

# Williams County Water Resource District Storm Water Management – Rules and Regulations

## SECTION 1 General Provisions

### 1.1 Authority.

These rules and regulations are adopted under pursuant to the authority granted to the Williams County Water Resource District Board (“the Water Board”) by the Joint Powers Agreement between Williams County, North Dakota (“Williams County”) and the Water Board, executed on May 5<sup>th</sup>, 2015, (“JPA”) which is incorporated herein by reference, and by the authority granted to the Water Board by North Dakota Century Code Section 61-16.1-09(8) to:

Make rules and regulations concerning the management, control, regulation, and conservation of waters and prevent the pollution, contamination, or other misuse of the water resources, streams, or bodies of water included within the district.

### 1.2 Purpose and Policy.

- (a) These rules and regulations set forth uniform requirements for storm water management systems, and any storm water management plan or permit issued by the Water Board. In the event of any conflict between the provisions of these rules and regulations and the provisions of another applicable law, federal, state, County, the more restrictive standard shall apply.
- (b) No requirement in these rules and regulations shall prevent Williams County from exercising its authority over and for stormwater systems, plans, and permits, as set forth in the JPA or other applicable law to grant any variance or deviate from these rules and regulations.
- (c) The objective of these rules and regulations is to provide for adequate storm water system analysis and appropriate storm water system design as necessary to protect public and private property, water quality and existing natural resources.
- (d) A storm water management plan shall be required in connection with any development of land. “Development” shall mean, for the purposes of these rules and regulations, any Land Disturbing Activity and changes to the runoff characteristics of land in conjunction with residential, commercial, industrial, or institutional construction or alteration including, but not limited to, construction, modification or alteration of any building or structure; modification of grading; filling; excavation; change in existing topography; or construction, installation, or

replacement of impervious surfaces. The following activities are exempt from the requirements of these rules and regulations:

- (1) Development of or additions to one single-family or one twinhome/duplex residence;
  - (2) Interior remodeling projects;
  - (3) Maintenance activities such as repaving, re-roofing, modification of impervious area(s), or conversion or alterations of existing buildings or structures that do not increase the ground surface footprint of the building or structure; or
  - (4) Agricultural land management activities, including agricultural activities such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, and harvesting trees.
- (e) A storm water management plan is a written plan that meets the criteria specified by these rules and regulations and that, when implemented, will provide solutions to storm water management problems that may occur as a result of a proposed Development that involves Land Disturbing Activity.
- (f) The Water Board shall work in coordination with the Williams County Development Services Department - Planning and Zoning Division and Building Division, and with the Williams County Highway Department with regard to storm water management plans. All storm water management plans submitted to Williams County shall be reviewed and approved by the Water Board before implementation or prior to the commencement of any Storm Water Alteration Activities, whichever occurs first.

### **1.3 Definitions.**

For the purpose of these rules and regulations, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When consistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and the word “may” is always permissive.

*Base flood* means the flood having a one percent chance or probability of being equaled or exceeded in any given year (i.e. 100 year flood).

*Best management practices (“BMP”)* means measures designed to:

- (1) prevent pollutants from leaving a specific area;

- (2) reduce or eliminate the introduction of pollutants;
- (3) protect sensitive areas; and
- (4) prevent the interaction between precipitation and pollutants.

*Control measure* means a practice or combination of practices to control soil erosion and attendant pollution, see also best management practices.

*Erosion* means any process that wears away at the surface of the land by the action of water, wind, ice, or gravity.

*Extraterritorial jurisdiction* means the area outside of the City limits over which the zoning authority of the City may be extended under state law, and over which it has in fact been extended by a duly adopted ordinance.

*Flood fringe* means that portion of the flood plain outside of the floodway.

*Flood plain* means the areas adjoining a water course or water basin that have been or may be covered by a base flood.

*Floodway* means the channel of the water course, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge flood water and provide water storage during a base flood.

*Hydric soils* means soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

*Hydrophytic vegetation* means macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

*Land disturbing activity* means any manmade change of the land surface including removing vegetative cover, excavating, filling, grading, mining, dredging, and drilling, but not including agricultural activities such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, and harvesting trees.

*Local detention* means detention provided to serve only the developing area in question and no areas outside of the development boundaries.

*Outlet* means any outlet including storm sewers and combined sewer overflows into a watercourse, pond, ditch, lake or other body of surface or ground water.

*Person* means any individual, corporation, partnership or any other entity, public or private, capable of owning, occupying or developing land.

*Retention facility* means a natural or manmade structure that provides for the storage of all or a portion of storm water runoff by means of creating a permanent pool of water (e.g., wet pond).

*Runoff* means the rainfall or snowmelt, water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

*Sediment* means solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

*Site* means the area included in the legal description of the parcel of land on which storm water alteration activities, either projected or ongoing, require the submission and approval of a storm water management plan.

*Storm sewer* means a pipe or conduit for carrying storm waters, surface run off, street and wash waters, and drainage, excluding sewage and industrial wastes.

*Storm water alteration activities* means activities which, either while being conducted, or upon completion, or both, will result in one or more of the following:

- (1) An increase in the flow or discharge, per unit of time, of storm water from a given property;
- (2) Degradation of storm water runoff quality; and/or
- (3) Restriction of flow in any storm sewer system, open ditch or natural channel storm water easement, water body, or wetland outlet.

Some examples of storm water alteration activities include the stripping of vegetation from land preparatory to performing cut or fill operations thereon; building roads and parking lots; and altering the grade of land to increase the pitch thereof. These examples are meant for illustration purposes and are not intended to limit the Water Board's discretion in determining what constitutes a Storm water alteration activity.

*Storm water detention* means the temporary storage of storm water runoff in ponds, parking lots, and depressed grassy areas, roof tops, buried underground tanks, etc., used to delay and attenuate flow and for future or controlled release.

*Storm water management permit* means a permit issued by the Water Board in those Developments where ongoing, detailed, precise, and intensive control over activities affecting the discharge of storm water is desired by the Water Board.

*Storm water management plan* means a written document provided to the Water Board containing a plan that, when approved by the Water Board and implemented, will provide solutions to storm water management problems that may occur as a result of a proposed development that involves Storm Water Alteration Activities.

*Storm water management system* means physical facilities that collect, store, convey, and treat storm water runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

*Storm water retention* means storage designed to eliminate or reduce the frequency of subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).

*Watercourse* means the natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel, or an open channel facility that has been constructed for such purpose. This shall include any easements which have been obtained for the purposes of runoff conveyance.

*Watershed master plan* means a plan that an engineer/designer formulates to manage storm water runoff for a particular Development or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land uses and grading plan, peak flow rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances, runoff control features, land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. This plan is either included as an integral part of a Storm water management plan or it may be developed by the Water Board and used to establish compliance criteria to regulate Development activities within a given watershed, provided the plan is reviewed and recommended for approval by the Williams County Planning and Zoning Commission, after a public hearing, and given final approval by the Williams County Board of County Commissioners.

*Wet pond* means a retention facility which includes a permanent pool of water used for the purposes of providing for the treatment of storm water runoff.

*Wetlands* means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or when the land is covered by shallow water. Lands which meet all the following criteria are deemed to be wetlands:

- (1) They are comprised predominantly of hydric soils;
- (2) They are inundated and saturated by the surface or groundwater at a frequency

and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

- (3) They exhibit a prevalence of hydrophytic vegetation under normal circumstances.

#### **1.4 Scope of rules and regulations.**

These rules and regulations shall apply to all areas within the zoning, subdivision regulation, building, and other similar authority of Williams County.

#### **1.5 Waiver.**

Upon a specific request of an applicant, the Water Board may, at its sole discretion, waive any requirement of these rules and regulations upon making a finding that compliance with the requirement will involve an unnecessary hardship, the waiver of such requirement is not contrary to the objectives of these rules and regulations, and the request for a waiver is not due to the fault or actions of the applicant or the applicant's grantors, successors, representatives, agents, officers, or employees. No such waiver shall be allowed and no waiver shall be granted by the Water Board that conflicts with other federal, state, county, or local agency requirements. The Water Board may impose conditions upon any waiver as it deems necessary. For example, the Water Board may require such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. This example is meant for illustration purposes and is not intended to limit the Water Board's discretion in determining what conditions to impose in any particular case.

#### **1.6 Mitigation measures during construction activities.**

Construction and alteration activities must comply with all of the following requirements (without regard as to whether such activities are specifically addressed by, or within the scope of, a storm water management plan or storm water management permit):

- (a) Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the receiving channels, or any wetland. Consequently, water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as may be necessary to that end.
- (b) Waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum based products, paints, toxic materials, or other hazardous materials) shall be properly disposed of off-site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland.

- (c) A construction site shall have roads, access drives and parking areas of sufficient width, length and surfacing to prevent sediment from being tracked onto public or private roadways. Any material placed by vehicles or other construction equipment reaching a public or private road shall be removed (not by flushing) within twenty-four hours.
- (d) The construction contractor, including the general contractor and all subcontractors, shall be required to control oil and fuel spills and chemical discharges to prevent such spills or discharges from entering any watercourse, sump, sewer system, water body or wetland.
- (e) To the extent not already addressed in the foregoing paragraphs, construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications as permitted by the North Dakota Department of Health.

**1.7 Contaminating or degrading storm waters prohibited.**

No person shall dispose of:

- (a) Fertilizer, or substances which can degrade the quality of storm waters, such as, for example, chemicals (fertilizers, herbicides, pesticides, etc.), or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.); or
- (b) Grass clippings, leaves, or other vegetative materials, on impervious surfaces or within storm drainage systems, natural or manmade watercourses, wetlands, or wetland buffer areas, except as may be incidental to ordinary mowing or weed control within such area.

**SECTION 2**  
**Storm Water Management Plan**  
**General Provisions**

**2.1 Storm water management plan; when required; exceptions.**

- (a) Submission and approval of a storm water management plan by the Water Board shall be required for any parcel of land prior to undertaking any storm water alteration activities thereon.
- (b) For subdivisions of land requiring plat approval by the Williams County Board of County Commissioners (“the Williams County BOCC”), submission and approval of a storm water management plan by the Water Board shall be required prior to final plat approval of the subdivision by the “the Williams County BOCC”.
- (c) For subdivisions of land that have already received final plat approval by the Williams County BOCC prior to the effective date of these rules and regulations, recorded or unrecorded, no storm water alteration activities may be undertaken within or on the subdivision until submission and approval of a storm water management plan by the Water Board.
- (d) For developments of land that do not involve the subdivision of land requiring plat approval by the Williams County BOCC, a storm water management plan must be submitted to and approved by the Water Board prior to the issuance of any building permit(s) for the land.
- (e) Subsection (a) shall not apply to any of the following:
  - (1) Storm water alteration activities on individual lots located within an approved subdivision or plat for which a storm water management plan has already been approved by the Water Board or are located in areas included within a Watershed Master Plan area, unless the Water Board has specifically required, as a condition of approval storm water management plan for the subdivision, that individual lot owners submit and obtain approval of an individual storm water management plan for the owner’s individual lot
  - (2) Storm water alteration activities involving the construction of or addition to one single family or twinhome/duplex dwelling, as long as such construction occurs on a legally platted parcel(s) of land;
  - (3) Any land disturbance activity not associated with building/structure construction that will affect less than one acres of undeveloped land;
  - (4) Any utility service line installations affecting less than one acre;

- (5) Emergency work to protect life, limb, or property; or
- (6) Activities which the Water Board determines will only have a *de minimus* effect on the amount of storm water flow, the quality of storm water flow, and the capacity of any existing or planned storm water system. In making such determination the Water Board shall examine not only the particular activities being considered for *de minimus* treatment, but also the cumulative effect of all other similar and related activities reasonably likely to occur in the future.
- (f) All storm water management plans for individual lots of a subdivision, if such a plan is required by the Water Board, must conform in all respects to the storm water management plan approved by the Water Board for that subdivision.
- (g) A storm water management permit may still be required at the discretion of the Water Board for any of the activities listed in Subsection (e) above.
- (h) No person shall engage in storm water alteration activities if approval of a storm water management plan in respect to such activities is required under Subsection (a), (b), (c), or (d) above, unless such approval is exempted under Subsection (e) above or waived under these rules and regulations.

## **2.2 Application; application fee; application review process.**

- (a) The written application for approval of a storm water management plan shall be filed as follows:
  - (1) If the application is for approval of a storm water management plan for a proposed subdivision of land regulated under the Williams County Subdivision Regulations, then the application shall be filed with the Williams County Development Services Department - Planning and Zoning Division.
  - (2) In all other cases not included within subsection (1) above, then the application shall be filed with the Williams County Development Services Department - Building Division.
  - (3) The Planning and Zoning Division or the Building Division, as the case may be, shall forward the application to the Water Board for review and approval.
- (b) Two sets of legible copies of the drawings and required information shall be submitted for review. Plans shall be prepared to a scale appropriate to the site of the Development and suitable for performing the review.

- (c) The plan must be bound using a spiral binding or a three-ring binding.
- (d) All maps and figures shall be no larger than 11" x 17".
- (e) The application shall be accompanied by an application fee payable to "Williams County Water Resource Board". In the case of complex applications or regional storm water facilities, which require additional staff review time, a secondary fee schedule will be used. All fees under this subsection shall be established by the Water Board.
- (f) In considering a proposed storm water management plan, the Water Board shall consider the conformance of the plan to the principles and procedures set forth in these rules and regulations.
- (g) The Water Board shall approve, approve with conditions, or deny the application for a storm water management plan.
- (h) The applicant shall provide four (4) hard wet-stamped copies and two (2) electronic copies (pdf) of the approved final stormwater management plan to the Water Board for filing with the various Williams County departments.

### **2.3 Conditional approval of a storm water management plan.**

The Water Board may grant conditional approval of a storm water management plan to include one or more of the following conditions:

- (a) The posting of security, in the form of a performance or maintenance bond, cash bond, or irrevocable letter of credit, to ensure the timely, proper, and sequentially correct performance of particular activities contemplated by the plan;
- (b) The acquisition, dedication, reservation, and/or conveyance to of the Water Board, Williams County, or other law, of lands or easements, or portions thereof, or interests therein, for inspection and maintenance of the storm water management facilities; and/or
- (c) If the storm water management plan is to be constructed in phases, the posting of security, as set forth in Subsection (a) above, to insure the timely and proper completion of all phases.
- (d) A conditional approval is valid for 60 days, unless stated otherwise by the Water Board. If the conditions noted within the conditional approval are not satisfied and the final stormwater management plan is not received by the Water Board within 60 days after conditional approval is granted, the submittal's conditional approval will be rescinded and the project will be removed from the Water Board Agenda. This means that your application, project, and SWMP submission will be placed on hold by the Water Board, and no further action will be taken by the Water Board

on it. The Williams County Development Services Department and the Williams County Highway Department will be notified of any rescinded, conditional approvals by the Water Board. In order for rescinded, conditionally, approved projects to receive further consideration, the applicant must present the project application and SWMP submittal to the Water Board. The project will then be returned to the Water Board agenda.

- (e) The Water Board, in its sole discretion, may grant an extension of the time required by subsection (d) for unseen circumstances or other reasons deemed sufficient by the Water Board upon written request of the applicant. Any such written request must be made to the Water Board prior to the 60 day deadline stated in subsection (d).

## **2.4 Storm water management plan – components.**

An application for approval of a storm water management plan shall contain the following information, documents, data, elements, and sub-elements, unless, and upon request of the applicant, specifically determined unnecessary by the Water Board:

- (a) A narrative analysis including:

- (1) A cover sheet identifying the project name, engineer contact information, owner/developer contact information, project location, the date the plan was prepared or revised, as the case may be, with the engineer's sign/seal and the following certification statement:

"I, [name of engineer], a registered Professional Engineer under the laws of the State of North Dakota, hereby certify that the documents contained in this Storm Water Management Plan for the [project title] project in Williams County, North Dakota were prepared by me or under my direct supervision in accordance with the provisions of the Williams County Water Resource Board, Storm Water Management Rules and Regulations."

[Signature of Engineer]  
Printed Name of Engineer, PE  
North Dakota Registration No.: PE-xxxx"

- (2) A table of contents identifying sections by number, figures, appendices (with identifying tabs);
- (3) An introduction with the following information: the site location, description of development, purpose of the plan approval, existing land cover/use, location map;
- (4) A listing of pertinent regulatory requirements or regulations;

- (5) A description of existing conditions, including soils information, existing land cover/use, description of individual drainage basins, description of runoff routes, details of existing storm water facilities/ponds/culverts;
- (6) A description of proposed conditions, including the proposed land cover/use, description of individual drainage basins, description of runoff routes, details of proposed storm water facilities/ponds/culverts;
- (7) A results section showing a side by side comparison of pre-development and post-development peak discharge flow rates from site, discharge velocities for all outlets, and pipe sizing calculations;
- (8) Pre and post development hydrologic and hydraulic analysis describing methodology chosen, modeling software and pertinent regulations;
- (9) Erosion and sedimentation control during and after construction, to include descriptions of temporary and permanent erosion control measures and riprap sizing calculations;
- (10) Protective measures for proposed and existing buildings and structures, and water quality concerns;
- (11) Feasibility of on-site infiltration to reduce runoff volume and address water quality concerns;
- (12) Planned maintenance activities and intervals, inspection intervals, and access considerations for all permanent storm water management activities; and;
- (13) A discussion as to how the storm water management plan applies or observes the principles and procedures set forth in these rules and regulations.

**(b) Appendices including:**

- (1) A Soils Report, either from a licensed professional or from the National Resources Conservation Service (NRCS);
- (2) Existing Conditions Calculations/Model Printouts that including input data, summary reports, detailed reports, and model diagrams;
- (3) Proposed Conditions Calculations/Model Printouts that including input data, summary reports, detailed reports, and model diagrams;
- (4) Written Communications with upstream and downstream property owners including proof of receipt of notification/communication;
- (5) Copies of Recorded Drainage Easements or Exhibits;

- (6) An Executed Operations and Maintenance Agreement;
- (7) A map of existing conditions at the site and at immediately adjacent areas, showing:
- a. The name, address and phone number of the applicant, the section, township and range, a north arrow, date and scale of drawing, and number of sheets;
  - b. The name and address of the record owner(s) of the subject property, unless the same as the applicant, along with a statement from the record owner(s) consenting to the Development;
  - c. The location of the subject property by an insert or other map at a scale sufficient to clearly identify the location of the property and giving such information as the lot and block number, street address, the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, districts, and other defining landmarks;
  - d. The existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two feet;
  - e. A watershed boundary map illustrating the Development site location as a subwatershed within the watershed of the larger or major drainage basin;
  - f. A delineation of streams, rivers, public waters and the presence or absence of wetlands located on and immediately adjacent to the site, including depth of water, a general description of vegetative cover found within the site, a statement of general water quality, if applicable, and any classification given to the water body by state or federal agencies;
  - g. The location and dimensions of existing storm water drainage systems and the natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and setting forth those areas of the unaltered site where storm water collects or passes;
  - h. A description of the soils on the site, including a map indicating soil types of the areas to be disturbed, containing information on the suitability of the soils for the type of development proposed, potential for erosion, the type of storm water management system proposed, and any remedial steps to be taken by the applicant to render the soils suitable;

- i.** A depiction of the current extent of vegetative cover and a clear delineation of any vegetation proposed for removal;
- j.** A description or indication of the current land use of the area in which the site is located;
- k.** A depiction of the 100-year flood plains, flood fringes, and floodways; and
- l.** A depiction of groundwater elevation data and the estimated groundwater table in relation to surface contours.

**(8)** Site construction plans showing:

- a.** Locations and dimensions of all proposed land disturbing activities and any phasing or scheduling of those activities;
- b.** Approximate locations of all temporary soil or dirt stockpile areas;
- c.** Location and description of all construction site erosion control measures necessary to meet the requirements of these rules and regulations;
- d.** A schedule of anticipated starting and completion dates for each land disturbing activity, including the installation of construction site erosion control measures needed to meet the requirements of these rules and regulations; and
- e.** Provisions for maintaining the construction site erosion control measures prior to, during, and after construction.

**(9)** A final site plan on the same scale as the map of existing conditions showing:

- a.** The proposed final grading plan shown at contours at the same interval as provided above or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features;
- b.** A drainage plan of the developed site delineating the direction and at what rate storm water runoff will be conveyed from the site and setting forth the areas of the site where storm water will be collected;
- c.** All easements provided for drainage, including areas of flow or detention inundated during the 100-year storm event, shall identify on the easement document the water surface elevation and overflow routes, the areas provided for access to storm water management features, and the off-site flowage easements (upstream and downstream);

- d.** The proposed size, alignment, and intended use of any buildings or structures to be erected on the site;
- e.** A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used;
- f.** Proposed permanent erosion control measure design calculations that meet the requirements of these rules and regulations; and
- g.** Any other information pertinent to the particular Development which, in the opinion of the applicant, is necessary for the review of the Development.

(c) A storm water design plan in accordance these rules and regulations.

## **2.5 Sign-off by professional engineer.**

A storm water management plan, including all maps, drawings specifications, narrative analyses or reports, and computations must be submitted under the seal and signature of a Professional Engineer registered in the State of North Dakota.

## **SECTION 3**

### **Storm Water Management Plan Principles and Practices**

#### **3.1 Storm water design plans.**

- (a) The storm water design plan must be in accordance with all federal, North Dakota, and Williams County standards and specifications.
- (b) The storm water design plan must include the following:
  - (1) Details about the contents of a storm water management plan which are additional to those set forth in these rules and regulations;
  - (2) Hydrologic evaluations, the design of storm water management system facility components, water quality protection standards, development of an erosion and sedimentation control plan; and
  - (3) A discussion of operation and maintenance requirements, including the provision that inspection and maintenance records will be on standard forms acceptable to the Water Board and the provision that the plan will include standard construction details to insure that the same design and materials are used for maintenance and repairs of the storm water management system facilities.

#### **3.2 Planning preferences.**

The narrative analysis component of the storm water management plan shall address whether the plan incorporates the following preferences in storm water management and control, or why such preferences were deemed to be not appropriate:

- (a) The natural infiltration of precipitation and runoff on-site, if suitable soil and geological conditions are available, using to the purpose as much natural or vegetated area on the site as possible, while minimizing impervious surfaces, and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches;
- (b) The use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional water flow without compromising the integrity or quality of these natural features;
- (c) The use of storm water detention facilities; and
- (d) The use of storm water retention facilities.

### **3.3 Capacity considerations.**

The storm water management plan shall also address:

- (a) The hydraulic capacities of on-site roadway culverts to meet the 25-year stream crossing standards (North Dakota Administrative Code Chapter 89-14-01), on-site natural and designed drainage channels to contain the 50-year storm with 1-foot of freeboard and on-site natural and designed drainage channels, roadway culverts, storm sewer systems, and streets to convey the 100-year storm without damaging private property while also maintaining access for emergency vehicles;
- (b) The hydraulic capacities of downstream natural channels, reaches, storm sewer systems, and streets, in order to determine whether they have sufficient conveyance capacity to receive and accommodate post-development runoff discharges and volumes without causing any of the following:
  - (1) Channel erosion;
  - (2) Property damage; or
  - (3) Any increase in the established base flood plain elevation;
- (c) The adequacy of any outlet used as a discharge point;
- (d) The requirement that in no circumstances shall the 50-year developed peak flow exceed the 50-year existing peak flow and the 100-year developed peak flow exceed the 100-year existing peak flow;
- (e) All storm events shall be SCS Type II, 24-hour events;
- (f) All permanent storm water facilities shall have a maximum drain down time of 72 hours; and
- (g) All permanent storm water facilities will be analyzed to determine the extent of inundation areas during the 100-year storm and such extents will be noted within the storm water management plan.

### **3.4 Operation, maintenance, and inspection considerations.**

Insofar as a storm water management plan calls for permanent improvements on private property which are part of a storm water management system, the applicant shall address the effect or impact of the following:

- (a) The desirability of a design which minimizes the need for maintenance;

- (b) The right of the Water Board, Williams County, or other applicable law or by agreement, to inspect such improvements from time to time and, to that end, the need for legal right of access to them, such as by easements or other property interests; and
- (c) An operations and maintenance agreement between Williams County and the applicant or entity responsible for the operations, inspection, and/or maintenance of the permanent storm water management system elements. The operations and maintenance agreement must be executed by the parties prior to final approval of a storm water management plan.
  - 1. An official Williams County Operations and Maintenance Agreement template is available for use from the Williams County, North Dakota website.
  - 2. Deviations from the official Williams County Operations and Maintenance Agreement template will undergo a legal review performed by the Williams County State's Attorney's Office.
  - 3. All exhibits recorded shall be on paper no smaller than 11" x 17".
- (d) The continued ownership of all stormwater management facilities shall be private.

### **3.5 Construction plans and specifications.**

When the construction of storm water management facilities called for in a storm water management plan are, in the discretion of the Water Board, of sufficient magnitude and consequence to warrant it, the Water Board shall require that such plan include a drawing or drawings delineating the erosion and sedimentation management plan, including details of silt fences, storm drain inlet protection, erosion control facilities and other BMP's. In addition, the construction specifications shall contain technical provision describing erosion, sedimentation, and water control requirements to be utilized during and after construction, and shall identify the entities responsible for the installation and maintenance of the BMP's.

### **3.6 Phasing allowed.**

On a case by case basis, and in the interest of economy and practicality, the Water Board, in coordination with the Williams County Planning and Zoning Department and/or the Williams County Building Department, as the case may be, may allow a storm water management plan to be submitted and approved in phases, with such interim storm water alteration activities being performed in the interim between phases as allowed or required in the plan itself.

### **3.7 Plan-specific enforcement mechanisms.**

On a case by case basis, the Water Board may require enforcement mechanisms specific to a particular storm water management plan, which may include without limitation any one or more of the following:

- (a) The use of the storm water management permit requirements provided for in these rules and regulations;
- (b) The filing of a special assessment petition to guarantee construction of storm water management facilities as allowed by law; and/or
- (c) A request to the Williams County Building Department that any building permit applications be withheld or denied until the storm water management facilities are completed and/or are otherwise guaranteed.

## **SECTION 4**

### **Storm Water Management Plan Performance**

#### **4.1 Storm water management plan compliance.**

- (a) No person shall perform, or allow the performance, of any acts which are contrary to or inconsistent with an approved storm water management plan, or fail to perform in good faith acts required by the plan.
- (b) An approved storm water management plan shall be considered a covenant running with the land, enforceable by injunctive action or otherwise by the Water Board, any other entity entitled to enforcement under the North Dakota Century Code or other applicable law or agreement, persons directly affected by its performance or non-performance, or the public generally.
- (c) The presence of the civil remedy under Subsection (b) above shall not be construed as precluding a criminal remedy as provided by law pursuant to North Dakota Century Code Section 61-16.1-63 or other law.

#### **4.2 Compliance with other requirements.**

Each storm water management plan and facility shall, in addition to the requirements these rules and regulations and the North Dakota Century Code Chapter 61-16.1 or other applicable law, comply with the following:

- (a) The requirements imposed under the Williams County Zoning Ordinances and Subdivision Regulations, adopted on September 15, 2015, and amendments thereto; and
- (b) The obligation to obtain any required permits, licenses, permission, or easements, from other governmental agencies having any jurisdictional authority over the work to be performed. (Typically, such agencies would include, but not limited to the City of Williston, the Williams County Board of County Commissioners, the North Dakota State Water Commission and State Engineer's Office, the North Dakota Department of Transportation, the North Dakota Department of Health, the North Dakota State Historic Preservation Office, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, U.S. Federal Emergency Management Agency, and others not listed here.)

#### **4.3 As-built plans.**

- (a) Prior to issuance of a final certificate of occupancy by the Williams County Development Services Department - Building Division, final As-Built Information shall be submitted by the applicant, and reviewed and approved of by both the

Williams County Building Department and the Williams County Highway Department.

- (b) As-Built Information shall consist of both an As-Built Certification from a professional land surveyor or professional engineer, registered in the State of North Dakota, that all construction has been completed in accordance with the approved storm water management plan and a stamped As-Built Plan (Record Drawing) showing the location of all site construction (roads, access ways, parking, etc.), all buildings and structures, all drainage facilities, all sanitary sewer and potable water piping, site contours, and the identification, location, and elevation of all storm water structures located within the storm water system. In addition, a maintenance statement or current completed maintenance record shall be included with the As-Built Plan submittal to demonstrate compliance with the Operations and Maintenance Agreement for the site.
- (c) If significant or material changes occurred between the approved storm water management plan and final construction, a certified design documentation report shall document the deviations from the approved plan. This report will consist of As-Built Information and a storm water analysis proving that any deviations from the approved storm water management plan continue to meet the requirements of these rules and regulations.
- (d) The As-Built Certification shall state the following: “I \_\_\_\_\_ (name) as a duly registered \_\_\_\_\_ in the State of North Dakota do hereby certify that all storm water management facilities shown herein have been constructed in substantial conformance with the dimensions, lines, elevations, and sections shown on these As-Built Plans, and represent the actual conditions on this site as of \_\_\_\_\_ (date)” and affix the professional’s executed seal.

#### **4.4 Right of inspection and access.**

Notwithstanding any other provision in these rules and regulations, the Water Board, or other entity authorized by law or agreement, shall have the right of access, including the right of entry, and the right of inspection of all work being performed pursuant to an approved storm water management plan or permit, and thereafter shall continue to exercise such rights to the extent so provided in the plan or permit itself.

#### **4.5 Amendment of storm water management plan.**

- (a) No amendment, change, or modification of the approved storm water management plan shall be valid unless in a writing signed by the Water Board, or its designee, and the person(s) subject to the obligations imposed by an approved storm water management plan.
- (b) The Water Board may unilaterally, after it has provided reasonable notice and an opportunity to be heard, amend an approved storm water management plan if it

initially attempts in good faith to achieve such amendment pursuant to Subsection (a) above and is unable to do so, and provided that the amendment is designed and intended to protect the public interest and does not impose undue burdens upon any private party who may have relied to its detriment upon the approved plan.

## **SECTION 5**

### **Storm Water Management Permit**

#### **5.1 Storm water management permit; when required and nature thereof.**

- (a) The Water Board, at its sole discretion, may require the applicant to obtain a storm water management permit as part of an approved storm water management plan.
- (b) The permit is designed to be used as an enforcement mechanism in those cases where ongoing, detailed, precise, and intensive control over activities affecting the discharge of storm water is desired for a Development. For example, such a permit may require monitoring of certain storm water retention facilities at stated intervals using protocols and procedures set forth in the permit. This example is meant for illustration purposes and is not intended to limit the Water Board's discretion in determining when a permit may be required in a particular case.
- (c) The permit shall specify the restrictions sought to be imposed thereby. A permit shall be considered a covenant running with the land and is transferable, upon written agreement of the Water Board, to new successors in title in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel.
- (d) The permit shall state as part thereof its durations, and whether it is subject to renewal, and, if so, upon what terms and conditions.

#### **5.2 Amendment of storm water management permit.**

- (a) No amendment, change, or modification of the permit shall be valid unless in a writing signed by the Water Board, or its designee, and the permittee.
- (b) The Water Board may unilaterally, after it has provided reasonable notice and an opportunity to be heard, amend a storm water management permit if it initially attempts in good faith to achieve such amendment pursuant to Subsection (a) above and is unable to do so, and provided that the amendment is designed and intended to protect the public interest and does not impose undue burdens upon the permittee.

#### **5.3 Enforcement of storm water management permit.**

- (a) No permittee shall perform, or allow the performance, of acts which are contrary to or inconsistent with the storm water management permit, or fail to perform in good faith acts required by such permit.
- (b) The obligations required by a permit are enforceable by injunctive action or otherwise by the Water Board, Williams County, or any other entity entitled to enforcement under the North Dakota Century Code or other applicable law, or any

person(s) directly affected by performance or non-performance of the permit or obligations therein.

- (c) The presence of this civil remedy under Subsection (b) above shall not be construed as precluding a criminal remedy as provided by law.