply with such order until notified by the town engineer that the subject property is in compliance and that land disturbing activities and construction activities may resume.
6. Performance Security: A performance security as provided for by section XX-10-2 of this ordinance shall be required as a condition of approval of a stormwater pollution prevention plan.
7. Permit Transfer or Modification: Where the responsible party under the permit changes, such as when ownership of the property changes, or when an original developer sells portions of the property to various homebuilders, or when the project manager or operator changes, the new permittee shall submit a permit transfer/modification form to the zoning administrator.
8. Termination of Coverage: Permittees wishing to terminate coverage under the Permit shall submit to the zoning administrator a copy of the notice of termination that the permittee shall provide to the Minnesota pollution control agency in connection with the permittee's NPDES permit. Compliance with the permit is required until a notice of termination is received by the town.
9. Post Construction Stormwater Management: The following volume control standards shall be required for all construction activities where one acre or more new impervious surfaces is created and/or redeveloped, and for all land disturbing activities of one acre or greater:
 1. New Development: All new development projects shall retain on-site a runoff volume equal to one inch from the proposed increase of impervious surfaces. No net increase from pre project conditions (on an annual average basis) of:
 - a. Stormwater discharge volume, unless precluded by the stormwater management limitation in subsection 6 of this section below.
 - b. Stormwater discharge of total suspended solids (TTS).
 - c. Stormwater discharge of total phosphorus (TP).
 2. Redevelopment Projects: A net reduction from pre-project conditions (on an annual average basis) of:
 - a. Stormwater discharge volume. Unless precluded by the stormwater management limitations in subsection 6 of this section below.

- b. Stormwater discharges of TSS.
 - c. Stormwater discharges of TP.
3. Preferred Methods: Green Infrastructure techniques and practices shall be given preference as design consistent with zoning ordinance and subdivision ordinance requirements.
4. Infiltration prohibited: The use of infiltration techniques are prohibited when the following infiltration structural stormwater BMP will receive discharges from, or be constructed in the following areas:
- a. Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit.
 - b. Where vehicles fueling and maintenance occur.
 - c. With less than three feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.
 - d. Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating of stormwater.
5. Infiltration restricted: The use of infiltration techniques will be restricted when the infiltration device will be constructed in the following areas:
- a. With predominately hydrologic soil group D (clay) soils
 - b. Within 1,000 feet up-gradient, or 100ft down-gradient of active karsk features.
 - c. Within a drinking water supply management area as defined in Minnesota rules 4720.5100 Subp 13.
 - d. Where soil infiltration rates are more than 8.3 inches per hour; in these restricted areas, a higher level of engineering reviews required. The town engineer may require additional engineering and or testing to ensure that infiltration basins will perform properly and ground water is adequately protected.

6. Linear project: A reasonable attempt shall be made to obtain right-of-way precludes the installation of volume control practices. For Linear projects where the lack of right-of-way precludes the installation of volume control practices, exceptions as described in subsection 7 of this section below can be applied.
7. Exemptions: A lesser volume control standard on the site of existing development may be applied at the discretion of the town engineer under the following circumstances:
 - a. The owner and/or the operator of a project is precluded from infiltrating stormwater thorough a designed system due to limitations under subsections 4, 5, or 6 of this section above, and,
 - b. The owner and/or operator of the Project implements volume reduction techniques, other than infiltration, on the site of the original construction activity that reduces stormwater discharge volume but may not meet the requirements of post-construction stormwater management.
8. Mitigation: If the owner and/or operator of a project believe that the requirements for TP and/or TSS cannot be met on the site of the original construction activity. The owners and/or operator shall provide appropriate documentation to the town engineer as support. Stormwater discharges that do not meet the TP and/or TSS standards on the site of the original construction activity shall be met through mitigation. At the town engineer's discretion, off site mitigation may be allowed. The owner and operator of a construction activity shall identify location where mitigation projects can be completed. The proposed mitigation shall meet the following standards:
 - a. Mitigation project areas should be selected in the following order of preference and in consultation and with approval by the county:
 - (1) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity
 - (2) Location within the same department of the natural resources catchment area as the original construction activity.
 - (3) Locations in the next adjacent department of natural resources catchment area up-stream

(4) Locations anywhere within Sherburne county.

9. Maintenance of Private Structural Best Management Practices: Any structural best management practices that the town engineer determines to be private shall meet the following requirements:
- a. The town engineer may require that a permanent public easement be provided to the town for access for inspection and/or maintenance purposes.
 - b. Costs incurred by the town for any maintenance of private systems shall be billed and/or assessed to the owner/operator.
 - c. A minimum annual inspection for private systems shall be required. Recorded inspection and maintenance agreements that define inspection and maintenance responsibilities shall be required. These requirements are transferrable to any party that becomes the owner/operator of the site.
 - d. If site configurations or structural stormwater best management practices change, causing decreased structural stormwater best management practice effectiveness, new or improved structural stormwater best management practices shall be implemented to meet the requirements of this section. (Ord. 900, 18 Apr 22)

XX-16-6: UTILITY SYSTEMS:

- A. Any development of land requiring provision of utilities for potable water and subsurface sewage treatment system shall comply with the provisions of the building ordinance.
- B. Approval of a subsurface sewage treatment system in accordance with chapter 4 of the building ordinance shall be required prior to approval of any conditional use permit, interim use permit or variance as provided for by this ordinance. (Ord. 900, 18 Apr 22)

XX-16-7: PUBLIC RIGHTS-OF-WAY: The erection and/or placement of any structure or any use occurring within the town's public right-of-way shall be in compliance with applicable provisions of the town right-of-way ordinance. (Ord. 900, 18 Apr 22)

XX-16-8: WASTE:

- A. All waste generated on any premises shall be disposed in a manner consistent with all Minnesota pollution control agency rules and this ordinance.

- B. The accumulation, storage, processing, and disposal of waste on any premises, which is not generated on that premises, is prohibited, except as allowed by this ordinance. (Ord. 900, 18 Apr 22)

XX-16-9: BULK LIQUID STORAGE: All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable, and similar liquids shall comply with requirements of the Minnesota state fire marshal and Minnesota department of agriculture and have documents from those offices stating the use is in compliance. (Ord. 900, 18 Apr 22)

XX-16-10: EXTERIOR LIGHTING: Any lights used for exterior illumination shall direct light away from adjoining properties and public rights-of-way. (Ord. 900, 18 Apr 22)

XX-16-11: NOISE: Noise emanating from any use shall be in compliance with and regulated by the Minnesota pollution control agency and Minnesota rules 7010, as amended. (Ord. 900, 18 Apr 22)

XX-16-12: DUST AND OTHER PARTICULATE MATTER: The emission of dust, fly ash, or other particulate matter by any use shall be in compliance with and regulated by the Minnesota pollution control agency and Minnesota rules 7011, as amended. (Ord. 900, 18 Apr 22)

XX-16-13: SMOKE: The emission of smoke by any use shall be in compliance with and regulated by the Minnesota pollution control agency and Minnesota rules 7017, as amended. (Ord. 900, 18 Apr 22)

XX-16-14: RADIATION EMISSION: All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota pollution control agency. (Ord. 900, 18 Apr 22)

XX-16-15: ELECTRICAL EMISSION: All activities which create electrical emissions shall comply with the minimum requirements of the federal communications commission. (Ord. 900, 18 Apr 22)