



CITY OF PLYMOUTH INSTRUCTIONS FOR PETITIONING TO DISSOLVE POND MAINTENANCE AGREEMENTS

Many water quality ponds in the City are subject to pond maintenance agreements between the City and the property owner(s). While there are some differences in these agreements, most contain a clause specifying that if the City establishes a program for the maintenance of water quality ponds, that the owner may petition the City to dissolve the agreement. The City established the program anticipated by the agreements by adopting a Pond Maintenance Policy on March 8, 2005.

The process for petitions to dissolve pond maintenance agreement is as follows:

1. Any owner of any part of the "subject property" obligated by a pond maintenance agreement may submit a petition. The City Engineer will provide a form (attached) to collect the information required to begin the process.
2. Staff will review the petition to determine that the property owner is an eligible petitioner, and to determine whether or not there are drainage easements over the pond and which are sufficient to allow reasonable access.
3. If existing easements are not adequate, the property owner shall convey easements to the City prior to termination of the pond maintenance agreement. Staff will determine the configuration of easements needed, order title work and prepare the easement. The petition will not be deemed complete until easements have been conveyed to the City.
4. Staff will notify the other owners of all the "subject property" that a petition has been submitted, at least 10 days prior to the City Council meeting at which the petition will be considered.
5. When all legal requirements have been met, the City Council shall adopt a resolution terminating the pond maintenance agreement.
6. The resolution will be recorded with each part of the "subject property."

The City of Plymouth will not initiate petitions for termination of a pond maintenance agreement, except in the event that the pond maintenance inventory indicates a high-priority need for a public project to prevent flooding or to restore the water quality function of a pond within the next year.

Note: The petition will only initiate the termination of the pond maintenance agreement. It is NOT a petition for the City to perform any maintenance work on the pond at this time. The nature, priority and timing of any maintenance work will be determined by the City of Plymouth based on the Pond Maintenance Policy approved by the City Council.

Attached is a petition form to fill out and return to the City of Plymouth, Engineering Division, 3400 Plymouth Boulevard, Plymouth, MN 55447. If you have any questions, please call (763) 509-5500 or Fax (763) 509-5510.

City of Plymouth Pond Maintenance Policy

Adopted March 8, 2005 Resolution No. 2005-102

Purpose

The purpose of this policy is to provide direction and guidance for maintaining the water quality and flood prevention functions of all ponds (man-made) and wetlands (natural) that are part of the City's drainage system. This policy implements the recommendations of the Final Report of the 2004 Surface Water Task Force, consistent with the City of Plymouth Water Resources Plan.

There is a wide array of local, state and federal agencies with planning and regulatory responsibility for surface water. All activities undertaken under this policy will be performed in full compliance with applicable legal requirements.

City Responsibility for Maintenance of Drainage System

The City of Plymouth is responsible for maintenance of ponds, wetlands and drainageways that are part of the City's drainage system. If a pond or wetland is not part of the City's drainage system, that responsibility belongs to the property owner.

The level of maintenance for different types of ponds will vary based on their role in the drainage system and their initial design.

Work on **naturally-occurring ponds and wetlands**, and the streams and other water features that connect them, will be limited to maintaining drainage structures and channels to keep water flowing and prevent flooding. Some of these natural basins were included in the City's 1980 Storm Drainage Plan and/or the 2000 H & H (Hydrologic and Hydraulic) Study, and have their size and flood elevations established by the plan. Maintenance work will focus on restoring or maintaining the basins to those standards, by removing obstructions to flow such as excess silt or vegetation. While the naturally-occurring ponds and wetlands may also provide water quality benefits, maintenance projects will not be undertaken to enhance water quality functions but rather to maintain the quantity and rate of surface water flow to prevent property damage caused by flooding. Maintenance will not include work for aesthetic purposes. The City will not assume responsibility for issues such as removal of trash or debris, removal of vegetation or restoration of open water area, if they are not related to the drainage functions of the pond.

Work on **stormwater holding ponds**, which are man-made ponds designed primarily to control water volume and rate of flow, will be done to the same standards as the naturally-occurring ponds and wetlands. Maintenance work will focus on maintaining the flood prevention function of the pond.

Work on **water quality ponds** will include work necessary to restore the pond to its original design standard for treatment of surface water, in addition to maintaining drainage structures and channels to prevent flooding. Most of the ponds built in Plymouth in the last 15 years are water quality ponds, designed and built to National Urban Runoff Program standards. Many of these

“NURP” ponds are currently subject to maintenance agreements between the City and landowner. Before the City performs any maintenance work on these ponds, the agreement must be dissolved.

In order to take responsibility for the ponds and wetlands that are part of the drainage system, the City must have the legal right to enter and perform the necessary work. Most of the drainage features covered by this policy are on private property. Therefore, if easements are not in place currently, the property owner must grant them before the City does work on the property. The City will not normally purchase or condemn easements unless the owner refuses to grant them and there is a significant flooding problem threatening structures on public or private property that must be corrected.

Nothing in this policy shall be interpreted to require that the City of Plymouth be responsible for any costs incurred or work done in the past on any ponds, or to assume responsibility for any pond covered by an existing maintenance agreement unless it has been dissolved according to the terms of the agreement. Nothing in this policy shall be interpreted to require that the City of Plymouth be responsible for any new pond or drainage feature until and unless the City has accepted its final design and condition as provided by a development agreement.

Funding/ Budgeting

All costs for the administration and operation of the pond maintenance program shall be paid for from the City’s Water Resources Fund. The main source of revenues for this fund is the Surface Water Utility Fee. In order to fully fund this program, annual increases in the utility fee rate will be necessary for at least the next five budget years. The City Council will make the decision on whether or not to fund the program, and at what level, each year as part of its budget process. Decisions on what projects to undertake will also be made as part of the budget process and the concurrent annual review of the City’s Capital Improvement Program (CIP). The budget will include funds for specific projects and routine maintenance, as well as contingencies or unallocated funds for emergencies.

Pond Maintenance Inventory

The City’s preventive maintenance program will include regular inspection of the drainage system and ponds, to identify problems and set priorities for both water quality and flood control. Staff will develop and maintain the inventory and inspect all drainage features covered by this policy on a regular basis. The initial inventory will include an assessment of the status of easements that may be needed to perform required maintenance.

Maintenance Priorities

Priority for maintenance projects will be determined based on an inventory and regular inspection of the drainage system. **Top priority will be given to projects needed to prevent or correct flooding problems threatening structures on public or private property.**

Priority for other projects will be based on an evaluation of the following factors. The factors are **not** listed in order of importance:

- Condition of inlet and outlet structures

- Degree of obstruction to flow (as measured by comparing the current and planned runoff water level, the planned bounce to the 100-year water level, and percentage obstruction of inlets and outlets and flows through the basin)
- Whether or not an overland overflow route is available
- Whether or not street flooding is occurring
- Whether or not flooding of yard areas outside of drainage easements is occurring
- Whether or not the basin is receiving water flow from another basin with maintenance issues
- Distance from nearest high-quality receiving water (lake or wetland)
- Whether or not maintenance work is required to comply with the regulatory requirements of a federal, state or local agency
- Additional criteria for water quality ponds only:
 - Size of pond (design volume in acre feet)
 - Percentage of original storage volume reduced by sediment
 - Treatment Deficiency Priority Area as defined by the Surface Water Management Plan (Fig.110)

Unless other deficiencies are present, water quality ponds (NURP ponds) will not typically be considered for maintenance projects unless sediment has reduced the pond volume to less than 50% of the original design. Data shows that this is the point at which the water quality efficiency of the pond is significantly reduced and maintenance is warranted.

There are factors that will **not** be considered when determining the priority of proposed projects. These include but are not limited to concerns about odors, undesirable vegetation, the desire to restore open water for recreational uses, and enhancement of wildlife habitat or scenic views. The City recognizes that ponds and wetlands have aesthetic benefits, and will attempt to preserve those benefits when feasible. However, maintenance will be limited to work needed to maintain the drainage and water quality function of the ponds

Pond Maintenance Agreements

Many water quality ponds in the City are subject to pond maintenance agreements between the City and the property owner(s). While there are some differences in these agreements, most contain a clause specifying that if the City establishes a program for the maintenance of water quality ponds, that the owner may petition the City to dissolve the agreement. By approving this policy, the City of Plymouth is establishing the program anticipated by the agreements.

The process for such petitions will be as follows:

1. Any owner of any part of the “subject property” obligated by a pond maintenance agreement may submit a petition. The City Engineer will provide a form to collect the information required to begin the process.
2. Staff will review the petition to determine that the property owner is an eligible petitioner, and to determine whether or not there are drainage easements over the pond and which are sufficient to allow reasonable access.
3. If existing easements are not adequate, the property owner shall convey easements to the City prior to termination of the pond maintenance agreement. Staff will determine the

- configuration of easements needed, order title work and prepare the easement. The petition will not be deemed complete until easements have been conveyed to the City.
4. Staff will notify the other owners of all the "subject property" that a petition has been submitted, at least 10 days prior to the City Council meeting at which the petition will be considered.
 5. When all legal requirements have been met, the City Council shall adopt a resolution terminating the pond maintenance agreement.
 6. The resolution will be recorded with each part of the "subject property".

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Communications/ Citizen Involvement

Maintenance work on the City's drainage system may create concerns for residents and property owners. Projects may impact improvements that property owners may have made, such as landscaping or fences. It is the policy of the City to provide as much advance notice to property owners as practical so that their questions and concerns may be answered prior to beginning significant maintenance work, except in the case of an emergency.

Staff will notify all owners of all affected or directly abutting property of all maintenance work in the open drainage system (such as ponds or ditches) other than at culverts or storm sewer pipes adjacent to the street. A mailed notice will be sent to the property owner of record 30 days prior to commencement of the work. In addition, if drainage easements are not present either in the area where work will take place, or over which access must be gained, the City will request permission from affected landowners to enter the property.

Property owners often landscape or make other improvements within drainage easements. Plantings and other improvements (such as fences) are allowed in drainage easements so long as they do not interfere with the purpose of the easement. However, property owners take a risk that these improvements may be removed if needed to maintain the drainage system. The City will not normally replace trees and other vegetation removed during drainage system maintenance. Growth of volunteer trees and other vegetation may be the cause of drainage problems. City staff will, however, work with property owners to minimize the amount of vegetation removed. The City will not replace fences and other structural landscape features or structures in drainage easements. City staff will, however, work with property owners to minimize impacts on such structures and preserve materials for re-use, to the extent practical.

Property owners are encouraged to report drainage problems or concerns with the public drainage system impacting their properties. Staff will investigate all such complaints in a timely manner, and include such reports in the inventory, to be evaluated when determining priority for City drainage projects.