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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 City of Cloquet Stormwater Management Design Standards is incorporated herein by reference and shall be enforceable as a part of this Chapter as if set out here in its entirety.

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. Cloquet Stormwater Management Design Standards.** Standards pertaining to protecting water quality in the City of Cloquet published under the title *Cloquet Stormwater Management Standards* periodically revised in order to meet state and federal regulations.

**Subd. 2. 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. 3. Illicit Discharge.** (See PROHIBITED DISCHARGE).

**Subd. 4. 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. 5. 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. 6. 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

**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 Illicit 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.

**18.3.02. Salt and Deicer Storage.** It shall be considered a violation of this code for commercial, institutional or any non-NPDES permitted industrial facility to store or handle salt or deicing materials contrary to the requirements of this section.

**Subd. 1 Storage and handling requirements**

- a) Salt and deicer storage must be covered or indoors
- b) Salt and deicer storage must be located on an impervious surface
- c) Practices to reduce exposure when transferring salt and deicing materials must be implemented (e.g. sweeping, diversions, and/or containment)

## Section 18.4: Inspections

**18.4.01. 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 and stormwater rules set forth in the *Cloquet Stormwater Management Design Standards*.

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 18.4.01, 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.

**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: Enforcement and Penalties**

**18.5.01. Enforcement** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance and stormwater rules set forth in the *Cloquet Stormwater Management Design Standards*. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City of Cloquet is authorized to enter upon the subject private property, without giving prior notice, to take all measures necessary to abate the violation and/or restore the property. The City of Cloquet is authorized to seek costs of the abatement as outlined in Section 18.5.01 subd 8.

**Subd. 1. Warning Notice.** When the City of Cloquet finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the City of Cloquet may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the violator to immediately investigate the matter and to seek a resolution whereby any offending violation will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the City of Cloquet to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

(A) *Notice of Violation.*

- (1) Whenever the City of Cloquet finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City of Cloquet may order compliance by written notice of violation to the responsible person.
- (2) The Notice of Violation shall contain:
  - (a) The name and address of the alleged violator;
  - (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
  - (c) A statement specifying the nature of the violation;
  - (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
  - (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
  - (f) A statement that the determination of violation may be appealed to the City of Cloquet by filing a written notice of appeal within 30 days of service of notice of violation; and
  - (g) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency, or a contractor and the expense thereof shall be charged to the violator.
- (3) Such notice may require without limitation, at their own expense:
  - (a) The performance of monitoring, analyses, and reporting;
  - (b) The elimination of the violation(s);

- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

**Subd. 2. Costs** In addition to the other penalties provided herein, the City may recover engineering fees, court costs, court reporter's fees, attorney fees, and other expenses of litigation or enforcement by an appropriate action against the person or entity found to have violated this ordinance or the orders, rules, regulations, and permits issued hereunder.

**Subd. 3. Stop Work Order** In the event that any person holding a grading permit pursuant to this ordinance violates the terms of the permit and is found non-compliant with the permit or implements site development construction practices in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of Cloquet may suspend or revoke the grading permit. The City shall notify the owner in writing with a notice of violation of the approved Grading Permit to remove such conditions or remedy such defects. Such notice shall require the owner to remove or abate said violations within forty-eight (48) hours of notification.

**Subd. 4. Civil Penalties** In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the City of Cloquet shall deem appropriate, after the City of Cloquet has taken one or more of the actions described above, the City of Cloquet may impose a penalty not to exceed \$ 1,000.00 (depending on the severity of the violation) for each day the violation remains un-remedied after receipt of the notice of violation.

**Subd. 5. Criminal Penalties** Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine up to a maximum amount for a misdemeanor offense as established under Minnesota Statutes.

**Subd. 6. Appeal of Notice of Violation** Any person receiving a Notice of Violation may appeal the determination of the City of Cloquet. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation, except in the instance where a Stop Work Order is issued as described in Section 18.8.01, then the notice of appeal must be received within two (2) days from the date of the Stop Work Order Hearing on the appeal before the appropriate authority or his/her designee shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

**Subd. 7. Enforcement Measures After Appeal** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within two (2) days of the decision of the municipal authority upholding the decision of the City of Cloquet, then representatives of the City of Cloquet shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**Subd. 8. Cost of Abatement** of the Violation Within forty-five (45) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within thirty (30) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the City of Cloquet by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of eight

(8) percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

**Subd. 9 Violations Deemed a Public Nuisance** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Subd. 10. Remedies Not Exclusive** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Cloquet to seek cumulative remedies. The City of Cloquet may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**Section 18.6: Abrogation and Greater Restrictions**

**18.6.01. 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.

**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.