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**Section 18.1: General**

**18.1.01. Purpose and Objectives.** This Chapter sets forth uniform requirements for storm water management systems and practices within the City of Cloquet. In the event of any conflict between provisions of this Chapter or other regulations adopted by the City of Cloquet, the State of Minnesota, or Federal authorities, the more restrictive standard shall prevail.

The objectives of this Chapter are as follows:

- a) To promote, preserve, and enhance the natural resources within the City of Cloquet from adverse or undesirable impacts occasioned by development or other activities.
- b) To protect and promote the health, safety, and welfare of the people and property through effective storm water quantity and quality management practices.
- c) To regulate land development activity, land disturbing activity, or other activities that may have an adverse and/or potentially irreversible impact on storm water quantity, water quality and/or environmentally sensitive lands and to encourage compatibility between such uses.
- d) To establish detailed review standards and procedures for land development activities, as they relate to storm water management, throughout the City of Cloquet, thereby achieving a balance between urban growth and development and the protection of water quality.
- e) To provide for adequate storm water system analysis and design as necessary to protect public and private property, water quality and existing natural resources.

## Section 18.2: Definitions

**18.2.01. Definitions.** For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given. When not inconsistent with the context, words used in the present tense shall include the future tense. Words in the plural number shall include the singular number, and words in the singular number shall include the plural number. The word "shall" is always mandatory and not merely directory.

**Subd. 1. Applicant.** Any person or group that applies for a building permit, subdivision approval, zoning change, approach, excavation or special use permit, storm water plan approval, or any other permit which allows land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

**Subd. 2. Best Management Practices (BMP's).** Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including; construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by federal, state, or designated area-wide planning agencies.

**Subd. 3. Buffer.** The buffer strip begins at the delineated edge of delineated wetlands or the "ordinary high water mark" for rivers and streams. This start point corresponds to the Minnesota Department of Natural Resources' definition of a "shoreline" in Minnesota Rules 6115.0030 (e.g. a stream 30 feet in width between banks with 100 foot buffer strips has a total protected width of 230 feet).

**Subd. 4. City.** The City of Cloquet or the City Council of the City of Cloquet.

**Subd. 5. City Engineer.** The City Engineer of the City of Cloquet or authorized agent.

**Subd. 6. Common Plan of Development or Sale.** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

**Subd. 7. Control Measure.** A practice or combination of practices to control erosion and attendant pollution, see also Best Management Practices.

**Subd. 8. Council.** The City Council of the City of Cloquet.

**Subd. 9. Detention Facility.** A natural or manmade structure, including wetlands, used for the temporary storage of runoff and which may contain a permanent pool of water, or may be dry during times of no runoff.

**Subd. 10. Development.** Any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.

**Subd. 11. Developer.** A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.

**Subd. 12. Discharge.** The release, conveyance, channeling, runoff, or drainage, of storm water, including snowmelt.

**Subd. 13. DNR Catchment Area.** The Hydrologic Unit 08 areas delineated and digitized by the Minnesota DNR. DNR catchment areas may be locally corrected, in which case the local corrections may be used.

**Subd. 14. Drainage Easement.** A right to use the land of another for a specific purpose, such as a right-of-way for the movement of water across or under the land surface or the storage of water.

**Subd. 15. Erosion.** Removing the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

**Subd. 16. Erosion Control.** Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

**Subd. 17. Erosion & Sediment Control Plan (E&S Control Plan).** A written description and/or plan indicating the number, locations, sizes, and other pertinent information about best management practice methods designed to reduce erosion of the land surface and the deposition of sediment within a waterway. An E&S Control Plan is required as part of a Storm Water Management Plan. Both the Storm Water Management Plan and E&S Control Plans are used in developing the State mandated Storm Water Pollution Prevention Plan (SWPPP). An E&S Control Plan may be required for certain projects not requiring a full Storm Water Management Plan, as outlined in this ordinance or determined necessary by the City Engineer.

**Subd. 18. Exposed Soil Areas.** All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered "exposed soil," until it meets the definition of "final stabilization."

**Subd. 19. Final Stabilization.** Means that all soil disturbing activities at the site have been completed, and that a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of seventy (70) percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or rangeland, final stabilization constitutes returning the land to its preconstruction agricultural use.

**Subd. 20. Green Infrastructure.** A wide array of practices at multiple scales that manage wet weather and that maintain or restore natural hydrology by infiltrating, evapotranspiring, or harvesting and using storm water. On a regional scale, green infrastructure is the preservation or restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On the local scale, green infrastructure consists of site and neighborhood-specific practices.

**Subd. 21. Hydric Soils.** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

**Subd. 22. Hydrophytic Vegetation.** Macrophytic (large enough to be observed by the naked eye) 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.

**Subd. 23. Impervious Area.** A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas; and concrete, asphalt, or gravel parking lots and roads.

**Subd. 24. Illicit Connections.** An illicit connection is either of the following: (1) Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the storm sewer system including but not limited to any conveyances that allows any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm sewer system and any connections to the storm sewer system from indoor drains and sinks, regardless of whether said drain or connection

had been previously allowed, permitted, or approved by the City OR, (2) any drain or conveyance connected from a commercial or industrial land use to the storm sewer system that has not been documented in plans, maps, or equivalent records and approved by the City.

**Subd. 25. Illicit Discharge.** (See PROHIBITED DISCHARGE).

**Subd. 26. Land Use Development.** The act of subdivision or platting properties for personal use, adding value or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities.

**Subd. 27. Land Disturbing Activity.** Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City's jurisdiction, including construction, clearing & grubbing, grading, excavating, transporting and filling of land. Within the context of this ordinance, land disturbance activity does not mean:

- a) Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work, which will not result in sediments entering the storm water system.
- b) Additions or modifications to existing single family structures that result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.
- c) Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.
- d) Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
- e) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.

**Subd. 28. Landowner.** Any person, firm, corporation or other entity holding title to or having a divided or undivided interest in land.

**Subd. 29. Local Detention.** Detention intended to serve only the developing area in question and no areas outside of the development boundaries. As such it is under the control of one owner or group of owners. This is also known as on-site detention.

**Subd. 30. Local Drainage System.** The storm drainage system which transports the minor and major storm water runoff to the major storm water system serving only the property within the development boundaries, under the control of one owner or group of owners. This is also known as the on-site drainage system.

**Subd. 31. Management Practice.** A practice or combination of practices to control erosion and water quality degradation.

**Subd. 32. Municipal Separate Storm Sewer System (MS4).** A conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

- a) owned or operated by a state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district or similar entity, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management Agency under section 208 of the federal Clean Water Act, United States Code, title 33, section 1288, that discharges into waters of the state
- b) designed or used for collecting or conveying storm water
- c) that is not a combined sewer; and that is not part of a publicly owned treatment works as defined in 40 CFR § 122.2

**Subd. 33. National Pollution Discharge Elimination System (NPDES).** Any permit or requirement enforced pursuant to the Clean Water Act as amended for the purposes of regulating Storm Water discharge.

**Subd. 34. New Development.** All construction activity that is not defined as redevelopment.

**Subd. 35. Noncompliance Fee.** The administrative penalty, or fee, for re-inspection of a property which may be assessed to a Permittee, Land Owner, Developer or their Contractor(s) for noncompliance with the provisions and/or conditions of an approved storm water plan and/or permit or the violation of any other provisions contained in this storm water ordinance.

**Subd. 36. Nationwide Urban Runoff Program (NURP).** An urban runoff study by the United States Environmental Protection Agency.

**Subd. 37. On-Site Detention.** (See Local Detention System).

**Subd. 38. On-Site Drainage System.** (See Local Drainage System).

**Subd. 39. Outlet.** Any discharge point, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

**Subd. 40. Owner or Occupant.** Any person owning or using a lot, parcel of land, or premises connected to and discharging Storm Water into the storm water system of the City, and who pays for and is legally responsible for the payment of storm water rates or charges made against the lot, parcel of land, building or premises, if connected to the Storm Water system or who would pay or be legally responsible for such payment.

**Subd. 41. Permanent Cover.** Means "final stabilization." Examples include grass, gravel, asphalt, and concrete. See also the definition of "final stabilization." Any buildings, structures, landscaping and related features as part of a development project approved for construction or constructed prior to the passage of this ordinance.

**Subd. 42. Permanent Facilities.** Those features of a storm water management plan which are part of any natural or constructed storm water system that requires periodic maintenance to retain their operational capabilities. This includes but is not limited to storm sewers, infiltration areas, detention areas, ponds, channels, streets, etc.

**Subd. 43. Permit.** With in the context of this rule a "permit" is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities.

**Subd. 44. Permittee.** Any person who applies for and receives approval of a storm water plan and/or permit from the City and/or State.

**Subd. 45. Person.** Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private.

**Subd. 46. Pollutant.** Anything that causes or contributes to pollution, that when discharged, have the potential to do any of the following:

- a) Interfere with state designated water uses;
- b) Obstruct or cause damage to Waters of the State;
- c) Change water color, odor, or usability as a drinking water source through causes not attributable to natural processes affecting surface water or groundwater;
- d) Add an unnatural surface film on the water;
- e) Adversely change other chemical, biological, thermal, or physical condition, in surface water or groundwater;
- f) Harm human life, aquatic life, or terrestrial plant and wildlife.

Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ammunition ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Subd. 47. Prohibited Discharge.** (Can also be referred to as Illicit Discharge.) A non-storm water discharge into the storm water system or a natural water, including but not limited to:

- a) Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.
- b) The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.).
- c) Erosion and sediment originating from a property and deposited onto City streets, private properties or into the storm water conveyance system, including those areas not specifically covered under an approved Storm Water Management Plan or Storm Water Permit.
- d) Failure to remove sediments transported or tracked onto City streets by vehicles or construction traffic within 24 hours of it being deposited on the street.

For the purposes of this ordinance, Prohibited Discharges do not include the following, unless information is available to indicate otherwise:

Water line flushing;  
Landscape irrigation;  
Diverted stream flows;  
Rising ground water;  
Uncontaminated ground water infiltration;  
Uncontaminated pumped ground water;  
Discharges from potable water sources;  
Foundation drains;  
Air conditioning condensate;  
Irrigation water;  
Springs;

Water from crawl space pumps;  
Footing drains;  
Lawn watering;  
Individual residential car washing;  
Flows from riparian habitats and wetlands;  
De-chlorinated swimming pool discharges and  
Street wash water

**Subd. 48. Public Storm Sewer.** A storm sewer that is owned and operated by the City and is located entirely within publicly owned land or easements.

**Subd. 49. Regional Detention.** Detention facilities provided to serve an area outside the development boundaries. A regional detention site generally receives runoff from multiple storm water sources and serves an area of approximately one quarter section.

**Subd. 50. Receiving Water.** Any lake, river, stream or wetland that receives storm water discharges

**Subd. 51. Redevelopment.** Any construction activity where, prior to the start of construction, the areas to be disturbed have 15 percent or more of impervious surface(s).

**Subd. 52. Retention Facility.** A natural or man-made structure that provides for the storage of all or a portion of storm water runoff.

**Subd. 53. Runoff.** The rainfall, snowmelt, dewatering, or irrigation water flowing over the grounds surface and into open channels, underground storm sewers, and detention or retention ponds.

**Subd. 54. Saturated Oil.** The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.

**Subd. 55. Sediment.** 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.

**Subd. 56. Sediment Control.** The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

**Subd. 57. Site.** The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the storm water plan or permit application.

**Subd. 58. Stabilized.** The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization. Ground surfaces may be temporarily or permanently stabilized (also see Final Stabilization).

**Subd. 59. State.** The State of Minnesota.

**Subd. 60. Storm Sewer.** A pipe or conduit for carrying storm waters, surface runoff, and drainage, excluding sewage and industrial wastes.

**Subd. 61. Storm Water.** Means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage. Storm water does not include construction site dewatering.

**Subd. 62. Storm Water Management.** The planned set of public policies and activities undertaken to regulate runoff and reduce erosion, and maintain or improve water quality under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows and/or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Storm water management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.

**Subd. 63. Storm Water Management Criteria.** Specific guidance provided to the engineer/designer to carry out drainage and storm water management policies. An example might be the specification of local design hydrology and use of the design storm.

**Subd. 64. Storm Water Management Plan.** (See STORM WATER POLLUTION PREVENTION PLAN (SWPPP)).

**Subd. 65. Storm Water Management Facilities.** 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.

**Subd. 66. Storm Water Pollution Prevention Plan (SWPPP).** A joint storm water and erosion and sediment control plan that is written as a prerequisite to obtaining an NPDES Storm Water Permit for Construction Activity, that when implemented will decrease soil erosion on a parcel of land and off-site non-point pollution. It involves both temporary and permanent controls. The SWPPP, which draws its information from a Storm Water Management Plan and is typically condensed, must be incorporated into the construction grading plans for the project.

**Subd. 67. Storm Water Retention Structure.** 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). Anything manufactured, constructed, or erected for the purpose of retaining storm water, which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

**Subd. 68. Structural Storm water BMP.** Stationary and permanent BMPs designed, constructed and operated to prevent or reduce the discharge of pollutants in storm water.

**Subd. 69. Subdivision.** Any tract of land divided into building lots for private, public, commercial, industrial, etc. development for the purpose of sale, rent, or lease, including planned unit development."

**Subd. 70. System Charge or Assessment.** A charge for connecting an outlet to a regional storm water management facility, typically a pond. The charge is normally assessed to recover the proportional cost of constructing a regional pond or storm water treatment facility.

**Subd. 71. Temporary Protection.** Short-term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.

**Subd. 72. Undeveloped Land.** Land that in its current state has not been impacted by significant land disturbance activities.

**Subd. 73. User.** Any person who discharges, causes, or permits the discharge of storm water into the City's Storm Water management system.

**Subd. 74. Violation.** The willful or negligent act of noncompliance with the conditions attached to an approved storm water plan and/or permit, or any other provisions contained in this ordinance, subject to enforcement and penalty or noncompliance fees.



**Subd. 75. Waters of the State.** (as defined in Minn. Stat. 115.01, Subd. 22) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

**Subd. 76. Watercourse.** 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 obtained for the purposes of runoff conveyance.

**Subd. 77. Waterway.** A channel that directs surface runoff to a watercourse, or to a storm sewer.

**Subd. 78. Wet Pond or Wet Detention Facility.** A Retention Facility which includes a permanent pool of water used for the purposes of providing for the treatment of storm water runoff.

**Subd. 79. Watershed Master Plan.** A plan that an engineer/designer formulates to manage urban storm water runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land use, and grading plan, peak 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. It may be submitted to regulatory officials for their review for adoption.

**Subd. 80. Wetland or Wetlands.** (as defined in Minn. R. 7050.0130, Subp. F) and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designated for wastewater treatment are not Waters of the State. For purposes of this definition, wetlands must have the following three attributes:

- a) A predominance of hydric soils;
- b) Are inundated or 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
- c) Under normal circumstances support the prevalence of such vegetation.

**Section 18.3: Waste Controls and Prohibited Discharges**

**18.3.01. Waste Controls and Prohibited or Illicit Discharges.** It shall be considered an offense for any person to cause or allow a Prohibited or Illicit Discharge into Waters of the State, including the City Storm Sewer System, or any Natural Waterway.

**Subd. 1. Illegal Disposal.**

- a) No person shall throw, deposit, place, leave, maintain, keep or permit to be thrown, placed, left, maintained or kept, any refuse, rubbish, garbage, or any other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private plot of land in the City, so that the same might be or become a pollutant, except in containers, recycling bags, or other lawfully established waste disposal facility.
- b) No person shall intentionally dispose of grass, leaves, dirt, or other landscape debris into a water resource buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, wetland, flood control channel, canal, storm drain or any natural waterway.

**Subd. 2. Prohibited or Illicit Discharges.**

- a) No Person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any materials, including but not limited to Pollutants or waters containing any Pollutants, other than Storm Water, except for the Non-storm Water Discharges identified in (1) below. The commencement, conduct or continuance of any Illegal Discharge to the MS4 is prohibited except as described as follows:
  - 1) Certain categories of Non-storm Water Discharges are authorized under the City's MS4 permit because they have been evaluated by the City and identified as not being significant contributors of Pollutants: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated groundwater infiltration (as defined at 40 CFR § 35.2005(b)(20)), uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool discharges, street wash water, and discharges or flows from firefighting activities. These categories are hereby exempt from the discharge prohibitions established by this ordinance
  - 2) Discharges specified in writing by the City Engineer as being necessary to protect public health and safety.
  - 3) The prohibition shall not apply to any Non-storm Water Discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

**Subd. 3. Illicit Connection.**

- a) The construction, use, maintenance or continued existence of Illicit Connections to the MS4 is prohibited.
- b) This prohibition expressly includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- c) A Person is considered to be in violation of this ordinance if the Person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- d) Illicit Connections in violation of this ordinance must be disconnected and redirected, within the timeframe specified in the Notice of Violation (NOV), to an approved onsite wastewater management system or the Sanitary Sewer System upon approval of the City Engineer.
- e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the MS4, shall be located by the owner or occupant of that property upon receipt of written Notice of Violation from the City Engineer requiring that such locating be completed. The Notice of Violation shall specify a reasonable time period within which the location of the drain or conveyance is to be determined, and shall require that the drain or conveyance be identified as storm sewer, sanitary sewer, or other, and further require that the outfall location or point of connection to the MS4, Sanitary Sewer System, or other discharge point be identified. Results of these investigations are to be documented and provided to the City Engineer.

**Subd. 4. Good Housekeeping Provisions.** Any owner or occupant of property within the City shall comply with the following good housekeeping requirements:

- a) No person shall leave, deposit, discharge, dump, or otherwise expose any chemical, septic waste or Prohibited Discharge in an area where discharge to streets, storm sewer systems, or natural waterways may occur. This section shall apply to both actual and potential discharges.
- b) Storage of Materials, Machinery, and Equipment:
  - 1) Objects, such as motor vehicle parts, containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials, shall not be stored in areas susceptible to runoff or discharge to streets, storm sewer systems, or natural waterways.
  - 2) Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain or collect leaks, spills, or discharges without discharge to streets, storm sewer systems or natural waterways.
  - 3) No machinery or equipment shall be pressure washed for the removal of grease, oil or other hazardous substances, in an area susceptible to runoff or discharge to streets, storm sewer systems, or natural waterways.
- c) **Removal and Disposal of Debris, Residue and Hazardous Wastes.** All waste and unused building materials (including garbage, debris, cleaning wastes, animal wastes, wastewater, petroleum based products, fuels, paints, toxic materials, or other hazardous materials) shall be removed and properly disposed of off-site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland. Hazardous wastes shall not be placed in a trash container.

**Section 18.4: General Storm Water Practices**

**18.4.01. General Storm Water Practices.** The following general storm water management practices and erosion control requirements shall apply to all land disturbing activities, regardless of project size and whether or not a NPDES Permit or SWPPP is required.

**Subd. 1. City Grading Permit Required.** No grading or land disturbing activity shall be performed without first having obtained a Grading Permit from the City Building Official, in accordance with the Minnesota State Building Code, as adopted by the City of Cloquet.

**Subd. 2. Land Disturbing Activity Involving the Construction of Single-Family or Two-Family Dwellings.** Construction of single family or two family dwellings must comply with in place approved BMPs and any existing permitted SWPPP for the subdivision, including NPDES Permit requirements and Subdivision Agreements. Upon the sale of individual lots, the new owners shall be required to file a Subdivision Registration Form with the MPCA, which allows the original permittee to transfer the responsibilities of the project NPDES permit for a portion of the site to another party without reapplying for permit coverage. Each new owner must complete this form and submit it to the MPCA and provide the assigned registration number to the City. A City issued Grading Permit shall also be required as provided for in Section 18.4.01, Subd. 1, above.

**Subd. 3. Utility Work or Any Other Work Within Street Right-of-ways.** Utility contractors working in a street right-of-way to repair existing or install new utilities, or any other work disturbing less than one acre, are required to provide appropriate inlet protection and sediment control during the course of the work so as to ensure the storm sewer system is protected from pollution. The utility contractor is also required to provide street sweeping as necessary to insure that sediment resulting from their activity does not enter the storm water system following construction. The street shall be swept within (1) working day of completion of all work on the site. All disturbed vegetation shall be replaced with seed or sod within seven (7) days of completion of utility installation on the site. The City will provide guidance regarding acceptable temporary protection BMPs for inlets and methods to stabilize the exposed soil areas until they meet the definition of final stabilization.

**Subd. 4. Erosion or Sedimentation Related to Any Activity.** Any land disturbing activity, regardless of project size, and whether conducted pursuant to this Chapter or otherwise, shall be undertaken in a manner designed to minimize surface runoff, and to prevent erosion and sedimentation. Whenever the City determines that any land disturbing activity on any private property has become a hazard to life or limb, endangers the property of another, adversely affects the safety, use, slope or soil stability of a public road, publicly controlled wetland, or watercourse, or results in sedimentation to the same, then the owner of the property upon which the land disturbance activity is located, or other person or agent in control of said property, upon receipt of notice in writing from the City, shall within the period specified therein, repair or eliminate such condition.

**Subd. 5. Sedimentation From Existing Facilities.** For all existing home sites, commercial or industrial developments, that are susceptible to erosion and the discharge of sediment onto or into public streets or storm sewers, the owner shall be responsible to provide for and pay for the cost of all necessary street sweeping and/or the removal of all discharged sediment. Furthermore, if such erosion and sedimentation continues to reoccur, the owner shall take such measures as may be necessary to stabilize the erosion or to otherwise provide sedimentation basins to prevent the discharge of sediment offsite or to the stormsewer system.

**Subd. 6.** All storm water must be discharged in a manner that does not cause nuisance conditions, erosion in receiving channels or on downslope or adjacent properties, or inundation in wetlands causing an adverse impact to the wetlands.

**Subd. 7. Land Alterations Not Permitted.** The following land alterations shall not be permitted:

- a) Any activities that cause unnecessary potential for soil erosion.
- b) Any land alterations, filling or grading that significantly retard or severely impede the drainage of adjacent properties or cause water to backup or pond on adjacent properties.

**18.4.02. Management of Site Vegetation.** Any Landowner shall provide for the installation and maintenance of vegetation on their property in accordance with the following criteria, regardless as to whether or not a Storm Water Management Plan or Storm Water Pollution Prevention Plan has been approved or is necessary under this Chapter:

**Subd. 1. Unimproved Land Areas.** Except for driveways, parking lots, sidewalks, patios, areas occupied by structures, landscaped areas, natural rock outcrop areas, or areas that have been otherwise improved, all areas shall be covered by plants or vegetative growth.

**Section 18.5: Construction Site Management and the National Pollution Discharge Elimination System (NPDES) Construction General Permit**

**18.5.01. NPDES Permit General Requirements.** It is unlawful to initiate any land development activity, land disturbing activity, or other construction activities which may result in an increase in storm water quantities, degradation of storm water quality, or restriction of flow in any storm sewer system, open ditch or natural channel, storm water easement, water body, or wetland outlet within the jurisdiction of the City, without having first complied with the terms of this Chapter and the most current version of NPDES general permit for construction.

**Subd. 1.** For construction or development projects, or any land disturbing activity that disturbs one or more acres of land, site owners and their construction operators must apply for coverage under the Minnesota Pollution Control Agency's (MPCA's) NPDES permit program.

**Subd. 2. SWPPP Review by City of Cloquet.** Prior to submitting any NPDES permit application to the MPCA, and prior to conducting any construction activity, a Storm Water Pollution Prevention Plan (SWPPP) must be completed and submitted to the City of Cloquet for review and approval.

**Subd. 3. Submission of SWPPP to State for Permit.** Following review and approval of the SWPPP by the City, the applicant shall make application to the Minnesota Pollution Control Agency (MPCA) for coverage under the National Pollutant Discharge Elimination System (NPDES) permit program and receive a valid permit.

**Subd. 4. Submission of NPDES Permit to City and Issuance of City Grading Permit.** Following the issuance of a NPDES Permit by the MPCA, the applicant shall provide a copy of the issued permit for the project to the City. At this point the City shall issue a Grading Permit in accordance with by the Minnesota State Building Code, as adopted by the City of Cloquet. No person shall commence construction activity until a NPDES permit for the project is issued by the MPCA and a Grading Permit has been issued, as required by the City of Cloquet.

**Subd. 5. Other Required Permits.** For certain construction or development projects, various other permits may also be required. It shall be the Applicant's responsibility to obtain any required permits from the City of Cloquet and other governmental agencies having any jurisdictional authority over the work to be performed. Typically, such agencies may include, but are not limited to the U.S. Army Corps of Engineers, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Minnesota Department of Transportation, the State Historical Preservation Office, and others.

**18.5.02. Storm water Pollution Prevention Plan (SWPPP) Requirements.** Any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a subdivision of land, a subdivision plat, or any type of construction project that results in a land disturbing activity involving 1 acre or more within the City, must submit to the City a Storm Water Pollution Prevention Plan (SWPPP) for review and approval, unless an exemption waiver is provided in accordance with this Section.

**Subd. 1.** The SWPPP shall be prepared in accordance with requirements of the MPCA's NPDES permit program. These requirements shall include a drawing or drawings delineating the features incorporated into the SWPPP, including details of perimeter protection, construction phasing, storm drain inlet protection, erosion control measures, temporary and final stabilization measures, drainage easements and storm water management facilities, including all BMP's to be utilized. In addition any construction specifications for the project shall contain technical provisions describing erosion, sedimentation, and water control measures to be utilized during and after construction as well as to define the entities responsible for the installation and maintenance of the BMP's. The project SWPPP must be incorporated into the construction project's specification documents.

**Subd. 2.** The SWPPP developed for all projects, including all plans, drawings, specifications, and computations for storm water management facilities, shall be prepared, reviewed and signed by a Professional Engineer registered in the State of Minnesota, except in the following cases:

All residential or non-commercial/industrial projects that include less than five acres of impervious surface.

- A) All residential development projects with an ultimate planned density of less than one-half (0.5) units per acre.

**Subd. 3.** The provisions of this Section shall also apply to any project site that is part of a larger Common Plan of Development or Sale that will disturb greater than or equal to one acre.

**Subd. 4. Subdivision Plat Approval and Subdivision Registration Process.** No subdivision approval, plat approval or building permit shall be issued, nor shall any land be disturbed until the SWPPP has been approved by the City and a copy of a State issued NPDES permit for the project has been provided to the City. Upon the sale of individual lots, the new owners shall be required to file a Subdivision Registration Form with the MPCA, which allows the original permittee to transfer the responsibilities of the project NPDES permit for a portion of the site to another party without reapplying for permit coverage. Each new owner must complete this form and submit it to the MPCA and provide the assigned registration number to the City.

**Subd 5.** For sites or projects that are less than one acre, but are within 100 feet of Special Waters or Protected Waters such as Otter Creek, Fond du Lac Creek, any protected wetlands, or are within an existing subdivision or development with documented flooding problems associated with storm water runoff, a SWPPP shall be provided to the City in compliance with the provisions of this Section to preserve or protect the water quality of downstream resources. In addition, a Grading permit must be obtained for all grading projects in accordance with the Minnesota State Building Code, as adopted by the City of Cloquet.

**Subd. 6. Erosion and Sediment Control.** Erosion and sediment control, at a minimum, shall meet the requirements and provisions defined in the most current MPCA NPDES General Storm Water Permit for Construction Activities, also referred to as the NPDES Construction Permit.

**Subd. 7. Storm Water Detention/Retention/Treatment Facilities.** Storm Water Detention, Retention or Treatment facilities proposed to be constructed in the Storm Water Management Plan shall be designed and maintained according to the most current practices as reflected in the Nationwide Urban Runoff Program study and in accordance with the MPCA's NPDES Permit requirements. All above ground Storm Water Detention, Retention or Treatment Facilities shall have a minimum setback from all property lines as established by the Cloquet Zoning Ordinance.

**Subd. 8. Regional Ponds.** Regional ponds may be used provided they are constructed ponds, (not a natural wetland or water body) and designed in accordance with the NPDES permit program requirements for all water from impervious surfaces that reach the pond. Permittees shall not construct regional ponds in wetlands, regardless of their condition, quality or designation, unless such wetlands are mitigated in accordance with applicable rules. The owner must obtain written authorization from the City or private entity that owns and maintains the regional pond. If the City is the owner of the regional pond, the City may apply a System Charge or Assessment that would cover a prorated share of the pond's construction and operation and maintenance costs.

**Subd. 9. Adequacy of Outlets.** The adequacy of any Outlet used as a discharge point for proposed Storm Water Management Systems must be assessed and documented to the satisfaction of the City Engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate post-development runoff discharges and volumes. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion.

**Subd. 10. Storm Water Discharges to Trunk Highway Right-of-Way.** For development projects which lie adjacent to trunk highway right-of-ways and include Storm Water Management Systems that will discharge storm water onto highway right-of-way, a drainage permit must first be obtained from the Minnesota Department of Transportation (Mn/DOT) prior to the City approving any SWPPP for the project.

**Subd. 11. Drainage Easements and Discharges to Adjacent Property.** No constructed Storm Water Management Systems or Permanent Facilities, proposed as part of the SWPPP for a development, may discharge storm water onto adjacent property unless a drainage easement is in place or the peak design flow rate for the Permanent Facilities maintains the pre-development existing flow rates and hydrologic conditions for the 2-year, 10-year, and 100-year rainfall events.

**Subd. 12. Exemptions.** Exemptions to the SWPPP requirements of this section include:

- a) An individual SWPPP is generally not required for individual lots or properties located within a subdivision or plat for which a SWPPP has already been approved. All construction, however, must be in accordance with the previously permitted SWPPP for the subdivision, including the NPDES Permit requirements and Subdivision Agreement. (See Section 18.4.02, Subd. 4).
- b) A parcel for which a building permit has been approved on/or before the effective date of this Chapter and an NPDES permit was not required.
- c) Any land disturbance activity not associated with building construction that will affect less than 1 acre of undeveloped land.
- d) Emergency work to protect life, limb, or property.

#### 18.5.03. Plan Review.

**Subd. 1. SWPPP Requirements.** The SWPPP shall include all requirements of the most current NPDES Construction Permit and address the applicable provisions of this ordinance.

- a) **Review and Approval of SWPPP.** The City shall review and approve the proposed development plan and SWPPP prior to the submission of an application to the MPCA for a NPDES Permit.
- b) **Modification of Plan.** Modifications to the SWPPP or plans shall be submitted to the City for review and approval.

#### 18.5.04. Inspections.

**Subd. 1. Inspections By Owner, Owner's Contractor or Owner's Agent.** In accordance with MPCA requirements, the SWPPP for a project must identify the person responsible for the completion of routine inspections of the site to insure compliance with the SWPPP and the effectiveness of all BMPs employed. At a minimum, inspections of the site must take place once every seven (7) days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours. A written record of rainfall amounts received onsite, as well as a written record of all inspections and maintenance conducted during construction must be maintained by the responsible person and be made available to the City upon request.

**Subd. 2. City inspections.** The City may conduct inspections on a regular basis to monitor erosion and sediment control practices. In all cases the inspectors will attempt to work with the builder or developer to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, construction stop work orders may be issued by the City until erosion and sediment control measures meet the requirements of this ordinance. *Inspections as defined in this provision do not fulfill the inspections and maintenance requirements of the owner and/or contractor as required by the NPDES Construction Permit Program and Subdivision 1 of this Section.*

**Subd 3. Notification of Failure of the SWPPP.** The City may notify the permit holder of the failure of the SWPPP's measures.



- a. **Initial contact.** The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish contact, the City may proceed with corrective work. There are conditions when time is of the essence in controlling erosion. During such a condition the City may take immediate action, and then notify the applicant as soon as possible.
- b. **Erosion off-site.** If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required. When restoration to wetlands and other resources are required, the applicant should be required to work with the appropriate agency to ensure that the work is done properly.
- c. **Erosion into streets, wetlands or water bodies.** If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- d. **Failure to do corrective work.** When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take the following actions.
  - 1) Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a Certificate of Occupancy.
  - 2) Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
  - 3) If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action to correct the deficiency or hire a contractor to correct the deficiency. The issuance of a permit constitutes a right-of-entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.
  - 4) Require reimbursement to the City for all costs incurred in correcting storm water pollution control deficiencies. If payment is not made within sixty (60) days after costs are incurred by the City, then the City may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of such assessment costs related to cleanup or corrective actions taken by the City.

**Section 18.6: Construction Storm Water Management**

**Subd. 1. Applicability.** Every applicant for subdivision approval or a permit to allow land disturbing activities of one acre or greater, including projects that are less than one acre that are part of a larger common plan of development or sale, must meet the requirements of this ordinance. No subdivision approval or permit to allow land disturbing activities shall be issued until approval of the storm water management plan in accordance with the provisions of this ordinance. The provisions of this ordinance do not apply to:

- a) The plowing, tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops.
- b) Site development of individual lots for which a storm water management plan was approved as part of a larger common development plan in accordance with this ordinance.
- c) Property for which a grading permit was approved by the city on or before the effective date of this ordinance.
- d) Subdivisions for which a preliminary plat was approved by the city council on or before the effective date of this ordinance.

**Subd. 2. Site Plan Submittal.** Owners and/or operators of construction activity must submit site plans to the city that meet the requirements of Subd. 3 of this Section (following), for review and approval prior to start of construction activity.

**Subd. 3. Calculations.** Hydrologic and hydraulic design calculations must be submitted for the pre-development and post-development conditions for the two-, ten-, and 100-year events. Such calculations shall include:

- a) Description of the design storm frequency, intensity and duration;
- b) Time of concentration;
- c) Soil curve numbers or runoff coefficients;
- d) Peak runoff rates and total runoff volumes for each watershed area;
- e) Infiltration rates, where applicable;
- f) Culvert capacities;
- g) Flow velocities;
- h) Data on the increase in rate and volume of runoff for the design storms used; and
- i) Documentation of sources for all computation methods and field test results.

**Subd. 4. Volume Control and Pollutant Management.** Storm water volume management practices shall infiltrate or retain a runoff volume equal to one inch times the area of proposed increase of impervious surface(s) on site. Green Infrastructure techniques and practices (including, but not limited to, infiltration, evapotranspiration, reuse/harvesting, conservation design, urban forestry, and green roofs), shall be given preference as design options consistent with zoning, subdivision and Planned Unit Development (PUD) requirements.

- a) New development projects (*less than 15 percent existing impervious*) shall achieve no net increase from pre-project conditions (on an annual average basis) of:
  - 1) Storm water discharge volume, unless precluded by the storm water management limitations in c) below.
  - 2) Storm water discharge of Total Suspended Solids (TSS).
  - 3) Storm water discharge of Total Phosphorus (TP).
- b) Redevelopment projects (*15 percent or more existing impervious*) shall achieve a net reduction from pre-project conditions (on an annual average basis) of:
  - 1) Storm water discharge volume, unless precluded by the storm water management limitations in c) below.
  - 2) Storm water discharge of TSS.
  - 3) Storm water discharge of TP.
- c) The use of infiltration techniques are prohibited when the infiltration structural storm water BMP will receive discharges from, or be constructed in, the following areas:
  - 1) Where industrial facilities are not authorized to infiltrate industrial storm water under an NPDES/SDS Industrial Storm water Permit.
  - 2) Where vehicle fueling and maintenance occur.
  - 3) Where less than three (3) feet of separation from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock exists.
  - 4) Where high levels of contaminants in soil or groundwater will be mobilized by infiltrating storm water.
- d) The use of infiltration techniques will be restricted when the infiltration device will be constructed in areas:
  - 1) With predominately Hydrologic Soil Group D (clay) soils.
  - 2) Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.
  - 3) Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, subp. 13.
  - 4) Where soil infiltration rates are more than 8.3 inches per hour.

In these restricted areas, the city engineer may request additional information and/or testing to ensure that infiltration basins will perform properly and that groundwater is adequately protected.

- e) Mill and overlay and other resurfacing activities are not considered fully reconstructed.
- f) For linear projects a reasonable attempt must be made to obtain right-of-way during the project planning process for volume control practices. Projects where the lack of right-of-way

precludes the installation of volume control practices to meet a) or b) above, exceptions as described in Subd. 5 below can be applied.

**Subd. 5. Volume Control and Pollutant Management, Exceptions and Mitigation.**

- a) **Exceptions.** A lesser volume control standard on the site of the original construction activity may be applied, at the discretion of the city, under the following circumstances:
- 1) The owner and/or operator of a construction activity is precluded from infiltrating storm water due to limitations under Subd. 3. c), d) or f).
  - 2) The owner and/or operator of the construction activity implements to the maximum extent practicable volume reduction techniques, other than infiltration, on the site of the original construction activity that reduce storm water discharge volume but may not meet the requirements of post-construction storm water management .
- b) **Mitigation.** If the owner and/or operator of a construction activity believes that the requirements for TP and/or TSS cannot be met on the site of the original construction activity, the owner and/or operator must provide appropriate documentation to the city as support. Storm water discharges that do not meet the TP and/or TSS standards on the site of the original construction activity may be mitigated off-site at the city's discretion. The proposed mitigation must meet the following criteria:
- 1) Mitigation project areas should be selected in the following order of preference and in consultation and with approval by the city:
    - a) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
    - b) Locations within the same Department of Natural Resource (DNR) catchment area as the original construction activity.
    - c) Locations in the next adjacent DNR catchment area up-stream.
    - d) Locations within the city.
  - 2) Mitigation projects must involve the creation of new structural storm water BMPs, the retrofit of existing structural storm water BMPs, or the use of a properly designed regional structural storm water BMP.
  - 3) Routine maintenance of structural storm water BMPs required by this section cannot be used to meet mitigation requirements.
  - 4) Mitigation projects must be completed within 24 months after the start of the original construction activity.
- c) If the mitigation project is a private structural storm water BMP and the city is not responsible for long-term maintenance of the project, the city will require written and recorded documentation of maintenance responsibilities.

**Subd. 6. Maintenance of Structural Storm water BMPs.** Maintenance of any structural storm water BMP that the city determines to be private shall meet the following requirements:

- a) A permanent public easement shall be provided to the city for access for inspection and/or maintenance purposes. Costs incurred by the city for any maintenance of private systems will be billed and/or assessed to the owner/operator.
- b) Recorded inspection and maintenance agreements that define inspection and maintenance responsibilities are required. A minimum annual inspection for private systems shall be required. These requirements are transferrable to any party that becomes the owner/operator of the site.
- c) An inspection and maintenance plan shall be developed, approved and included as an attachment to the maintenance agreement. At a minimum, maintenance plans must include the following:
  - 1) Responsible person(s) for completing inspections and conducting maintenance.
  - 2) Frequency of inspections and maintenance.
  - 3) Inspection checklist and type of maintenance anticipated.
- d) If site configurations or structural storm water BMPs change, causing decreased BMP effectiveness, new or improved structural storm water BMPs must be implemented to meet the requirements of this section.
- e) The property owner shall keep on file all structural storm water BMP annual inspection and maintenance records for 5 years and submit to the City as requested.

**Subd. 7. Financial Security.** The City shall require the submittal of a letter of credit or other financial security in a form acceptable to the city in the amount of \$5,000 to ensure the storm water treatment systems are installed correctly and in accordance with this ordinance.

**Subd. 8. Impaired Waters and Total Maximum Daily Loads.** If a site drains to a surface water that has been listed as impaired pursuant to section 303(d) of the federal Clean Water Act more stringent water quality measures may be required. If a total maximum daily load (TMDL) has been written for the impaired water then all best management practices deemed necessary to comply with the requirements of the TMDL must be implemented.

## Section 18.7: Inspections

**18.7.01. Powers and Authority of Inspectors.**

**Subd. 1. Right of Entry.** The City Engineer and those individuals acting under his direction and control are authorized to enter all properties at any reasonable time for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the Municipal Separate Storm Sewer Systems (MS4) as often as may be reasonably necessary to determine compliance with this Chapter 18 of the Cloquet City Code.

It shall be unlawful for any person to refuse entrance to or impede the City Engineer or an inspector acting under his direction and control in the performance of his/her duties, and the City Engineer and every such inspector shall have the right to enter all such properties and every part thereof necessary for the performance of such inspection, observation, measurement, sampling and testing as authorized under this section, upon display of proper identification.

**Subd. 2. Indemnification.** While performing the necessary work on private properties referred to in Section 18.7.01, Subd. 1, above, the City Engineer and those individuals acting under his direction and control shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to such employees, and the City respectively shall indemnify the owner against loss or damage to its property by City employees and against liability claims and demands for Personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence of the owner or the failure of the owner to maintain safe conditions as required under this ordinance.

**Subd. 3. Easements.** The City Engineer and other duly authorized employees of the City have the right to enter all private properties through which the City holds a utility easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the storm water facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

**Section 18.8: Enforcement and Penalties**

**18.8.01. Enforcement and Penalties.** Any person, or entity failing to comply with or violating any of these regulations, may be deemed guilty of a misdemeanor and be subject to a fine up to the maximum amount for a misdemeanor offense as established under Minnesota Statutes. In addition, any such violation may be deemed to create a public nuisance, and the City may seek abatement as provided in Chapter 7, and may seek reimbursement for all costs necessarily incurred in abating the nuisance. Further, all land use and building permits may be suspended until the applicant has corrected the violation. Each day that a violation exists shall constitute a separate offense.

**Section 18.9: Abrogation and Greater Restrictions**

**18.9.01. Abrogation and Greater Restrictions.** It is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions, however, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only. In the event that there is a governing entity that has a more restrictive requirement, the more stringent requirement is required.