

**Stormwater, Erosion, and Sediment Control
Ordinance**

Number 1

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**Table of
Contents**

Article	Page
Article I. Purpose	2
Article II. Definitions	3
Article III. Land Disturbances Greater Than or Equal to 1 (One) Acre	5
Article IV. Land Disturbance Activities Less than One Acre in the Shoreland Overlay Zone	6
Article V. Land Disturbances With Activities disturbing Less than One Acre	7
A. Land Disturbances Less than 5,000 Square Feet	7
B. Land Disturbances greater than or Equal to 5,000 Square Feet and Less than One	7
Article VI. Post Construction Stormwater Management	11
Article VII. Enforcement	14
Article VIII. Fees	17

Article I. Purpose

A. Purpose:

1. This ordinance establishes standards and requirements for erosion and sediment control measures to be taken during the development of and alterations to lands within the Town of Duluth. The purpose of this ordinance is to protect health, safety and general welfare, property and the environment by establishing regulations for erosion and sediment control related to land disturbing activities as required by federal (United States Environmental Protection Agency, US-EPA) and state (Minnesota Pollution Control Agency, MPCA) law.
2. The Town is permitted to discharge stormwater under a NPDES /State Disposal System General Permit for Municipal Separate Storm Sewer System. Subsequently, to comply with this MS-4 Permit the Town is enacting stormwater management regulations to meet these requirements. The goal is to minimize the total annual volume of surface water runoff into public waters of the State which flows from any specific site during and following development and not exceeding the pre-development hydrologic regime to the maximum extent practicable.
3. These requirements are also intended to reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution (specifically suspended solids and phosphorus), wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

B. The objectives of this Ordinance are:

1. To regulate land disturbing activity that allows uncontrolled erosion to occur
2. To protect and prevent the discharge of sediment onto public and/or private lands, public infrastructure, wetlands and waters of the State.

C. Subject Land Use Activities:

1. All land disturbing activities that may cause run-off into public waters of the State are subject to the conditions of this ordinance except for the following:
 - a. Nursery, home gardening, and agricultural operations that are confined to private property
 - b. Forest management activities
 - c. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - d. Road maintenance on gravel surfaced roads and driveways. However, the Planning Director or designee has the authority to add requirements.
 - e. Federal, State and County projects where the Town does not have regulatory authority.
 - f. Small utilities working in the right-of-way of Town Roads

Article II. Definitions

Applicant. Any person or group that applies for a permit to allow land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or groups 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.

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 degradation of waters of the State, including avoidance of impacts, prohibitions of practices, general house keeping practices, pollution prevention and educational practices, operating and maintenance procedures, and other applicable management practices.

Builder, Commercial. Any building contractor engaging in work other than work performed under a license from the State of Minnesota as a commercial building contractor, remodeler or specialty contractor in the business of contracting or offering to contract to improve commercial real estate, all terms as defined by Minnesota Statute.

Builder, Residential. Any building contractor engaging in work performed under a license from the State of Minnesota as a residential building contractor, remodeler or specialty contractor in the business of contracting or offering to contract to improve residential real estate, as defined by Minnesota Statute.

Builder, private. Any person or persons engaging in the construction of or remodeling of any structures.

Building Construction. The construction of any principle building or accessory structure or modification of a parcel of land or platted lot.

Developer. Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision engaged in a land disturbance activity.

Director. The Town of Duluth Planning Director or her/his designee.

Final Stabilization. All soil disturbing activities at the site have been completed and all soils are stabilized by a uniform perennial vegetative cover with a density of seventy (70) percent over the entire previous service area, or other equivalent means necessary to prevent soil failure under erosive conditions, and

1. All drainage ditches, constructed to drain water from the site after construction is complete, are stabilized to exclude erosion;
2. All temporary synthetic and structural erosion prevention and sediment control BMP's (such as silt fence) are removed; and
3. All sediment from conveyances and from temporary sedimentation basins that are used as permanent water quality management basins are clean. Sediment is stabilized to prevent it from being washed back into the basin and/or into conveyances or drainage ways discharging off-site or to surface waters. The cleanout of permanent basins must be sufficient to return the basin to design capacity.

Land Development (Develop). The process whereby improvement to a single lot or to an entire site, occurs in one continuous process or in more than one distinct phase, including but not limited to the following activities, site grading; installation of utilities; construction of public roads; construction or grading of drainage ways; other grading or filling of any area within the site; grading of building pad areas; utility hookups; construction of buildings; parking lots; driveways; storage areas; private roads; and any other construction or land disturbing activity within the subject property site.

Land Disturbing Activity. Any removal of vegetation, excavating, grading, clearing, filling, stockpiling, hauling, or other earth change related to or associated with construction or reconstruction, which may

result in movement of soil particles of earth.

Land Disturbance Permit (LDP). A permit issued by the Town of Duluth for the control of erosion and sediment during land disturbing activities.

Municipal Separate Storm Sewer System (MS4). The system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by a state city, town, borough, county, parish, district, association, or other public body and designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to water of the United States.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by the US-EPA (or by a State under authority delegated by the US-EPA) that authorizes discharge to water of the United States.

Owner(s). A natural person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination of, with a legal or equitable interest in the parcel of record.

Parcel of Record. A tract, plot, lot, and/or portion of subdivision or other parcel of land, intended as a unit for the purpose, whether immediate or future, of transfer of ownership, possession or for building development.

Permittee. A land Disturbance Permit holder.

Post-Construction Stormwater Management. The use of structural or non-structural practices that are designed to reduce stormwater runoff, pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.

Preliminary Plat. A drawing of the entire subdivision meeting all requirements of the St. Louis County Subdivision Ordinance and the Town of Duluth Zoning Ordinance

Public waters. All basins and watercourses that meet the criteria set forth in Minnesota Statutes, Section 103G.005, Subdivision 15 that are identified on Public Water Inventory maps and lists authorized by Minnesota Statute, Section 103G.201.

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, air, or ice, and has come to rest on the earth's surface either above or below water level.

Stabilization. The covering of exposed ground surface by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring.

Stormwater. The precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

Stormwater Pollution Prevention Plan (SWPPP). A plan developed to identify the sources of pollution that affect the quality of stormwater discharge from a site and to describe and ensure the implementation of practices to prevent or reduce pollutants in stormwater discharge.

Article III. Land Disturbance Activities Greater Than or Equal to One Acre

A. NPDES/SDS Construction Stormwater Permit Required: This is a permit required by the State of Minnesota MPCA. On all construction activity with a land disturbance creating bare soil greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale.

1. A copy of the permit, including the site plan and the Stormwater Pollution Prevention Plan, must be submitted to the Planning Director before any land use permit(s) are issued.
2. Once a copy of the NPDES permit is submitted the Planning Director or her/his designee will visit the site and issue land use permit(s) if acceptable.
3. A post-construction stormwater management plan as per Article VI shall also be submitted to the Planning Director before any land use permit is issued.

Article IV. Land Disturbance Activities Less than One Acre in Shoreland Overlay Zone Districts

A. Land Disturbances in the Lake Superior Shoreland Overlay between the structural setbacks and the shoreland overlay (three hundred feet.)

1. Excavations exceeding one thousand (1,000) square feet or one hundred (100) cubic yards or fill exceeding one thousand (1,000) cubic yards, or fifty (50) cubic yards within the structure setback area are required to have a LDP as specified in Article V Section B, Land Disturbances greater than or equal to 5,000 SF and less than one (1) acre.

B. Land Disturbances in the Shoreland Overlay zone of All trout Streams, Tributaries to Trout Streams, other public water courses and unclassified established water courses between the structural setbacks and the Shoreland Overlay (three hundred feet.)

1. Any alteration of the natural topography involving more than fifty (50) cubic yards of material, excavated or fill, requires a LDP as specified in Article V Section B, Land Disturbances greater than or equal to 5,000 SF and less than one (1) acre.
2. Any alteration of the natural topography located within the shore impact zone, bluff impact zone, or on a steep slope, involving more than ten (10) cubic yards of material requires a LDP as specified in Article V Section B, Land Disturbances greater than or equal to 5,000 SF and less than one (1) acre.
3. Any alteration of the natural topography, located within three-hundred (300) feet of the shore and not covered in 2 above, involving more than fifty (50) cubic yards of material requires a LDP as specified in Article V Section B, Land Disturbances greater than or equal to 5,000 SF and less than one (1) acre.
4. The threshold standards listed above shall apply for the minimum lot area for the zone district where the alteration is taking place (i.e., if the minimum lot area is one (1) acre with a width of one-hundred-fifty (150) feet and the parcel in question has twice the minimum required lot area and width, an individual would be permitted, on each one-hundred-fifty (150) foot/one (1) acre segment, to make alterations under the thresholds identified in 1, 2 and 3 above without receiving a permit).

Article V. Land Disturbances with Activities Disturbing Less than One Acre

- A. Land disturbance activities less than 5,000 square feet** are not required to obtain a LDP unless the Planning Director or designee determines the disturbance is in an area of erosive soils, steep slopes or is proximate to public waters. Land disturbance activities less than 5,000 square feet must comply with the requirements in B. 5 and 6 below and it is recommended that all of the requirements be met when applicable. The Planning Director or a designee has the authority to waive or add requirements to any land disturbance activities less than 5,000 square feet.
- B. Land disturbance activities disturbing greater than or equal to 5,000 square feet and less than one acre or fill and excavation greater than one hundred (100) cubic yards** that may cause runoff into public waters of the State shall obtain a Land Disturbance Permit (LDP). A LDP may be completed by the applicant or landowner and does not need professional certification. The LDP Plan must comply with these minimum requirements:
1. Minimize the area of bare soil exposed at any one time.
 2. Maintenance of roads and driveways are exempt from this requirement but the Planning Director or designee has the authority to add requirements.
 3. Property and roads adjacent to the site of a land disturbance shall be protected from sediment deposition.
This shall be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, dikes or sediment basins, by stockpiling soil in appropriate locations or by a combination of such measures.
 4. Silt fencing, mulching and rock check dams, or equivalent control measures shall be placed along all side slopes and down slopes of the site.
 5. **Property** and waterways downstream from development sites shall be protected from flooding and erosion due to increases in the volume, velocity and peak water flow rate of storm water runoff. Concentrated storm runoff water leaving a development's site must be discharged directly into a well-defined natural or man-made off-site receiving channel or pipe.
 6. **A permanent vegetative** cover shall be established on denuded areas not otherwise permanently stabilized forthwith after land disturbing activity is complete.
 7. Whenever construction vehicles access public roads, provision shall be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surface. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day in compliance with B.10 and B. 11.
 8. All temporary erosion and sediment control practices shall be maintained and repaired to assure the continued performance of their intended function until permanent final measures have been established.
 9. All temporary erosion and sediment control measures shall be removed within thirty (30) days after final stabilization is achieved or after temporary measures are no longer needed.
 10. All culverts which are functioning during construction shall be protected so that sediment laden water will not enter the ditches without first being filtered or otherwise treated to remove sediments.
 11. Ditches and culverts shall also be protected with straw bales or other appropriate control. All exposed soil areas must have appropriate permanent or temporary stabilization as soon as possible to limit soil erosion but in no case later than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.
 12. Permanent vegetative cover shall be stabilized on denuded areas after land disturbing activity is complete.

channel edges to reduce sediment entering the channel.

14. The use of silt fences, mulching and rock check dams, or equivalent control measures must be maintained and inspected after heavy rains.
15. All disturbed ground left inactive:
 - a. Shall be stabilized by temporary seeding or mulching until permanent protection can be established. Seed mixtures and mulch shall be free of invasive weeds.
 - b. Should be permanently vegetated after completion of building or site preparation.

C. Soil and/ or Dirt Storage Piles

1. Any soil or dirt storage piles containing more than ten (10) cubic yards of material should not be located within a 25' of road, ditch, or stream.
2. Storage piles shall be stabilized by placing silt fence barriers around the pile or placing tarps over the pile.
3. In doing road repair or construction, soil or dirt storage piles remaining after project is completed that are closer than twenty-five (25) feet of a roadway or drainage channel must be covered with tarps or other suitable controls when remaining after project work.

D. Land disturbing activities that disturb land of greater than or equal to five thousand (5,000) square feet and less than one acre and excavation greater than one hundred (100) cubic yards that may cause run- off into public waters of the State are required to obtain a Land Disturbance Permit (LDP).

1. Residential, Commercial, Multi-family and Industrial Site: All persons planning a land disturbing activity, meeting the requirements of this ordinance, on an existing parcel of record (building site) shall first obtain a NPDES permit (if applicable), then obtain a LDP, from the Town prior to obtaining a building permit. A land use permit will not be issued without an approved Building Site LDP.
2. Subdivision Development: A subdivision owner/developer/agent planning a land disturbing activity, including but limited to mass grading, site development, roadway and utility installation on an existing parcel of record as shown on the preliminary plat, shall obtain a LDP from the Town, if meeting the requirements of this ordinance for each phase of the project work. Each parcel of record (building site) must have its own LDP obtained by the owner or applicant.
3. Roadway and Utility Installation Construction Plans: All persons wishing to start a land disturbance project on a new or an existing lot of record for the purposes of the construction of any roadway shall submit a LDP application to the Town at the time of the roadway plan if the project meets the requirements of this ordinance. Each parcel of record within a subdivision must obtain a separate LDP.
4. The LDP does not replace or eliminate, or satisfy the need for any other permits required by and other public or private entity.

F. Minimum Requirements for a LDP Permit Application

1. The names, addresses, and telephone numbers of the applicant and the landowner.
2. A description of the project including location, area to be disturbed, and the type of project (e.g., new home construction, fill project, etc.).
3. Materials and methods to be used for erosion and sediment control (including soil stabilization, perimeter control, entrance stabilization, and inlet protection method) and waste control (including solid waste and concrete washout).
4. A site plan showing the limits of disturbance, grade, property boundaries, existing and proposed structures, surface waters, and the locations of all erosion and sediment control devices.

5. A signed statement assuring that the proposed land disturbing activities will be done pursuant to the LDP plan. If the applicant is not the landowner, then both the applicant and the landowner must sign the form
6. Additional information may be required if deemed necessary by the Planning Director

G. The application for a LDP shall include the following:

1. Site Information.
 - a. Delineation of the subject property and the location of existing and proposed buildings, structures and impervious surfaces;
 - b. Description of the construction or land disturbing activity to be performed on the property.
 - c. The proposed project schedule
 - d. Identification of all stormwater drainage ways (ditches) and or public waters located on and within 30 (50?) feet of the subject property's boundaries;
2. Identification of all wetlands;
3. Erosion and Sedimentation Control.
 - a. Delineation of all areas to be graded or excavated, and the limits of land disturbing activities;
 - b. Identification of measures to be utilized to control erosion and sedimentation within and from the subject property during the project activity as required herein;
 - c. Identification of the location of soil storage or stock pile areas to be utilized;
 - d. Identification of all measures to be utilized to protect neighboring property, water bodies, and wetland buffer zones; and
 - e. Identification, use and maintenance plan of BMPs for temporary erosion and sedimentation control as recommended by the MPCA stormwater manual including but not limited to:
 - I. Perimeter erosion control devices, including but not limited to silt fence, sediment logs, mulch, etc;
 - II. Stockpile protection;
 - III. Phased grading;
 - IV. Temporary seeding, mulching, and disc anchoring (with seed and mulch typed);
 - V. Storm drain inlet protection devices;
 - f. Appropriately protected construction entrance;
 - g. Removal of all debris, dirt and soil from impervious ground surfaces, including abutting public or private roadways in connection with the subject property (street sweeping);
 - h. Sediment basins and flow diversions and any other erosion and sedimentation control device as deemed necessary by the Town.
 - i. Identification of proposed building bench elevations and direction of flow of surface water within each lot;

j. Methods of controlling dust;

k. Drainage and grading design requirements such that no land shall be developed and no use shall be permitted that result in water runoff causing flooding (drainage in excess of the natural drainage) or erosion on adjacent property.

l. Additional information may be required if deemed necessary by the Planning Director.

H. A LDP shall remain effective until one of the following occurs:

1. Final Stabilization. Final stabilization is achieved.
2. Time Requirement Reached. The LDP becomes void if work does not begin within 180 days of permit approval or is suspended at any time for over 180 days. Extensions may be granted if requests are received at least 15 days prior to permit becoming void. If a permit becomes void, the permit application process will begin anew.

I. Termination of Coverage.

1. A permittee wishing to terminate the LDP must complete Final Stabilization of the Parcel of Record and submit a notice to the Town that final stabilization is complete
2. Compliance with the LDP is required until the Town receives the notice that the site is stabilized

Article VI. Post Construction Stormwater Management

- A. Applicability:** Post Construction Storm water management plans are required for new development and redevelopment projects within the Town of Duluth with a land disturbance of greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development.
- B. Requirements:** Owners and/or operators of applicable construction activity must submit a Post Construction Stormwater Management plan to the Town of Duluth with their Land Use Permit application. This requires a site plan with any combination of Best Management Practices (BMPs) and an agreement for the long term maintenance and inspection of these BMPs necessary to meet the following conditions on the site of a construction activity to the Maximum Extent Practicable :
1. For new development projects – no net increase from pre-project conditions (on an annual average basis) of:
 - a. Stormwater discharge volume, unless precluded by the stormwater management limitations
 - b. Stormwater discharges of Total Suspended Solids
 - c. Stormwater discharges of Total Phosphorus
 2. For redevelopment projects – a net reduction from pre-project conditions (on an annual average basis) of:
 - i. Stormwater discharge Volume, unless precluded by the stormwater management limitations
 - ii. Stormwater discharges of Total Suspended Solids
 - iii. Stormwater discharges of Total Phosphorus
 3. It is the responsibility of the owner and/or the operator of the construction activity to demonstrate that these conditions will be met. The Post-Construction Stormwater Management Plan should be prepared by a qualified professional. The plan must demonstrate how the conditions will be met. The Minnesota Pollution Control Agency (MPCA) accepts that the objectives of the post-construction stormwater management conditions for new development can be met in a number of ways as described in *MPCA Technical Document wq-strm4-59e, "Technical Support Document for the Post- Construction Stormwater Management Conditions in the General Stormwater Permit (MNR04000) for Small Municipal Separate Storm Sewer Systems."* This document is posted on the Township's website and the MPCA website.
- C. Stormwater management limitations and exceptions**
1. There are limitations on techniques that can be applied to meet the conditions of stormwater management due to factors that are unique to this area. These are described in Part III. D. 5. A. 3 of the MS4 permit which is available on Duluth Township's or the MPCA's website.
- D. Mitigation Provisions**
1. If the owners and operators of a construction activity cannot meet the Total Suspended Solids and/or the Total Phosphorus reduction requirements on the site of the original construction activity, they must be addressed through mitigation. Mitigation Provisions are described in Part III. D. 5. A. 4 of the MS4 permit which is available on Duluth Township's or the MPCA's website.

E. Long-Term Maintenance of Structural Stormwater BMPs.

1. **Maintenance Plan Required:** No Land Use permit will be approved unless a Post Construction Maintenance plan is provided that defines the type of maintenance and the maintenance intervals. It also defines who will conduct and pay for the maintenance, inspection and reporting. This plan is a legal agreement between the Town of Duluth and the owner and/or operator of the Construction project. This plan gives the right to the Town of Duluth to perform and charge the owner/operator for necessary maintenance and repair when the owner and/or operator fail to do so. It also defines the mechanism for preserving the maintenance agreement should the responsibilities be transferred to a third party.
2. **Inspections and Maintenance:** At a minimum, all private stormwater facilities shall be inspected annually and maintained in proper condition consistent with the performance goals for which they were originally designed.
3. **Reporting:** The owners and/or operators of the construction project shall submit a report to the township annually and re-evaluate the maintenance plan every 5 years.
4. **Facility Access -** The applicant shall obtain all necessary easements or other property interests to allow access to the facilities for inspection or maintenance for both the responsible party and the town of Duluth.
5. **Removal of Settled Materials -** All settled materials including settled solids, shall be removed from ponds, sumps, grit chambers, and other devices, and disposed of properly per the maintenance plan.
6. **Township Inspections -** All stormwater facilities within the town of Duluth shall be inspected by the Township or their inspector during construction, during the first year of operation, and at least once every five years thereafter.

Article VII. Administration and Enforcement

Section 1. General

- A. Planning Director's Responsibilities.** This Ordinance shall be administered by the Town of Duluth Planning Director or designee who will assist the applicant in preparing their application, advise the applicant as to the provisions of this Ordinance, and conduct an inspection program.
- B. Voiding of Permits Issued in Error.** Any permit issued based on an application that is in error, whether the error is intentional or not, shall be null and void. No such permit may be construed as permission to begin a land use. It shall be the responsibility of the Planning Director to notify the property owner upon discovery of an erroneous application.
- C. Administrative Determinations.** Administrative determinations are to be made by the Planning Director as questions arise. Should a question or problem arise concerning a Land Disturbance Permit any person may request a review of the matter by the Planning Director. Such a request shall be in writing and shall detail the problem and location of the subject property, if applicable.
1. The Planning Director shall investigate the matter, report to the party making the request within a reasonable period, and take the appropriate action.
 2. Any person taking exception to the Planning Director's determination may appeal the determination by the procedures specified in ***Town of Duluth Zoning Ordinance, Number 5, Article XIV, Appeals {date – insert date of adoption }***,
 3. Any person wishing to appeal the decision of the Board of Adjustment may appeal to District Court.
- D. Cooperation with Other Management Entities.** The Town of Duluth shall cooperate with other entities on land disturbance issues.
1. Coordinate with the St. Louis County Department of Public Works in the following ways:
 - a. Coordination of land disturbance issues when Land Disturbance Permits are issued for construction of property access ways that enter onto a County Road.
 2. Coordinate and report to the Minnesota Pollution Control Agency:
 - a. Submitting data that is required for filing MS4 annual reports.

Section 2. Appeals of Decisions of the Planning Director

- A. Filing an Appeal.** Any aggrieved person may appeal any order, requirement, decision, or determination(s) made by the Planning Director to the Planning Commission.
1. Appeals must be made in writing and submitted, along with the application fee:
 - i. Within fifteen (15) days of notification of a decision by the Planning Director or designee regarding the issuance of a Land Disturbance Permit .
 2. An appeal stays all proceedings in furtherance of the action appealed from unless the Planning Commission makes written findings and certifies that a stay would cause imminent peril to life or property.
- B. Public Hearing.**
1. The Planning Commission shall conduct a public hearing on all appeals of determinations by the Planning Director.
 2. The Planning Commission will set a time for hearing of all appeals and give due notice to the appellant, to the entity from whom the appeal is taken, and to the public, as prescribed by Minnesota Statutes and the applicable ordinances of the County and Town.
 3. **Notification.**
 - i. Notification will be determined by:
 1. Extent of the effects of the case (including effect on natural resources, visual effects, and social effect.

2. Intensity of the effects of the case.
3. Duration of the effects of the case.
4. At a minimum, the same area of impact for notification identified for the original decision (if applicable) would be notified of the appeal.

C. Authorities of Planning Commission in Deciding Appeals. The Planning Commission may reverse or affirm, wholly or partly, or may modify any appealed order, requirement, decision, or determination of the Planning Director, and to that end will have all the powers of the Planning Director.

D. Decisions.

- A. The Planning Commission will deliver a decision on all appeals in a manner that meets the requirements of the “60-day rule” (Minnesota Statutes, section 15.99) or other applicable statute or ordinance.
- B. Criteria for the Planning Commission’s decisions on the appeal shall be based upon:
 - a. The Planning Director’s rationale and consistency in following this Ordinance.
 - b. Relevant findings of fact.
 - c. Interpretation of achieving the goals and visions in the Comprehensive Plan.
 - d. Other criteria the Planning Commission deems appropriate to rendering a fair and just decision
- C. Reasons for the decision will be stated in writing.
- D. All decisions made by the Planning Commission in hearing appeals from any order, requirement, decision or determination by the Planning Director shall be final, except that any aggrieved person or persons, or any department, board, or commission of the jurisdiction or of the State shall have the right to appeal within fifteen (15) days after receipt of notice of the decision, to the Board of Adjustment, which is the Town Board.

Section 3. Violation, Enforcement, and Penalties

A. Violations and Enforcement:

1. The Town, through its Planning Director or designee, shall have the right to enter and inspect a property to determine compliance with this ordinance.
2. Inspections may occur as the result of a complaint by the public, the receipt of an inspection report from the owner or others indicating noncompliance with the permit, weather conditions such as an extreme storm event, the Planning Director or designee's own observations, or other circumstances reasonably warranting an inspection.
3. If, upon inspection, the Planning Director or designee determines there is a violation or noncompliance, the Planning director or designee will prepare a report with the following information:
 - a. Name of permittee or owner;
 - b. Location of property;
 - c. A description of any violation(s);
 - d. Any required corrective actions, which may include but are not limited to any of the items described in paragraph 4;
 - e. The date upon which the violation must be corrected, which date may be immediate.
4. In the event of any violation of or non-compliance with this ordinance, the Town, acting through its Planning Director or designee, may:
 - a. Issue stop work orders, or cease and desist orders and letters;
 - b. Issue orders requiring any corrective steps or measures;
 - c. Revoke or suspend any LDP;

- d. Revoke or suspend any land use or building permit;
 - e. If the owner fails to correct the violation as directed within 48 hours of the deadline established in paragraph 3 (e), the Town may correct the violation, or hire a contractor to correct the violation, and may require the owner to reimburse the Town for all reasonable costs and expenses incurred in correcting the violation. If payment is not made within 30 days after an invoice for said costs or expenses is presented to the owner, the Town may assess the cost and expenses against the property;
 - f. Seek injunctive relief by any appropriate means in any court of competent jurisdiction;
 - g. Seek criminal penalties provided by this ordinance; or
 - h. Seek any combination of the remedies or options above.
5. The Town shall notify property owners, developers, occupants, or other responsible persons about any violation or non-compliance, including any enforcement action being taken, by delivering a written Notice of Violation. Delivery may be made by any reasonable means, including hand-delivery, delivery by U.S. Mail, or delivery by electronic means to any e-mail address or facsimile number on file with the Town in connection with the application or the issuance of permits.

B. Penalties:

1. Criminal Penalties. Any person violation any of the provisions of this ordinance, including but not limited to falsifying information, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$1,000, or by imprisonment not to exceed 90 days, or both.
2. Civil Relief. The Town Board may direct the Town Attorney to seek, on the Town's behalf, any available civil or injunctive relief to remedy, cure, mitigate, or correct any violation of this ordinance, including but not limited to revocation of any LDP, land use, or building permit.

**Article VIII.
Fees**

A. Fees for Land Disturbance Permits shall be established by resolution of the

Town Board. B. Fees shall be established for the following instances:

1. There is no Land Disturbance Permit or fee required for disturbance less than 5,000 square feet unless required by the Director, in which case the fee will be the same as that required for a LDP disturbing from 5,000 SF to less than one acre.
2. A Land Disturbance Permit and Fee for sites disturbing from 5,000 SF and less than 1 acre is \$50.
3. A Land Disturbance Permit and Fee for sites disturbing one acre and greater is \$150.