



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

<input type="checkbox"/> INFORMATION ONLY <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> P&F COMMITTEE <input type="checkbox"/> SPW COMMITTEE <input type="checkbox"/> MAIN AGENDA	Action Requested: <input type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft) *provide copy of published hearing notice <input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <input type="checkbox"/> Ordinance 1 st Reading
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: Is there a cost associated with this request: <input type="checkbox"/> Yes <input type="checkbox"/> No What is the total cost, with tax and shipping \$ _____ Is this budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No <u>Please Explain:</u>	



MEMO

TO: Brainerd Safety and Public Works Committee

FROM: City Engineer/Public Works Director Sandy

DATE: April 25, 2022

SUBJECT: Section 725 Brainerd City Code Content Review

City staff have been working with its consultant, HRGreen, on an update to the City's stormwater management program since 2020. The process of updating the program came as the city's Municipal Separate Storm Sewer System (MS4) permit was due to expire and needed renewal. Our permit has been renewed with the MPCA, and the City of Brainerd has one year from the renewal date to complete its stormwater program to follow the new permit requirements. One of these requirements is to ensure out regulatory mechanism (ordinances or code) meet the intent of the permit requirements.

Section 430, 720, and 725 of Brainerd City Code deal with construction stormwater management, post construction stormwater management, and illicit discharge and detection, respectively. For the purposes of this ordinance revision, sections 720 and 725 are being considered deleted in their entirety, with the new draft ordinance seen attached to this memo inserted in its place. Section 430 will remain a part of the code, as it deals specifically with erosion and sediment control measures during construction, while the intent of the new version of Sections 720 and 725 deal specifically with performance requirements for post construction stormwater infrastructure, illicit discharge detection and reporting, and stormwater management/stormwater pollution and prevention plans.

This memo will briefly summarize the information contained in the ordinance. The information in the ordinance does become quite technical in nature, but it is staff's hope with this memo that it gives a broad overview of the content in the ordinance.

Section 725.01 and 725.02 – Purpose, Authorization, Findings, Scope, and Interpretation

This section of the ordinance hones on the purpose and need of an ordinance such as this and references the city's environmental priorities and its authorization and statutory authority/requirements to implement stormwater management ordinances within municipal boundaries for protection of natural resources as well as protecting life and property from dangers associated with improper stormwater management.

Section 725.03 – Definitions

This section outlines all the definitions and may be referenced at any point that a reader may have questions about meaning or interpretation.

Section 725.04 – Land Disturbance Activities Subject to a Stormwater Management Plan

There are two basic plans that are referenced in this ordinance, and each plan pertains to the amount of disturbed area in a development of any sort. A listing of each plan is below and explained further in this memo:

Stormwater Management Plan

- Land disturbance activities greater than **5,000 square feet in area and less than an acre**.
- Involves excavation or filling of materials more than 50 cubic yards.
- Involves repairing replacing or enlarging of underground utilities or the disturbance of a road ditch or grass swale of 300 feet or more.
- Any other land disturbance that may cause an adverse impact on natural resources.

Stormwater management plans are intended to catch those projects that are not big enough to trigger the MPCA NPDES Stormwater General Construction Permit but are large enough to have an adverse impact on stormwater quality. This section gets into the requirements of such a plan, and what the city would expect to have as part of their plan and permitting process to be approved by Engineering Staff. It also covers how and when the city will inspect sites to ensure compliance with the stormwater plan requirements.

Section 725.05 – Land Disturbance Activities Subject to the MPCA NPDES Stormwater General Construction Permit

This section covers when a project falls under the NPDES Stormwater General Permit. As part of the permit, applicants to the MPCA need to include a SWPPP (Stormwater Pollution and Prevention Plan), in which the contents of the plan are listed in the permit and administered by the MPCA.

SWPPP (Stormwater Pollution and Prevention Plan)

- Any activity that may ultimately result in the disturbance **of one or more acres of land**, including small individual sites that are a part of a common plan of development and may be constructed at different times.
- Land development activity involving greater than 10,000 square feet of land disturbance or 50 cubic yards that discharges to a special or impaired water.
- A subdivision plat.
- Construction of any new public or private road.
- Any land development activity, regardless of size, that the community determines is likely to cause an adverse impact to an environmentally sensitive area or other property.

This section of the ordinance covers plan requirements and minimum control measures, inspections, and other performance criteria, all of which are listed in the permit in which an applicant would submit to the MPCA. While this is an MPCA administered permit, the city still has a responsibility through its MS4 program to ensure the permittee is following the SWPPP, performing necessary inspections, and updating the SWPPP with changes that may occur during a project duration.

Section 725.06 – Stormwater Performance Standards

This section of the ordinance covers what performance standards need to be met for new developments and redevelopment projects within the city. Performance standards are sets of criteria that drive sizing of different Best Management Practices (BMPs) and other stormwater design features that may be implemented in a project design. This city must adopt these standards to ensure that it meets the criteria of its MS4 permit with the MPCA. This new ordinance focuses on better site design such as open space protection, reduction of impervious surface, and runoff minimization rather than the old ordinance which focused primarily on on-site stormwater retention and post construction run-off rates. It also gives applicants and permittees general guidance on considerations that should be made in a stormwater plan design including treatment prioritization (infiltration first, filtration second, sedimentation third, and rate control 4th) and provides a prioritized list of control measures that they may implement when creating a stormwater management plan. This section is the meat and potatoes of the ordinance, and the section that controls how sites are to be designed from a stormwater standpoint and what priorities are in place as a city for different BMPs.

Section 725.07 – Application Review

This section of the ordinance speaks to how the city will receive applications, look for completeness, authorize or deny permits, request modifications, and final out/complete permits once construction is completed.

Section 725.08 – Financial Security for Projects Subject to Development Agreements

This section of the ordinance speaks to financial securities for those projects that are a part of an agreement between the city and developer. This security, provided in a cash and bond format, will help to assist the city in restoration of a property if the proposed development falls through and is left for the city to complete. This type of section allows the city to take action against a financial security for abandonment, failure to implement SWPPP or stormwater management plan, failure to perform, or failure to reimburse the community.

Section 725.09 – Stormwater Facility Inspection, Maintenance Agreement, and Permit Transfers

This section of the ordinance speaks to facility inspections performed by either the city, or in cases of private stormwater infrastructure, by the owner. It also speaks to the right of the city to perform stormwater inspections on private infrastructure to look for compliance with the maintenance plan.

The city will be working on a standard stormwater facility maintenance agreement for private ponds in which required a maintenance plan from the private party, facility access to the city, and inspection access when requested by city personnel.

This section also speaks to transferring ownership or possession of a stormwater facility and how it impacts liability of the successor in certain instances.

Section 725.10 – Enforcement

This section of the ordinance speaks to enforcement actions that the city may take on permittees and gives a progression of disciplinary actions that the city will take when a violation of a stormwater management plan, a SWPPP, etc. occur.

Section 725.11 – Right of Entry and Inspection

This section of the ordinance allows the city right of entry and inspection privileges on private stormwater infrastructure.

Section 725.12 – Illicit Discharge Prohibition

This section of Section 725 is meant to replace the entirety of Section 720 in our current ordinances. This section of the code would prohibit illicit discharges into the storm sewer system. This section also speaks to suspension of storm sewer access based on detection of illicit discharges. It also gives the city authority to inspect facilities and take samples if an illicit discharge is suspected or detected.

Conclusion

This memo is not meant to be all-inclusive but to give a broad perspective of the ordinance revision so that the committee and council may make educated decisions on this ordinance based on what is provided. The content of this new proposed ordinance and the old ordinance really has not changed substantially. Rather, the proposed ordinance language gets into depth on preferred stormwater designs, preferred best management practices, and more minimal stormwater designs to achieve the same outcome. Much of the performance standards from the old ordinance were incorporated into the new ordinance. Staff will be available at the meeting to discuss any questions or concerns or provide further explanations on the content.

1 **SECTION 725 - STORMWATER MANAGEMENT**

2 SECTION:

3 725.01: PURPOSE

4 725.02: AUTHORIZATION, FINDINGS, PURPOSE, SCOPE, AND INTERPRETATION

5 725.03: DEFINITIONS

6 725.04: LAND DISTURBANCE ACTIVITIES SUBJECT TO A STORMWATER MANAGEMENT PLAN

7 725.05: LAND DISTURBANCE ACTIVITIES SUBJECT TO THE NPDES STORMWATER GENERAL
8 CONSTRUCTION PERMIT

9 725.06: STORMWATER DESIGN PERFORMANCE STANDARDS

10 725.07: APPLICATION REVIEW

11 725.08: FINANCIAL SECURITY FOR PROJECTS SUBJECT TO A DEVELOPMENT AGREEMENT

12 725.09: STORMWATER FACILITIES INSPECTION, MAINTENANCE AGREEMENT AND PERMIT
13 TRANSFER

14 725.10: ENFORCEMENT

15 725.11: RIGHT OF ENTRY AND INSPECTION

16 725.12: ILLICIT DISCHARGE PROHIBITION

17 Section 725 – Stormwater Management

18 725.01: PURPOSE:

19 The purpose of this chapter is to:

- 20 A. Control or eliminate stormwater pollution along with soil erosion and sedimentation within the
21 City of Brainerd, MN (City).
- 22 B. Limit surface runoff volumes and reduce pollutant loading.
- 23 C. Establish surface water management requirements to protect and safeguard the general health,
24 safety and welfare of the public. It establishes standards and specifications for conservation
25 practices and planning activities, which minimize stormwater pollution, soil erosion, and
26 sedimentation.
 - 27 1. This chapter establishes a City of Brainerd Stormwater Management Plan, which requires the
28 applicant to develop a plan and implement Best Management Practices (BMPs), which shall
29 be calculated to prevent stormwater pollution from the beginning of site activity to final
30 stabilization.
 - 31 2. This chapter's plan review process and requirements will include post-construction
32 management. It requires the permit applicant to plan for, implement, and maintain all new
33 development and redevelopment post-construction stormwater management activities.
- 34 D. Reserve the right for the City to impose any and all additional requirements deemed necessary to
35 control the volume, timing, and rate of runoff of hydrologic or topographic conditions that
36 warrant greater control than that provided by the minimum control requirements.
- 37 E. Require all site designs establish stormwater management practices to control the peak flow rates
38 of stormwater discharge associated with specified design storms and reduce the generation of
39 stormwater thereby utilizing pervious areas for stormwater treatment and infiltrating stormwater
40 runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas.
- 41 F. Require that all stormwater runoff generated from new development shall not discharge
42 untreated stormwater directly into a jurisdictional wetland or local water body without adequate
43 treatment.
- 44 G. Prohibit illicit connections and discharge to the Municipal separate storm sewer system (MS4).
- 45 H. Establish the legal authority to carry out all inspections, surveillance, monitoring and correction
46 measures necessary to ensure compliance with this chapter.

47 725.02: AUTHORIZATION, FINDINGS, PURPOSE, SCOPE, AND INTERPRETATION

48 A. Statutory authorization

- 49 1. This ordinance is adopted pursuant to the authorization and policies contained in Minnesota
50 Statutes Chapters 103B and, 462; Minnesota Rules, Parts 6120.2500- 6120.3900; and
51 Minnesota Rules Chapters 8410 and 8420.

52 2. This ordinance is intended to meet the current construction site erosion and sediment control
53 and post-construction stormwater management regulatory requirements for construction
54 activity and small construction activity (NPDES Permit) as defined in 40 CFR pt.
55 122.26(b)(14)(x) and (b)(15), respectively.

56 3. This ordinance is intended to meet the Minimal Impact Design Standards (MIDS) developed
57 under Minnesota Statutes 2009, section 115.03, subdivision 5c.

58 B. Findings

59 The City of Brainerd finds that uncontrolled stormwater runoff and construction site erosion from
60 land development and land disturbing activity can have significant adverse impacts upon local
61 and regional water resources diminishing the quality of public health, safety, public and private
62 property and natural resources of the community. Specifically, uncontrolled soil erosion and
63 stormwater runoff can:

64 1. Threaten public health, safety, property and general welfare by increasing runoff volumes and
65 peak flood flows and overburdening storm sewers, drainage ways and other storm drainage
66 systems.

67 2. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water
68 supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy
69 metals, toxics, debris, bacteria, pathogens, biological impairments, thermal stress and other
70 pollutants.

71 3. Degrade physical stream/river habitat by increasing bank erosion, increasing stream bed
72 scour, diminishing groundwater recharge, diminishing stream base flows and increasing
73 stream temperatures.

74 4. Undermine floodplain management efforts by increasing the incidence and levels of flooding.

75 5. Alter wetland communities by changing wetland hydrology and increasing pollutant loads.

76 6. Impact groundwater by reducing recharge and increasing potential pollutant loading.

77 C. Purpose

78 The general purpose of this guidance is to establish an ordinance with regulatory requirements
79 for land development and land disturbing activities aimed at minimizing the threats to public
80 health, safety, public and private property and natural resources within the community from
81 construction site erosion and post-construction stormwater runoff.

82 Specific purposes are to establish performance goals that will:

83 1. Meet MIDS performance goals.

84 2. Assist in meeting NPDES/SDS Municipal Separate Storm Sewer System (MS4) and
85 Construction Stormwater General Permit requirements.

- 86 3. Assist in meeting Total Maximum Daily Load (TMDL) plan wasteload allocations for impaired
87 waters through quantification of load reductions.
- 88 4. Protect life and property from dangers associated with flooding.
- 89 5. Protect public and private property and natural resources from damage resulting from
90 stormwater runoff and erosion.
- 91 6. Ensure the annual stormwater runoff rates and volumes from post development site
92 conditions mimic and/or reduce the annual runoff rates and volumes from predevelopment
93 site conditions.
- 94 7. Ensure site design minimizes the generation of stormwater and maximizes pervious areas for
95 stormwater treatment.
- 96 8. Provide a single, consistent set of performance goals that apply to all developments.
- 97 9. Protect water quality from pollutant loadings of sediment, suspended solids, nutrients, heavy
98 metals, toxics, debris, bacteria, pathogens, biological impairments, thermal stress and other
99 pollutants.
- 100 10. Promote infiltration and groundwater recharge.
- 101 11. Provide vegetated corridors (buffers) to protect water resources from development.
- 102 12. Protect functional values of all types of natural waterbodies (e.g., rivers, streams, wetlands,
103 lakes, seasonal ponds).
- 104 13. Sustain or enhance biodiversity (native plant and animal habitat) and support riparian
105 ecosystems.
- 106 D. Scope
- 107 Land shall not be developed for any use without having provided stormwater management
108 measures and erosion and sediment control measures that control or manage stormwater runoff
109 from such developments.
- 110 E. Greater restrictions
- 111 Relationship to Existing Easements, Covenants, and Deed Restrictions – The provisions of this
112 ordinance are not intended to repeal, abrogate, or impair any existing easements, covenants, or
113 deed restrictions. However, where this ordinance imposes greater restrictions the provisions of
114 this ordinance shall prevail.
- 115 F. Severability
- 116 The provisions of this ordinance are severable, and if any provision of this ordinance, or
117 application of any provision of this ordinance to any circumstance, is held invalid, the application
118 of such provision to other circumstances, and the remainder of this ordinance must not be
119 affected thereby.

120 725.03: DEFINITIONS:

121 APPLICANT: Any person or group that applies for a building permit, subdivision approval, or a permit to
122 allow land disturbing activities. Applicant also means that person's agents, employees, and others acting
123 under this person's or group's direction. The term "applicant" also refers to the permit holder or holders
124 and the permit holder's agents, employees, and others acting under this person's or group's direction.

125 BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, general good
126 housekeeping practices, pollutions prevention and educational practices, maintenance procedures,
127 erosion and sediment control and water quality management practices that are the most effective and
128 practicable means of controlling, preventing, and minimizing degradation of surface water, stormwater,
129 or stormwater conveyance systems.

130 Erosion and sediment control BMPs include avoidance of impacts, construction-phasing, minimizing the
131 length of time soil areas are exposed, prohibitions, and other management practices published by State
132 or designated area- wide planning agencies. BMPs shall be as set forth in the current version of Minnesota
133 Stormwater Manual, Minnesota Pollution Control Agency, 2006, as amended, unless a custom plan is
134 specifically authorized by the City.

135 BETTER SITE DESIGN: The control and management of stormwater quantity and quality through the
136 application of Better Site Design Techniques as outlined in the current version of the Minnesota
137 Stormwater Manual. Better Site Design includes: preservation of natural areas; site reforestation; stream
138 and shoreland buffers; open space design; disconnection of impervious cover; rooftop disconnection;
139 grass channels; stormwater landscaping; compost and amended soils; impervious surface reduction; and
140 trout stream protection.

141 BMP(s): Stormwater best management practices.

142 BUFFER: A regulated area where scrutiny will be exercised over activities near wetlands and water bodies
143 and a non-disturbance area where natural vegetation must be maintained.

144 COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct land
145 disturbing activities may be taking place at different times, or on different schedules, but under one
146 proposed plan. This item is broadly defined to include design, permit application, advertisement or
147 physical demarcation indicating that land disturbing activities may occur.

148 CONSTRUCTION ACTIVITY: Includes construction activity as defined in 40 CFR pt. 122.26(b)(14)(x) and
149 small construction activity as defined in 40 CFR pt. 122.26(b)(15) and construction activity as defined by
150 Minn. R. 709.0080, subp. 4. This includes a disturbance to the land that results in a change in the
151 topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that
152 may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into
153 surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling,
154 and excavating. Construction activity includes the disturbance of less than one acre of total land area that
155 is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb
156 one (1) acre or more. Construction activity does not include a disturbance to the land of less than five (5)

157 acres for the purpose of routine maintenance that is performed to maintain the original line and grade,
158 hydraulic capacity, or original purpose of the facility.

159 CONSTRUCTION STORMWATER GENERAL PERMIT (CSW): This permit regulates discharges associated with
160 stormwater affected by construction activity to waters of the state of Minnesota. This permit is issued in
161 compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et seq.), 40 Code of
162 Federal Regulations (CFR) 122, 123, 124, and 450 as amended; Minnesota Statute chapters 115 and 116,
163 as amended, and Minn. R. chs. 7001, 7050, 7060 and 7090. Minn. R. 7090.2040 requires owner(s) of a
164 construction activity to complete a Stormwater Pollution Prevention Plan (SWPPP) prior to submitting an
165 application for this permit and prior to conducting any construction activity. No person shall commence
166 construction activity covered by Part I.A. of the CSW until permit coverage under this permit is effective
167 or, if applicable, until the Minnesota Pollution Control Agency (MPCA) has issued an individual National
168 Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater
169 (CSW) Permit for the project.

170 DEVELOPER: Any person, group, firm, corporation, sole proprietorship, partnership, State agency, or
171 political subdivision thereof engaged in a land disturbance activity.

172 DEVELOPMENT: Any land disturbance activity that changes the site's runoff characteristics in conjunction
173 with residential, commercial, industrial or institutional construction or alteration.

174 DEVELOPMENT, NEW: Any development that results in the conversion of land that is currently prairie,
175 agriculture, forest, or meadow and has less than 15% impervious surface. Land that was previously
176 developed, but now razed and vacant, will not be considered new development.

177 DEWATERING: The removal of water for construction activity. It can be a discharge of appropriated surface
178 or groundwater to dry and/or solidify a construction site. It may require Minnesota Department of Natural
179 Resources permits to be appropriated and if contaminated may require other Minnesota Pollution Control
180 Agency (MPCA) permit to be discharged.

181 DISCHARGE: The release, conveyance, channeling, runoff, or drainage, of stormwater, including
182 snowmelt, from a construction site.

183 ENERGY DISSIPATION: This refers to methods employed at pipe outlets to prevent erosion. Examples
184 include, but are not limited to: aprons, riprap, splash pads, and gabions that are designed to prevent
185 erosion.

186 EROSION: Any process that wears away the surface of the land by the action of water, wind, ice, or gravity.
187 Erosion can be accelerated by the activities of people and nature.

188 EROSION CONTROL/PREVENTION: Refers to methods employed to prevent erosion. Examples include soil
189 stabilization practices, horizontal slope grading, temporary, or permanent cover, and construction
190 phasing.

191 EXPOSED SOIL AREAS: All areas of the construction site where the vegetation (trees, shrubs, brush,
192 grasses, etc.) or impervious surface has been disturbed or removed thus rendering the soil more prone to
193 erosion. This includes topsoil stockpile areas; borrow areas, and disposal areas, within the construction

194 site. It does not include stockpiles or surcharge areas of gravel, concrete or bituminous. Once soil is
195 exposed it is considered "exposed soil", until it meets the definition of "final stabilization".

196 FILL: Means any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced,
197 pushed, dumped, pulled, transported, or moved to a new location and shall include the resulting
198 conditions.

199 FILTER STRIPS: A vegetated section of land designed to treat runoff as overland sheet flow. Their dense
200 vegetated cover facilitates pollutant removal and infiltration. The design of vegetated filter strips shall
201 follow the criteria and guidance set forth in the Minnesota Stormwater Manual.

202 FINAL STABILIZATION: Means that all soil disturbing activities at the site have been completed, and that a
203 uniform perennial vegetative cover with a density of seventy percent (70%) of the native background
204 vegetative cover for unpaved areas and areas not covered by permanent structures has been established,
205 or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not
206 considered final stabilization. (Examples of vegetative cover practices can be found in the current version
207 of the Minnesota Department of Transportation's publication, "Supplemental Specifications to the
208 Standard Specifications for Construction").

209 GENERAL CONTRACTOR: means the party who signs the construction contract with the owner or operator
210 to construct the project described in the final plans and specifications. Where the construction project
211 involves more than one contractor, the general contractor could be the party responsible for managing
212 the project on behalf of the owner or operator. In some cases, the owner or operator may be the general
213 contractor. In these cases, the owner may contract an individual as the operator who would become the
214 co-permittee.

215 GREEN INFRASTRUCTURE: means a wide array of practices at multiple scales that manage wet weather
216 and that maintains or restores natural hydrology by infiltrating, evapotranspiring, or harvesting and using
217 stormwater. On a regional scale, green infrastructure is the preservation or restoration of natural
218 landscape features, such as forests, floodplains and wetlands, couples with policies such as infill and
219 redevelopment that reduce overall imperviousness in a watershed. On a local scale, green infrastructure
220 consists of site and neighborhood-specific practices, such as bioretention, trees, green roofs, and
221 permeable pavements.

222 GROUNDWATER: Means water contained below the surface of the earth in the saturated zone including,
223 without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface
224 unconsolidated sediment or regolith, or in rock formations deeper underground.

225 HAZARDOUS MATERIAL: Any material, including any substance, waste, or combination thereof, which
226 because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or
227 significantly contribute to, a substantial present or potential hazard to human health, safety, property, or
228 the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

229 HYDRIC SOILS: Soils that are saturated, flooded, or ponded long enough during the growing season to
230 develop anaerobic conditions in the upper part.

231 HYDROPHYTIC VEGETATION: Macrophytic (large enough to be observed by the naked eye) plant life
232 growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of
233 excessive water content.

234 ILLEGAL DISCHARGE: Any direct or indirect non-stormwater discharge to the storm drain system, except
235 as exempted in this chapter.

236 ILLICIT CONNECTION: An illicit connection is defined as either of the following:

237 A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge
238 to enter the storm drain system including but not limited to any conveyances which allow any
239 non- stormwater discharge including sewage, process wastewater, and wash water to enter the
240 storm drain system and any connections to the storm drain system from indoor drains and sinks,
241 regardless of whether said drain or connection had been previously allowed, permitted, or
242 approved by a government agency.

243 B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain
244 system which has not been documented in plans, maps, or equivalent records and approved by
245 the City.

246 IMPERVIOUS SURFACE: A constructed hard surface that either prevents or retards the entry of water into
247 the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than
248 existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots,
249 storage areas, and concrete, asphalt, or gravel roads.

250 INDUSTRIAL ACTIVITY: Activities subject to NPDES industrial permits as defined in 40 CFR, section
251 122.26(b)(14).

252 LAND DISTURBANCE ACTIVITY: Any land change that may result in soil erosion from water or wind and the
253 movement of sediments into or upon waters or lands within this government's jurisdiction, including, but
254 not limited to: development, redevelopment, demolition, construction, reconstruction, clearing and
255 grubbing, grading, filling, stockpiling, excavation, and borrow pits.

256 LAND LOCKED BASIN: Defined as a low area such as a lake, pond, or wetland entirely surrounded by land
257 with no regularly active outlet channel.

258 LINEAR PROJECT: means construction or reconstruction of roads, trails, sidewalks, and rail lines that are
259 not part of a common plan of development or sale. Mill, overlay, and other resurfacing projects are not
260 considered to be reconstruction.

261 MINNESOTA STORMWATER MANUAL: A guidebook authored and periodically updated by the Minnesota
262 Pollution Control Agency which provides practical stormwater management practices that are reviewed
263 and edited regularly.

264 MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4): A conveyance or system of conveyances (including
265 roads with drainage systems, municipal streets, catch basins, storm drains, curbs, gutters, ditches, man-
266 made channels, stormwater ponds, and sometimes waters of the State) that are:

267 A. Owned or operated by a jurisdiction, public body, institution, or a designated and approved
268 management agency that discharges to surface waters of the State.

269 B. Designed or used for collecting or conveying stormwater.

270 C. Not a combined sewer.

271 D. Not a part of a publicly owned treatment works.

272 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT: General, group, and
273 individual permits which regulate facilities defined in Federal NPDES regulations pursuant to the Clean
274 Water Act. The Minnesota MPCA has adopted general permits, including but not limited to the general
275 construction activity, general industrial activity, MS4 and wastewater permits. The program for issuing,
276 modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act
277 (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317,
278 1328, 1342, and 1345.

279 NATIVE VEGETATION: The pre-settlement (already existing in Minnesota at the time of Statehood in 1858)
280 group of plant species native to the local region, that were not introduced as a result of European
281 settlement or subsequent human introduction.

282 NON-STORMWATER DISCHARGE: Any discharge to the storm drain system that is not composed entirely
283 of stormwater.

284 NORMAL WETTED PERIMETER: means the area of a conveyance, such as a ditch, channel, or pipe that is
285 in contact with water during flow events that are expected to occur from a two-year 24-hour storm event.

286 OPERATOR: Means the person designated by the owner, who has day to day operational control and/or
287 the ability to modify project plans and specifications related to the SWPPP. The operator must be named
288 on the permit as the Permittee.

289 ORDINARY HIGH-WATER MARK: The boundary of public waters and wetlands and shall be an elevation
290 delineating the highest water level which has been maintained for a sufficient period of time to leave
291 evidence upon the landscape, commonly that point where the natural vegetation changes from
292 predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the
293 elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high-water level
294 is the operating elevation of the normal summer pool.

295 OWNER: Means the person or party possessing the title of the land on which the construction activities
296 will occur; or if the construction activity is for a lease, easement, or mineral rights license holder, the party
297 or individual identified as the lease, easement or mineral rights license holder; or the contracting
298 government agency responsible for the construction activity.

299 PAVED SURFACE: A constructed hard, smooth surface made of asphalt, concrete or other pavement
300 material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots.

301 PERMANENT COVER: Means surface types that will prevent soil failure under erosive conditions. Examples
302 include asphalt, concrete, rip rap, roof tops, perennial cover, or other landscaped material that will

303 permanently arrest soil erosion. A uniform perennial vegetative cover (e.g., evenly distributed, without
304 large bare areas) with a density of 70% of the native background vegetative cover for the area must be
305 established on all unpaved areas and areas not covered by permanent structures, or equivalent
306 permanent stabilization measures. Permanent cover does not include the practices listed under
307 temporary erosion protection. See FINAL STABILIZATION.

308 PERMIT: Within the context of this chapter a "permit" is a written warrant or license granted for
309 construction, subdivision approval, or to allow land disturbing activities.

310 PERMITTEE: Means a person or persons, firm, or governmental agency or other entity that signs the
311 application submitted to the MPCA and is responsible for compliance with the terms and conditions of
312 the construction permit.

313 PHASED PROJECT OR DEVELOPMENT: Clearing a parcel of land in distinct phases, with at least fifty percent
314 (50%) of the project's preceding phase meeting the definition of "final stabilization" and the remainder
315 proceeding toward completion, before beginning the next phase of clearing.

316 POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not
317 limited to: paints, varnishes, and solvents; oil and other automotive fluids; non- hazardous liquid and solid
318 wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles,
319 and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides,
320 and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and
321 particulate metals; animal wastes; wastes and residues that result from constructing a building or
322 structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive
323 matter of any kind.

324 PROHIBITED DISCHARGE: Any substance which, when discharged has potential to or does any of the
325 following: a) interferes with State designated water uses; b) obstructs or causes damage to waters of the
326 State; c) changes water color, odor, or usability as a drinking water source through causes not attributable
327 to natural stream processes affecting surface water or subsurface processes affecting groundwater; d)
328 adds an unnatural surface film on the water; e) adversely changes other chemical, biological, thermal, or
329 physical condition, in any surface water or stream channel; f) degrades the quality of groundwater; or g)
330 harms human life, aquatic life, or terrestrial plant and wildlife. This includes but is not limited to dredged
331 soil, solid waste, incinerator residue, garbage, wastewater sludge, chemical waste, biological materials,
332 radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substance, pesticide,
333 herbicide, trace metal, automotive fluid, petroleum- based substance, and oxygen-demanding material.

334 PUBLIC WATERS: means all water basins and watercourses that are described in Minn. Stat. 103G.005
335 subd. 15.

336 RECHARGE: Means the replenishment of groundwater reserves.

337 REDEVELOPMENT: Means any construction, alteration or improvement of one acre or greater in areas
338 where existing land use is already in a developed condition (i.e., any development that is not considered
339 new development).

340 RETAIN: Means manage stormwater on site using a low-impact development approach so that the rate
341 and volume of predevelopment stormwater reaching receiving waters is unchanged.

342 SATURATED SOIL: The highest seasonal elevation in the soil that is in a reduced chemical state because of
343 soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features
344 or other information.

345 SEDIMENT: The product of an erosion process; solid material both mineral and organic, that is in
346 suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest on the
347 earth's surface either above or below water level.

348 SEDIMENT CONTROL: The methods employed to prevent sediment from leaving the development site.
349 Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams,
350 subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent
351 sedimentation basins.

352 SITE: Means the bounded area defined in an SWPPP including individual parcels of the larger plan's
353 defined area.

354 SMALL CONSTRUCTION ACTIVITY: Means small construction activity as defined in 40 CFR part
355 122.26(b)(15). Small construction activities include clearing, grading and excavating that result in land
356 disturbance of equal to or greater than one acre and less than five acres. Small construction activity
357 includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan
358 of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1)
359 and less than five (5) acres.

360 SOIL: The unconsolidated mineral and organic material on the immediate surface of the earth. For the
361 purposes of this chapter, stockpiles of gravel, aggregate, concrete, or bituminous materials are not
362 considered "soil" stockpiles.

363 STABILIZED: The exposed ground surface after it has been covered mulch, staked sod, riprap, erosion
364 control blanket, mats or other material that prevents erosion from occurring. Grass, agricultural crop or
365 other seeding alone is not stabilization. Mulch materials must achieve approximately 90 percent ground
366 coverage (typically 2 ton/acre). Simply sowing grass seed is not considered stabilization.

367 STANDARD PLATES: Means general drawings showing a common or repeated construction activity or
368 practice.

369 STEEP SLOPE: Any slope steeper than twelve percent (12%) (12 feet of rise for every 100 feet horizontal
370 run).

371 STOP WORK ORDER: An order issued which requires that all construction activity not necessary to correct
372 the noncompliance on a site to cease immediately until compliance is achieved and approved by the City.

373 STORM DRAIN SYSTEM: The City-owned facilities by which stormwater is collected or conveyed, including,
374 but not limited to, any roads with drainage systems, Municipal streets, gutters, curbs, inlets, piped storm

375 drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage
376 channels, reservoirs, and other drainage structures.

377 STORMWATER: Under Minn. R. 7077.0105, subp. 41(b) stormwater means precipitation runoff,
378 stormwater runoff, snow melt runoff, and any other surface runoff and drainage.

379 STORMWATER MANAGEMENT PLAN: A joint stormwater, sediment, and erosion control planning
380 document that when implemented will decrease soil erosion on a parcel of land and offsite non-point
381 pollution, it involves both temporary and permanent BMPs. The plan details site conditions, proposed
382 grading, and Best Management Practices designed to minimize soil erosion and control sediment.

383 STORMWATER POLLUTION PREVENTION PLAN (SWPPP): A SWPPP is a plan that describes the strategies
384 and steps that will be taken to prevent nonpoint source pollution discharging from a construction site. It
385 includes a plan for stormwater discharge that includes Best Management Practices consisting of erosion
386 prevention measures and sediment controls. The erosion prevention measures contained in the plan shall
387 consist of temporary and permanent measures to stabilize exposed soil.

388 STRUCTURE: Anything manufactured, constructed or erected which is normally attached to or positioned
389 on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

390 SUBDIVISION: Any tract of land divided into building lots for private, public, commercial, industrial, etc.,
391 development.

392 SURFACE WATER(S): All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage
393 systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private,
394 except that surface waters do not include treatment basins or ponds that were constructed from upland.

395 TEMPORARY EROSION PROTECTION: Methods employed to temporarily prevent erosion during
396 construction activities. Examples of temporary cover include straw, wood fiber blanket, wood chips, and
397 erosion netting.

398 VEGETATED OR GRASSY SWALE: A vegetated earthen channel that conveys stormwater, while treating the
399 stormwater by biofiltration. Such swales remove pollutants by both filtration and infiltration.

400 WATERS OF THE STATE: Surface watercourses and water bodies as defined by the State of Minnesota (as
401 defined in Minn. Stat. § 115.01, subd. 22): all streams, lakes, ponds, marshes, watercourses, waterways,
402 wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or
403 accumulations of water, surface or groundwater, natural or artificial, public or private, which are
404 contained within, flow through, or border upon the state or any portion thereof.

405 WET SEDIMENTATION BASIN: Depressions constructed by excavation and embankment procedures to
406 store excess runoff temporarily on a site. After a runoff event, overflow from the pond is released at a
407 controlled rate by an outlet device designed to release flows at various peak rates and elevations until the
408 design elevation of the pool is reached. Wet detention facilities maintain a permanent pool of water
409 between storm events. Wet detention facilities are located to collect stormwater inflows from adjacent
410 drainage areas and are usually designed to control peak discharges from relatively large design storms.

411 WETLANDS: As defined in Minn. R. 7050.0130, subp. F, "wetlands" are those areas that are inundated or
412 saturated by surface water or groundwater at a frequency and duration sufficient to support, and that
413 under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated
414 soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed
415 wetlands designed for wastewater treatment are not waters of the State. Wetlands must have the
416 following attributes:

- 417 A. A predominance of hydric soils.
- 418 B. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient
419 to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil
420 condition-
- 421 C. Under normal circumstances support a prevalence of such vegetation. (Ord. 2017-012, 11-21-
422 2017).

423 725.04: LAND DISTURBANCE ACTIVITIES SUBJECT TO A STORMWATER MANAGEMENT PLAN:

- 424 A. Applicability: Unless expressly exempted, a Stormwater Management Plan (Stormwater
425 Management Plan) shall be required for any land disturbance within the City of Brainerd that
426 meets the following criteria:
 - 427 1. Land disturbance activities involving greater than 5,000 square feet and less than an acre, or
428 otherwise required by the City Engineer.
 - 429 2. Involves excavation or filling, or a combination of excavation and filling, in excess of 50 cubic
430 yards of material.
 - 431 3. Involves the laying, repairing, replacing, or enlarging of an underground utility, pipe or other
432 facility, or the disturbance of road ditch, grass swale or other open channel for a distance of
433 300 feet or more.
 - 434 4. Is a land disturbing activity, regardless of size, that the community determines is likely to
435 cause an adverse impact to an environmentally sensitive area or other property or may violate
436 any other erosion and sediment control standard set forth in this ordinance.
- 437 B. Exempt Land Disturbance Activities: The following activities do not require a Stormwater
438 Management Plan unless the City determines that there is a high risk of soil erosion or water
439 pollution, or that there may be a significant impact on a lake, stream, river, or wetland area:
 - 440 1. Any permit or approval by the City of Brainerd prior to the effective date of this Section;
 - 441 2. Installation of fences, sign, telephone and electric poles and other kinds of posts or poles;
 - 442 3. Waiver of plat, re plat, platting of developed lot or single lot division;
 - 443 4. Construction of single-family home or duplex;
 - 444 5. An addition to an existing building that does not require a conditional use permit;

- 445 6. Construction of a detached accessory building that does not require a conditional use permit
446 7. Improvements involving the enlargement of a building less than five thousand (5,000) square
447 feet
448 8. Land disturbing activities conducted by the City affecting less than one (1) acres.
449 9. Minor land disturbance activities such as home gardens and an individual's home landscaping,
450 repairs, and maintenance work disturbing less than one-half (1/2) acre.
451 10. Construction, installation, and maintenance of fences, signs, posts, poles, and electric,
452 telephone, cable television, utility lines or individual service connections to these utilities,
453 which result in creating under one-half (1/2) acre of exposed soil.
454 11. Tilling, planting and harvesting of agricultural, horticultural, or silvicultural (forestry) crops
455 more than one hundred feet (100') from a public water as defined in Minnesota Statutes
456 103G.005, subd. 15.
457 12. Emergency work to protect life, limb, or property and emergency repairs, unless the land
458 disturbing activity would have otherwise required an approved erosion and sediment control
459 plan, except for the emergency. If such a plan would have been required, then the disturbed
460 land area shall be shaped and stabilized in accordance with the City's requirements as soon
461 as possible; or
462 13. Any construction activity that requires the NPDES Stormwater General Construction Permit
463 (i.e., sites over 1-acre of disturbance).
464 C. Stormwater Management Plan Requirements
465 1. Delineation of the subject property, including all public and private easements thereon; the
466 location of existing and proposed buildings, structures and impervious surfaces on the subject
467 property, including quantities of impervious surface for both pre- and post-
468 construction/activity, and the building bench elevations for all existing and proposed
469 buildings.
470 2. Description of the construction or land disturbing activity to be performed on subject
471 property, including the area and volume of earth material to be moved, and proposed project
472 schedule.
473 3. Identification of all water bodies located on and within 100 feet of the subject property's
474 boundaries, including identification of any off-site receiving waters for the site's runoff,
475 including the structural control elevation (SCE), high water level (HWL), and ordinary high-
476 water level (OHWL) elevations and if an existing water body is intended to be used for water
477 quality treatment, then identification of the dead storage volume and area of the SCE.
478 4. Identification of all wetland buffers as set forth in the wetland protection and management
479 regulations in this Code.

- 480 5. Identification of existing and proposed subwatersheds/site drainage areas, including any
481 contributing runoff from off-site, and show drainage patterns using arrows depicting direction
482 of flow.
- 483 6. Topographical data, including existing (dashed) and proposed (solid) contours at vertical
484 intervals of not more than two feet, except that contour lines shall be no more than 100 feet
485 apart.
- 486 7. Temporary benchmarks shall be established within the boundaries of the project area.
487 Descriptions, reference ties and elevations of the benchmarks shall be furnished to the city.
488 All elevations, topography and vertical control data shall be tied to sea level datum, NAD 83
489 and NGVD 29.
- 490 8. The location and size of all existing and proposed sanitary sewer, storm sewer, water supply,
491 and other utility service facilities.
- 492 D. Inspections: The City will conduct inspections on a regular basis to ensure that the plan is properly
493 installed and maintained. In all cases the inspectors will attempt to work with the builder or
494 developer to maintain proper erosion and sediment control at all sites. In cases where
495 cooperation is withheld, after a verbal and written warning, the City shall issue construction stop
496 work orders, until erosion and sediment control measures meet the requirements of this chapter.
497 An inspection must follow before work can commence.
- 498 Inspections are required as follows:
- 499 1. Before any land disturbing activity begins.
- 500 2. At the time of footing, framing and final inspections.
- 501 3. At the completion of the project.
- 502 4. Prior to the release of any financial securities, if applicable.
- 503 5. Random inspections during the course of the project to ensure compliance with the SWPPP.
- 504 A qualified representative for the owner/operator is responsible for inspecting the site for
505 compliance on a weekly basis and after every storm event greater than 0.5 inch in twenty-four
506 (24) hours. A record of each inspection must be made and kept available on site for review by City
507 inspectors. At all times the applicant shall be responsible for implementing and maintaining the
508 BMPs as provided in the approved SWPPP.
- 509 E. Waiver: The City Council may waive any requirement of this Section upon making a finding that
510 compliance will impose an unnecessary hardship or the project does not have any significant
511 alterations of existing storm water conditions, and the waiver of such requirements will not
512 adversely affect the standards and requirements of this Section. The City Council may require as
513 a condition of the waiver such dedication or construction or agreement to dedicate or construct
514 as may be necessary to adequately meet said standards and requirements. The City Council may
515 require as a condition of the waiver that the applicant make an in kind or monetary contribution

516 to the development and maintenance of community storm water management activities as
517 designated by the City Council.

518 725.05: LAND DISTURBANCE ACTIVITIES SUBJECT TO THE NPDES STORMWATER GENERAL CONSTRUCTION
519 PERMIT

520 A. Applicability: Every owner, prior to engaging in any land disturbing activity of one acre or greater,
521 must complete a Stormwater Construction Plan as well as a stormwater pollution prevention plan
522 (SWPPP) in accordance with the general permit authorization to discharge stormwater associated
523 with construction activity under the National Pollutant Discharge Elimination System/State
524 Disposal System Construction Stormwater General Permit Program (MN R100001) (MPCA permit)
525 and the City criteria outlined below. The SWPPP shall identify Best Management Practices (BMPs)
526 to be used to prevent stormwater pollution. A SWPPP shall be required for any land disturbance
527 within the City of Brainerd that meets the following criteria:

- 528 1. Any land development activity that may ultimately result in the disturbance of one or more
529 acres of land, including smaller individual sites that are part of a common plan of development
530 that may be constructed at different times.
- 531 2. Land development activity involving greater than 10,000 sq. ft of land disturbance or 50 cubic
532 yards of earth movement that discharges to an impaired or special water as described in
533 Appendix A of the NPDES/SDS Construction Stormwater General Permit.
- 534 3. A subdivision plat.
- 535 4. The construction of any new public or private road.
- 536 5. Any land development activity, regardless of size, that the community determines is likely to
537 cause an adverse impact to an environmentally sensitive area or other property.

538 B. SWPPP Plan Requirements

539 The owner and contractor are required to apply for and meet all the conditions of the Minnesota
540 NPDES Construction Stormwater Permit and develop a SWPPP. The SWPPP must, at a minimum,
541 and to the extent applicable, contain the items required by the Permit and shall include a fully
542 completed Application Checklist. The application information must also include permanent
543 treatment information showing the proposed project meets the Minimal Impact Design Standards
544 (MIDS) performance goals. Nevertheless, due to the diversity of sites, each site will be individually
545 evaluated and, where additional information and/or BMPs are needed, they will be specified at
546 the discretion of the City. In addition to the requirements set forth in the Construction Stormwater
547 General Permit, the following criteria must be met.

548 C. Minimum Control Measures: Minimum control measures are required where one acre or greater
549 of bare soil is disturbed or exposed. Construction operations must, at a minimum, comply with
550 any applicable Federal or State permit and stormwater management plan in addition to the
551 following Best Management Practices.

- 552 1. Permit: The owner and contractor are required to apply for and meet the conditions of the
553 Minnesota NPDES construction permit.
- 554 2. Site Erosion and Sediment Control Measures: Erosion and sediment control measures must
555 be properly installed by the applicant before construction activity begins. Such measures may
556 be adjusted during dry weather to accommodate short-term activities, such as those that
557 require the passage of very large vehicles. As soon as this activity is finished or before rainfall,
558 the erosion and sediment control structures must be returned to the original configuration.
- 559 3. Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation
560 basins, grit chambers, sand filters, upflow chambers, hydrocyclones, soil concentrators or
561 other appropriate controls as deemed necessary. Water may not be discharged in a manner
562 that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the
563 receiving channels, or in any wetland.
- 564 4. Waste And Material Disposal: All waste and unused building materials (including garbage,
565 debris, cleaning wastes, wastewater, petroleum-based products, paints, toxic materials, or
566 other hazardous materials) shall be properly disposed of off-site and shall not be allowed to
567 be carried by runoff into a receiving channel, storm sewer system, or wetland.
- 568 5. Tracking Management: Each site shall have roads, access drives and parking areas of sufficient
569 width, length and surfacing to minimize sediment from being tracked onto public or private
570 roadways. Any material deposited by vehicles or other construction equipment onto a public
571 or private road shall be removed (not by flushing) before the end of each working day.
- 572 6. Water Quality Protection: The construction contractor, including the general contractor and
573 all subcontractors, shall be required to control oil and fuel spills and chemical discharges to
574 prevent such spills or discharges from entering any watercourse, sump, sewer system, water
575 body, or wetland.
- 576 7. Concrete Washout Area: All liquids and solid waste generated by concrete washout
577 operations must be contained in a leak-proof containment facility or impermeable liner. A
578 compacted clay liner that does not allow washout liquids to enter groundwater is considered
579 an impermeable liner. A sign must be installed adjacent to each washout facility to inform
580 concrete equipment operators to utilize the proper facilities.
- 581 8. Storm Drain Protection: All storm drain inlets shall be protected during construction with
582 control measures as contained in the SWPPP. These devices shall remain in place until final
583 stabilization of the site. A regular inspection and maintenance plan shall be developed and
584 implemented to assure these devices are operational at all times. Storm drain protection may
585 conform to the protection alternatives pre-approved by City staff and available at City Hall
586 and on the City website.
- 587 9. Soil Stockpiling: All exposed soil areas must be stabilized as soon as possible to limit soil
588 erosion, but in no case later than fourteen (14) days after the construction activity in that

- 589 portion of the site has temporarily or permanently ceased. If the site is within one mile of a
590 special or impaired water, soil areas shall be stabilized within seven (7) days after the
591 construction activity in that portion of the site has temporarily or permanently ceased.
592 Temporary clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles and
593 the constructed base components of roads are exempt from this requirement.
- 594 10. Channeled Runoff: Diversion of channeled runoff around disturbed areas, if practical, or the
595 protection of the channel.
- 596 11. Easements: If a stormwater management plan involves directing some or all of the site's
597 runoff, the applicant or his designated representative shall obtain from adjacent property
598 owners any necessary easements or other property interests concerning the flowing of such
599 water.
- 600 12. Impact On Erosion and Sediment: Schedule the site's activities to lessen the impact on erosion
601 and sediment creation, so as to minimize the amount of exposed soil.
- 602 13. Parking On Bare Lots: Parking on all bare lots is allowed with a conditional use permit. During
603 construction all traffic on and off site shall use designated construction entrances and exits.
- 604 14. Roof Drain Leaders: All newly constructed and reconstructed buildings must route roof drain
605 leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge
606 rate shall be controlled so that no erosion occurs in the pervious areas.
- 607 15. Disturbed Areas Less Than One Acre: For disturbed areas less than one acre, sedimentation
608 basins are encouraged, but not required, unless specifically required by City staff or City
609 Engineer. The applicant shall install erosion and sediment controls at locations directed by the
610 City. Minimum requirements include silt fences, rock check dams, or other equivalent control
611 measures along slopes. Silt fences are required along channel edges to reduce sediment
612 reaching the channel. Silt fences, rock check dams, etc., must be regularly inspected and
613 maintained.
- 614 D. Minimum Protection for Natural Wetlands: Runoff must not be discharged directly into wetlands
615 without appropriate quality and quantity runoff control, as required by this chapter, the MPCA
616 and Minnesota Rules 7050.0186, and 7090.2. Minnesota water quality standards as established
617 by law and rule shall govern and be enforceable by the City.
- 618 E. Inspections: The City will conduct inspections on a regular basis to ensure that the plan is properly
619 installed and maintained. In all cases the inspectors will attempt to work with the builder or
620 developer to maintain proper erosion and sediment control at all sites. In cases where
621 cooperation is withheld, after a verbal and written warning, the City shall issue construction stop
622 work orders, until erosion and sediment control measures meet the requirements of this chapter.
623 An inspection must follow before work can commence. Inspections are required as follows:
- 624 1. Before any land disturbing activity begins.
- 625 2. At the time of footing, framing and final inspections.

- 626 3. At the completion of the project.
- 627 4. Prior to the release of any financial securities, if applicable.
- 628 5. Random inspections during the course of the project to ensure compliance with the SWPPP.
- 629 A qualified representative for the owner/operator is responsible for inspecting the site for
- 630 compliance on a weekly basis and after every storm event greater than 0.5 inch in twenty-four
- 631 (24) hours. A record of each inspection must be made and kept available on site for review by City
- 632 inspectors. At all times the applicant shall be responsible for implementing and maintaining the
- 633 BMPs as provided in the approved SWPPP.

634 725.06: STORMWATER DESIGN PERFORMANCE STANDARDS

635 A. All permanent stormwater management plans must be submitted to the City Engineer prior to the

636 start of construction activity. Designers are expected to follow the requirements of this section to

637 meet the volume control, water quality, and water quantity requirements of the City of Brainerd.

638 Designs should meet the stormwater design standard of this chapter and the City of Brainerd

639 Stormwater Engineering Design Manual. Deviations from the recommended guidance will require

640 detailed written explanation with discretion given by the City. Stormwater facilities included as part

641 of the final design for a permanent development shall be addressed in the design package submitted

642 to the City and shall meet the following criteria for design and performance.

643 B. Cold Climate Issue Needs Engineering

644 All developments that incorporate either or both storage and rate control best management

645 practices shall follow both the City of Brainerd stormwater Engineering Design Manual and the

646 Minnesota stormwater Manual sections related to cold climate impacts on runoff management.

647 Small, green infrastructure best management practices within the right-of-way not part of a

648 development or redevelopment permit may be exempt from this standard subject to City staff

649 review.

650 C. Site Design and MIDS Calculator (or similar)

651 1. Site design process

652 a. Better Site Design

653 Whenever possible, new development projects shall be designed using the Better Site

654 Design Techniques of the current version of the Minnesota Stormwater Manual. Better Site

655 Design involves techniques applied early in the design process to preserve natural areas,

656 reduce impervious cover, distribute runoff and use pervious areas to more effectively treat

657 stormwater runoff. Site design should address open space protection, impervious cover

658 minimization, and runoff distribution and minimization, and runoff utilization through

659 considerations such as:

660 1) Open space protection and restoration

- 661 a) conservation of existing natural areas (upland and wetland)
- 662 b) reforestation
- 663 c) re-establishment of prairies
- 664 d) restoration of wetlands
- 665 e) establishment or protection of stream, shoreline and wetland buffers
- 666 f) re-establishment of native vegetation into the landscape
- 667 2) Reduction of impervious cover
- 668 a) reduce new impervious through redevelopment of existing sites and use of existing
- 669 roadways, trails etc.
- 670 b) minimize street width, parking space size, driveway length, sidewalk width
- 671 c) reduce impervious surface footprint (e.g. two story buildings, parking ramp)
- 672 3) Distribution and minimization of runoff
- 673 a) utilize vegetated areas for stormwater treatment (e.g. parking lot islands,
- 674 vegetated areas along property boundaries, front and rear yards, building
- 675 landscaping)
- 676 b) direct impervious surface runoff to vegetated areas or to designed treatment areas
- 677 (roofs, parking, driveways drain to pervious areas, not directly to storm sewer or
- 678 other conveyances)
- 679 c) encourage infiltration and soil storage of runoff through grass channels, soil
- 680 compost amendment, vegetated swales, raingardens, etc.
- 681 d) plant vegetation that does not require irrigation beyond natural rainfall and runoff
- 682 from the site
- 683 4) Runoff utilization
- 684 a) capture and store runoff for use for irrigation in areas where irrigation is necessary
- 685 b. Stormwater criteria
- 686 The following general criteria shall be incorporated in site design for stormwater runoff to
- 687 protect surface and ground water and other natural resources by maintaining pre-
- 688 development hydrological conditions:
- 689 1) Reduce impacts on water
- 690 2) Protect soils
- 691 3) Preserve vegetation
- 692 4) Decrease runoff volume

- 693 5) Decrease erosion and sedimentation
- 694 6) Decrease flow frequency, duration, and peak runoff rates
- 695 7) Increase infiltration (groundwater recharge)
- 696 8) Maintain existing flow patterns
- 697 9) Reduce peak flows
- 698 10) Store stormwater runoff on-site
- 699 11) Avoid channel erosion
- 700 c. Erosion and sediment control criteria
- 701 The following general criteria shall be incorporated in site design for erosion and sediment
- 702 control and comply with Brainerd City Code 430:
- 703 1) Minimize disturbance of natural soil cover and vegetation
- 704 2) Minimize, in area and duration, exposed soil and unstable soil conditions
- 705 3) Protect receiving water bodies, wetlands and storm sewer inlets
- 706 4) Protect adjacent properties from sediment deposition
- 707 5) Minimize off-site sediment transport on trucks and equipment
- 708 6) Minimize work in and adjacent to waterbodies and wetlands
- 709 7) Maintain stable slopes
- 710 8) Avoid steep slopes and the need for high cuts and fills
- 711 9) Minimize disturbance to the surrounding soils, root systems and trunks of trees
- 712 adjacent to site activity that are intended to be left standing
- 713 10) Minimize the compaction of site soils
- 714 2. Stormwater Treatment Prioritization
- 715 Stormwater facility functioning will be chosen in the following order of preference and use the
- 716 MIDS Design Sequence Flowchart to assist in the preferred best management practice that is
- 717 feasible for any given site. The MIDS Design Sequence Flowchart can be found in the Minnesota
- 718 Stormwater Manual.
- 719 a. Infiltration
- 720 b. Filtration
- 721 c. Sedimentation
- 722 d. Rate Control

723 3. MIDS calculator (or similar)

724 Final site design and choice of permanent stormwater volume reduction practices shall be based

725 on outcomes of the MIDS Calculator (or other model that shows the performance goal can be

726 met) and shall meet the performance goals in the following sections of this ordinance.

727 4. Stormwater Volume Reduction and Water Quality Performance Goals

728 All stormwater designs must follow criteria within the City of Brainerd Stormwater Engineering

729 Design Manual.

730 Volume control measures are required on projects to meet the water quality criteria of the City

731 and to meet the requirements of the City of Brainerd's MS4 permit obligations. Except where

732 conditions listed below are not met, stormwater runoff abstraction via infiltration,

733 evapotranspiration, capture, and/or reuse of stormwater runoff is required to treat the water

734 quality volume of a 1.1-inch (or 1.1-inch minus the volume of stormwater treated by another

735 system on the site) of runoff from new impervious surfaces created by the project when a

736 development project creates one acre or more new impervious surfaces. For wet sedimentation

737 pond design, for new development projects, stormwater discharge volume shall result in no net

738 increase from pre-project conditions. For redevelopment projects, stormwater discharge

739 volume shall result in a net reduction from pre-project conditions. For all ponds, water quality

740 runoff must be infiltrated within forty-eight (48) hours or less. To simplify the review process,

741 no runoff will be assumed from pervious surfaces from a 1.1-inch rainfall event.

742 Volume reduction techniques considered shall include infiltration, reuse & rainwater

743 harvesting, and canopy interception & evapotranspiration and/or additional techniques

744 included in the MIDS calculator and the Minnesota Stormwater Manual.

745 Higher priority shall be given to BMPs that include volume reduction. Secondary preference is

746 to employ filtration techniques, followed by sedimentation and rate control BMPs.

747 Infiltration systems must be prohibited when the system would be constructed in areas:

748 a. That receive discharges from vehicle fueling and maintenance areas, regardless of the

749 amount of new and fully reconstructed impervious surface;

750 b. Where high levels of contaminants in soil or groundwater may be mobilized by the

751 infiltrating stormwater. To make this determination, the owners and/or operators of

752 construction activity must complete the Agency's site screening assessment checklist, which

753 is available in the Minnesota Stormwater Manual, or conduct their own assessment. The

754 assessment must be retained with the site plans;

755 c. Where soil infiltration rates are more than 8.3 inches per hour unless soils are amended to

756 slow the infiltration rate below 8.3 inches per hour;

757 d. With less than three (3) feet of separation distance from the bottom of the infiltration

758 system to the elevation of the seasonally saturated soils or the top of bedrock;

- 759 e. Of predominately Hydrologic Soil Group D (clay) soils;
- 760 f. In an Emergency Response Area (ERA) within a Drinking Water Supply Management Area
- 761 (DWSMA) as defined in Minn. R. 4720.5100, Subp. 13, classified as high or very high
- 762 vulnerability as defined by the Minnesota Department of Health;
- 763 g. In an ERA within a DWSMA classified as moderate vulnerability unless the permittee
- 764 performs or approves a higher level of engineering review sufficient to provide a functioning
- 765 treatment system and to prevent adverse impacts to groundwater;
- 766 h. Outside of an ERA within a DWSMA classified as high or very high vulnerability unless the
- 767 permittee performs or approves a higher level of engineering review sufficient to provide a
- 768 functioning treatment system and to prevent adverse impacts to groundwater;
- 769 i. Within 1,000 feet up-gradient or 100 feet down gradient of active karst features; or
- 770 j. That receive stormwater runoff from these types of entities regulated under NPDES for
- 771 industrial stormwater: automobile salvage yards; scrap recycling and waste recycling
- 772 facilities; hazardous waste treatment, storage, or disposal facilities; or air transportation
- 773 facilities that conduct deicing activities.

774 If infiltration practices are prohibited or infeasible, a permanent water quality pond shall be

775 used to meet water quality and rate control requirements as specified within the City of

776 Brainerd Stormwater Engineering Design Manual.

777 Any applicant for a permit resulting in site disturbance that creates one or more acres of new

778 impervious surface or fully reconstructs one or more acre of impervious surface must meet all

779 of the following stormwater performance goals:

780 a. New development volume control

781 For new, nonlinear developments that create more than one acre of new impervious

782 surface on sites without restrictions, stormwater runoff volumes will be controlled, and the

783 post-construction runoff volume shall be retained on site for 1.1 inches of runoff from all

784 impervious surfaces on the site.

785 a. Redevelopment volume control

786 Nonlinear redevelopment projects on sites without restrictions that create one or more

787 acres of new and/or fully reconstructed impervious surfaces shall capture and retain on site

788 1.1 inches of runoff from the new and/or fully reconstructed impervious surfaces.

789 b. Linear development volume control

790 Linear projects on sites without restrictions that create one acre or greater of new and/or

791 fully reconstructed impervious surfaces, shall capture and retain the larger of the following:

- 792 1) 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the
- 793 site

794 2) 1.1 inches of runoff from the net increase in impervious area on the site
795 Mill and overlay and other resurfacing activities are not considered fully reconstructed.
796 Where the entire water quality volume cannot be treated within the existing right-of-
797 way, a reasonable attempt to obtain additional right-of-way, easement, or other
798 permission to treat the stormwater during the project planning process must be made.
799 Volume reduction practices must be considered first. Volume reduction practices (e.g.,
800 infiltration or other) to retain the water quality volume on-site must be considered first
801 when designing the permanent stormwater treatment system. The General Permit does
802 not consider wet sedimentation basins and filtration systems to be volume reduction
803 practices. If the General Permit prohibits infiltration other volume reduction practices,
804 a wet sedimentation basin, or filtration basin may be considered. Volume reduction
805 practices are not required if the practices cannot be provided cost effectively. If
806 additional right-of-way, easements, or other permission cannot be obtained, owners of
807 construction activity must maximize the treatment of the water quality volume prior to
808 discharge from the MS4.

809 c. Flexible treatment options for sites with volume reduction restrictions (as found in the MIDS
810 Design Sequence Flowchart).

811 Applicant shall fully attempt to comply with the appropriate performance goals described
812 above. Options considered and presented shall examine the merits of relocating project
813 elements to address varying soil conditions and other constraints across the site. If full
814 compliance is not possible due to any of the factors listed below, the applicant must
815 document the reason. If site constraints or restrictions limit the full treatment goal, the
816 following flexible treatment options shall be used:

817 Applicant shall document the flexible treatment options sequence starting with Alternative
818 #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed. Applicants must
819 document the specific reasons why Alternative #1 cannot be met based on the factors listed
820 below. If Alternative #2 cannot be met, then Alternative #3 shall be met. Applicants must
821 document the specific reasons why Alternative #2 cannot be met based on the factors listed
822 below. When all of the conditions are fulfilled within an alternative, this sequence is
823 completed.

824 Alternative #1: Applicant attempts to comply with the following conditions:

825 1) Achieve at least 0.55" volume reduction from all impervious surfaces if the site is new
826 development or from the new and/or fully reconstructed impervious surfaces for a
827 redevelopment site.

828 2) Remove 60% of the annual TP load from all impervious surfaces if the site is new
829 development or from the new and/or fully reconstructed impervious surfaces for a
830 redevelopment site.

831 3) Options considered and presented shall examine the merits of relocating project
832 elements to address, varying soil conditions and other constraints across the site.

833 Alternative #2: Applicant attempts to comply with the following conditions:

834 1) Achieve volume reduction to the maximum extent practicable.

835 2) Remove 60% of the annual TP load from all impervious surfaces if the site is new
836 development or from the new and/or fully reconstructed impervious surfaces for a
837 redevelopment site.

838 3) Options considered and presented shall examine the merits of relocating project
839 elements to address, varying soil conditions and other constraints across the site.

840 Alternative #3: Off-site Treatment. Mitigation equivalent to the performance of 1.1 inches
841 of volume reduction for new development or redevelopment as described above in this
842 section, (including banking or cash) can be performed off-site to protect the receiving water
843 body. Off-site treatment shall be achieved in areas selected in the following order of
844 preference:

845 1) Locations that yield benefits to the same receiving water that receives runoff from the
846 original construction activity.

847 2) Locations within the same Department of Natural Resource (DNR) catchment area
848 (Hydrologic Unit 08) as the original construction activity.

849 3) Locations within the next adjacent DNR catchment area upstream.

850 4) Locations anywhere within the community's jurisdiction.

851 Off-site treatment projects must involve the creation of new structural stormwater
852 BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly
853 designed regional structural stormwater BMP. Routine maintenance of structural
854 stormwater BMPs already required by the General Permit cannot be used to meet this
855 requirement.

856 Off-site treatment projects must be completed no later than 24 months after the start
857 of the original construction activity. If the permittee determines more time is needed
858 to complete the treatment project, the permittee must provide the reason(s) and
859 schedule(s) for completing the project in the annual report.

860 If the permittee receives payment from the owner of a construction activity for off-site
861 treatment, the permittee must apply any such payment received to a public stormwater
862 project, and all projects must comply with the requirements above.

863 5. Development Site Stormwater Standard for Rate Control

864 All stormwater designs must follow criteria within the City of Brainerd Stormwater Engineering
865 Design Manual.

866 For all development sites (new development, redevelopment, and linear development) the site
867 design shall provide non-winter conditions on-site treatment during construction and post-
868 construction to ensure no increase in offsite peak discharge for the 2-year, 24-hour storm event,
869 the 10- year, 24-hour storm event, and the 100-year, 24-hour storm event.

870 A reduction of the required onsite storage capacity may be granted under the following
871 circumstances:

872 a. The site or any portion of the site is included as part of a larger City approved regional
873 stormwater management plan.

874 b. The site is adjacent to a City-owned and maintained storm sewer system that drains to a
875 regional stormwater storage facility and the site (or portion of) has been included as part of
876 the contributing area for design of the system.

877 c. The site contains topographic features that allow stormwater storage outside of the
878 designated stormwater storage facility without inundating wetlands, causing adverse
879 conditions or damage to adjacent properties.

880 d. Other reasons as determined by the City Engineer.

881 The designer shall confer with the City Engineer to determine how much, if any, stormwater
882 runoff from the site or any portion of the site has been accounted for in a pre-existing regional
883 stormwater management plan or publicly maintained system.

884 6. Other Design Standards

885 a. City of Brainerd Stormwater Engineering Design Manual

886 All volume control for water quality and quantity and site design specifications shall conform
887 to the current version of the City of Brainerd Stormwater Engineering Design Manual.

888 b. Site erosion and sediment control requirements

889 All erosion and sediment control requirements shall conform to the current requirements of
890 NPDES/SDS Construction Stormwater General Permit and Brainerd City Code 430.

891 7. Limitations and Restrictions for Permanent Stormwater Management: The City may limit or
892 restrict the construction of permanent management facilities based on the following criteria.

893 a. Permanent infiltration stormwater management facilities may not receive discharges from or
894 be constructed in areas where:

895 b. Industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES
896 industrial stormwater permit issued by the MPCA.

897 c. Vehicle fueling or maintenance activities occur.

898 d. There is less than three feet (3') of separation between the bottom of the infiltration system
899 to the elevation of the seasonally saturated soils or the top of bedrock.

900 e. There are known groundwater contaminants or groundwater will be mobilized by the
901 construction of infiltration BMPs.

902 725.07: APPLICATION REVIEW:

903 The City Engineer shall be responsible for reviewing the Stormwater Management Plan and the
904 SWPPP. The MPCA shall be responsible for reviewing the MPCA Construction Stormwater Permit
905 application. The following City permitting process is as follows.

906 A. Pre-application meeting: The City of Brainerd shall facilitate a pre-application meeting with the
907 applicant, community staff (or their authorized representative), and staff of relevant partner
908 agencies. The purposes of the meeting are to understand the general parameters of the proposed
909 project and to convey the requirements of meeting the provisions of the ordinance.

910 B. Application completeness review: The City of Brainerd shall make a determination regarding the
911 completeness of a permit application within ten (10) business days of the receipt of the
912 application and notify the applicant in writing if the application is not complete including the
913 reasons the application was deemed incomplete. All incomplete plans will be returned to the
914 applicant with a written explanation of the application's deficiencies. The applicant will have the
915 opportunity to correct the deficiencies and resubmit the application.

916 C. Application review: The applicant shall not commence any construction activity subject to this
917 ordinance until a permit has been authorized by the City of Brainerd. A complete review of the
918 permit application shall be done within ten (10) business days of the receipt of a complete permit
919 application from the applicant. The city of Brainerd will work with the necessary state, county,
920 and local agencies to complete the review. The City of Brainerd shall review all information in the
921 permit application including proposed stormwater practices, hydrologic models, and design
922 methodologies and certify compliance with this ordinance.

923 D. Permit authorization: If the City of Brainerd determines that the application meets the
924 requirements of this ordinance, the City of Brainerd may issue approval authorizing the project or
925 activity. The approval shall be valid for one year. Approval will be in written form from the City of
926 Brainerd to the applicant

927 E. Permit denial: If the City of Brainerd determines the application does not meet the requirements
928 of this ordinance the application must be denied. If the application is denied, the applicant will be
929 notified of the denial in writing including reasons for the denial. Once denied, a new application
930 must be resubmitted for approval before any activity may begin. All land use and building permits
931 shall be suspended until the applicant has an authorized permit. Approval or denial shall be mailed
932 to the applicant within fifteen (15) days of receipt of a complete application. The applicant may
933 appeal the adverse decision within ten (10) days of receiving written notice by requesting in
934 writing to City staff that the City Council reviews the decision. City staff will then schedule a
935 hearing on the appeal within twenty (20) days. Notice of the public hearing need not be published
936 in the official newspaper. All decisions by the City Council shall be final.

937 F. Plan information requirements:
938 The minimum information requirements of the application shall be consistent with the erosion
939 and sediment control requirements in the most recent version of the NPDES/SDS Construction
940 Stormwater General Permit and shall include a fully completed Application Checklist. The
941 application information must also include permanent treatment information showing the
942 proposed project meets the MIDS performance goals.

943 G. Modification of permitted plans: The applicant must amend an approved Stormwater
944 Management plan to include additional requirements such as additional or modified BMPs
945 designed to correct problems whenever:

- 946 1. There is a change in design, construction, operation, maintenance, weather or seasonal
947 conditions that has a significant effect on the discharge of pollutants to surface water or
948 groundwater.
- 949 2. Inspections or investigations by site operators, local, state or federal officials indicate the
950 plans are not effective in eliminating or significantly minimizing the discharge of pollutants to
951 surface water or groundwater or that the discharges are causing water quality standard
952 exceedances.
- 953 3. The plan is not achieving the general objectives of minimizing pollutants in stormwater
954 discharges associated with construction activity.

955 An approved Stormwater Management Plan may be modified on submission of a written
956 application for modification to the City, and only after written approval by the City Engineer. In
957 reviewing such an application, the City Engineer may require additional information. No approval
958 of any modification will be given that is inconsistent with this chapter.

959 Modification of the MPCA construction stormwater permit shall be made according to MPCA
960 requirements. A copy of the amended SWPPP and application shall be sent to the City for their
961 permanent records. The amendment shall be received by the City before the additional
962 construction work is begun.

963 H. Permit completion:
964 The permit holder shall notify the City when a project ceases and final stabilization is reached.
965 When a State permit exists, the State termination form will suffice. Before work under the permit
966 is deemed complete, the permittee must submit as-builts, a long-term maintenance plan and
967 information demonstrating that the stormwater facilities conform to design specifications. Final
968 permit approval conditions are as follows:

- 969 1. If a permanent stormwater treatment/volume retention facility was required, the facilities
970 must be inspected by Water Resource staff and must be determined to be in compliance with
971 proposed specifications and all requirements identified in City Code are met prior to final
972 inspection and the release of stormwater performance securities.

- 973 2. The permit holder must establish permanent vegetative coverage of all impacted areas
974 excluding paved areas or areas covered by permanent structures.
- 975 3. Vegetative coverage must consist of a uniform perennial vegetation with a density of 70% of
976 the expected final growth.
- 977 4. All temporary pollution prevention devices must be removed, and any remediation or
978 restoration efforts must be completed prior to final inspection and release of financial
979 securities
- 980 I. Permit Conditions: The BMPs required by the Stormwater Management Plan and/or contained in
981 the approved SWPPP must be implemented prior to the start of any land disturbing activity and
982 shall be maintained in accordance with the approved plan and the requirements of this chapter.
983 Additional conditions may be imposed by the City.
- 984 J. Fee: A fee will be charged for the Stormwater Management Plan for the issuance of the permit,
985 and inspections. The fee will be as set forth in the annual fee schedule.
- 986 K. Costs: The applicant shall be liable at all times for the costs incurred, including costs and fines
987 resulting from noncompliance with an approved plan.
- 988 725.08: FINANCIAL SECURITY FOR PROJECTS SUBJECT TO A DEVELOPMENT AGREEMENT:
- 989 A. Security Required: The City of Brainerd shall require financial securities from the applicant in an
990 amount sufficient to cover the entirety of the estimated costs of permitted and remedial work
991 based on the final design as established in a set financial security schedule determined by the
992 community. If the project is proceeding under a development agreement with the City, the costs
993 of any work required in this chapter shall be added to the letter of credit or bond.
- 994 B. Release: Financial securities shall not be released until all permitted and remedial work is
995 completed.
- 996 C. Use by Community: Financial securities may be used by the community to complete work not
997 completed by the applicant.
- 998 D. Form of Security: The form of the securities shall be one or a combination of the following to be
999 determined by the community:
- 1000 1. Cash deposit - The first 50% of the financial security for erosion and sediment control shall be
1001 by cash deposit to the community. The cash will be held by community in a separate account.
- 1002 a. Securing deposit - Deposit, either with the community, a responsible escrow agent, or
1003 trust company, at the option of the community, either:
- 1004 b. An irrevocable letter of credit or negotiable bonds of the kind approved for securing
1005 deposits of public money or other instruments of credit from one or more financial
1006 institutions, subject to regulation by the state and federal government wherein said
1007 financial institution pledges funds are on deposit and guaranteed for payment.

- 1008 c. Cash in U.S. currency.
- 1009 d. Other forms and securities (e.g., disbursing agreement) as approved by the community.
- 1010 E. Community Indemnity: This security shall save the community free and harmless from all suits or
1011 claims for damages resulting from the negligent grading, removal, placement or storage of rock,
1012 sand, gravel, soil or other like material within the community.
- 1013 F. Maintaining the Financial Security: If at any time during the course of the work the amount falls
1014 below 50% of the required deposit, the applicant shall make another deposit in the amount
1015 necessary to restore the cash deposit to the required amount. If the applicant does not bring the
1016 financial security back up to the required amount within seven (7) days after notification by the
1017 community that the amount has fallen below 50% of the required amount the community may:
- 1018 1. Withhold inspections - Withhold the scheduling of inspections and/or the issuance of a
1019 Certificate of Occupancy.
- 1020 2. Revoke permits - Revoke any permit issued by the community to the applicant for the site in
1021 question or any other of the applicant's sites within the community's jurisdiction.
- 1022 G. Action Against the Financial Security: The community may access financial security for
1023 remediation actions if any of the conditions listed below exist. The community shall use the
1024 security to finance remedial work undertaken by the community, or a private contractor under
1025 contract to the community, to reimburse the community for all direct costs incurred in the process
1026 of remedial work including, but not limited to, staff time and attorney's fees.
- 1027 1. Abandonment - The applicant ceases land disturbing activities and/or filling and abandons the
1028 work site prior to completion of the grading plan.
- 1029 2. Failure to implement the SWPPP or Stormwater Management Plan - The applicant fails to
1030 conform to the grading plan and/or the SWPPP as approved by the Community.
- 1031 3. Failure to perform - The techniques utilized under the SWPPP fail within one year of
1032 installation.
- 1033 4. Failure to reimburse community - The applicant fails to reimburse the community for
1034 corrective action taken.
- 1035 H. Proportional Reduction of the Financial Security: When more than one-third of the applicant's
1036 maximum exposed soil area achieves final stabilization, the community can reduce the total
1037 required amount of the financial security by one-third. When more than two-thirds of the
1038 applicant's maximum exposed soil area achieves final stabilization, the community can reduce the
1039 total required amount of the financial security to two-thirds of the initial amount. This reduction
1040 in financial security will be determined by the community.
- 1041 I. Returning the Financial Security: The security deposited with the community for faithful
1042 performance of the SWPPP or the ESC Plan and any related remedial work shall be released one
1043 full year after the completion of the installation of all stormwater pollution control measures as

- 1044 shown on the SWPPP or ESC Plan.
- 1045 J. Emergency Action: If circumstances exist such that noncompliance with this chapter poses an
1046 immediate danger to the public health, safety and welfare, as determined by the City, the City
1047 may take emergency preventative action. The City shall also take every reasonable action possible
1048 to contact and direct the applicant to take any necessary action. Any cost to the City may be
1049 recovered from the applicant's financial security.
- 1050 725.09: STORMWATER FACILITIES INSPECTION, MAINTENANCE AGREEMENT AND PERMIT TRANSFER:
- 1051 A. Private stormwater facilities
- 1052 1. Maintenance Plan Required - No private stormwater facilities may be approved
1053 unless a maintenance plan is provided that defines who will conduct the
1054 maintenance, the type of maintenance and the maintenance intervals. At a
1055 minimum, all private stormwater facilities shall be inspected annually and
1056 maintained in proper condition consistent with the performance goals for which
1057 they were originally designed.
- 1058 2. Facility Access - Access to all stormwater facilities must be inspected annually and
1059 maintained as necessary. The applicant shall obtain all necessary easements or
1060 other property interests to allow access to the facilities for inspection or
1061 maintenance for both the responsible party and the community.
- 1062 3. Removal of Settled Materials - All settled materials including settled solids, shall be removed
1063 from ponds, sumps, grit chambers, and other devices, and disposed of properly.
- 1064 4. Inspections - All stormwater facilities within the community shall be inspected by the
1065 community during construction, during the first year of operation, and at least once every five
1066 years thereafter.
- 1067 B. Public stormwater facilities
- 1068 1. Acceptance of Publicly Owned Facilities - Before work under the permit is deemed complete;
1069 the permittee must submit as-builts and a maintenance plan demonstrating at the time of
1070 final stabilization that the stormwater facilities conform to design specifications. A final
1071 inspection shall be required before the community accepts ownership of the stormwater
1072 facilities.
- 1073 2. Inventory of Stormwater Facilities - Upon adoption of this ordinance, the community shall
1074 inventory and maintain a database for all private and public stormwater facilities within
1075 community requiring maintenance to assure compliance with this ordinance. The community
1076 shall notify owners of public and private stormwater facilities of the need for conducting
1077 maintenance on an appropriate schedule based on the stormwater management practice.

1078 3. Maintenance - The community shall perform maintenance of publicly owned stormwater
1079 facilities in accordance with their comprehensive stormwater management plan and other
1080 regulatory requirements.

1081 C. Stormwater Facilities Maintenance Agreement: A Stormwater Facilities Maintenance Agreement
1082 regarding stormwater management shall be required for any project that requires a permanent
1083 stormwater management facility. The agreement shall guarantee the performance of the work
1084 described and delineated on the approved plan. In addition, the agreement will describe the City's
1085 inspection policy. Should the applicant fail to meet any of the terms of the Stormwater Facilities
1086 Maintenance Agreement, the City may proceed with the actions listed in the enforcement section
1087 of this chapter.

1088 D. Notice To Transferee: When ownership, possession, or control of any site subject to an
1089 incomplete, approved SWPPP is transferred, the former owner (seller) shall notify the new owner
1090 (buyer) as to the current status of compliance and provide a copy of the approved SWPPP, as
1091 required by the MPCA construction permit. A copy of this notice shall be submitted to the City. A
1092 copy of the 'Modification/Transfer', 'Subdivision Registration', or 'Homeowner Transfer' forms
1093 required by the MPCA for transfers under the State required SWPPP plan shall suffice for this
1094 notice to the City.

1095 E. Successor Liability:

1096 1. The successor in interest to any portion of a site subject to an incomplete, approved
1097 Stormwater Management Plan or SWPPP shall be responsible for implementing the BMPs
1098 contained in the plan.

1099 2. The successor shall be responsible for the implementation of this plan for the portion of the
1100 site transferred.

1101 3. The successor will be subject to all regulations under this chapter.

1102 725.10: ENFORCEMENT:

1103 A. Violations: If an owner is in violation of the terms and conditions of an approved plan, SWPPP,
1104 and/or this chapter, all City approvals relating to the site shall be either withheld or suspended
1105 until the owner or contractor is again compliant. All directives, notices, and orders may be served
1106 by the City Engineer, the building official, and/or their designated staff person. Upon the issuance
1107 of directive, notice, or order, the owner or contractor shall immediately:

1108 A. Develop a cleanup and restoration plan,

1109 B. Obtain any necessary right-of-entry from any adjoining property owner,

1110 C. Implement the cleanup and restoration plan within forty-eight (48) hours of any one directive,
1111 notice, order, or of obtaining the adjoining property owner's permission.

1112 B. Notification of Failure of the Permit: The community shall notify the permit holder of the failure
1113 of the permit's measures.

1114 A. Initial Contact: The initial contact will be to the party or parties listed on the application and/or
1115 the SWPPP as contacts. Except during an emergency action, forty-eight (48) hours after
1116 notification by the community or seventy-two (72) hours after the failure of erosion and
1117 sediment control measures, whichever is less, the community at its discretion, may begin
1118 corrective work. Such notification should be in writing, but if it is verbal, a written notification
1119 should follow as quickly as practical. If after making a good faith effort to notify the
1120 responsible party or parties, the community has been unable to establish contact, the
1121 community may proceed with corrective work. There are conditions when time is of the
1122 essence in controlling erosion. During such a condition the community may take immediate
1123 action, and then notify the applicant as soon as possible.

1124 B. Erosion Off-site: If erosion breaches the perimeter of the site, the applicant shall immediately
1125 develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property
1126 owner, and implement the cleanup and restoration plan within forty-eight (48) hours of
1127 obtaining the adjoining property owner's permission. In no case, unless written approval is
1128 received from the community, may more than seven (7) calendar days go by without
1129 corrective action being taken. If in the discretion of the community, the permit holder does
1130 not repair the damage caused by the erosion, the Community may do the remedial work
1131 required. When restoration to wetlands and other resources are required, the applicant
1132 should be required to work with the appropriate agency to ensure that the work is done
1133 properly.

1134 C. Erosion into Streets, Wetlands or Water Bodies: If eroded soils (including tracked soils from
1135 construction activities) enter or appear likely to enter streets, wetlands, or other water
1136 bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control
1137 and flagging required to protect the traveling public during the cleanup operations.

1138 C. Failure to do Corrective Work: In no case, unless written approval is received from the City, shall
1139 more than seven (7) calendar days go by without corrective action being taken. If in the
1140 discretion of the City, the applicant does not repair the damage caused by the erosion, the City
1141 may do the remedial work required and charge or assess the cost to the applicant. When
1142 restoration to wetlands and other resources are required, the applicant shall be required to
1143 work with the appropriate agency to ensure that the work is done properly. If eroded soils
1144 (including tracked soils from construction activities) enter streets, wetlands, or other water
1145 bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and
1146 flagging required to protect the traveling public during the cleanup operations.

1147 When an applicant fails to conform to any provision of this chapter within the time stipulated,
1148 the City Engineer may issue the following orders:

- 1149 1. Issue a violation notice.
- 1150 2. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
- 1151 3. Permit Revocation - Revoke any permit issued by the community to the applicant for the site

- 1152 in question or any other of the applicant's sites within the community's jurisdiction.
- 1153 4. Direct the correction of the violation by City forces or by a separate contract. All costs
1154 incurred by the City in correcting violations must be reimbursed by the applicant.
- 1155 a. If payment is not made within thirty (30) days after costs are incurred by the City, payment
1156 will be made from any financial securities placed within the City pursuant to this chapter.
1157 The owner shall waive all rights by virtue of Minnesota Statutes 429.081 to challenge the
1158 amount of validity of assessment.
- 1159 b. If there is an insufficient financial amount in the applicant's security to cover the costs
1160 incurred by the City, the City may assess the remaining amount against the property in
1161 accordance with Minnesota Statutes 429.061.
- 1162 D. Stop Work Order: Issue a stop work order, withhold the scheduling of inspections, and/or the
1163 issuance of a Certificate of Occupancy. Whenever the City finds any noncompliance with the
1164 provisions of the approved Stormwater Management Plan, SWPPP, and/or this section or any City
1165 ordinance, the City shall attempt to communicate with the owner or person performing the work
1166 to obtain immediate and voluntary compliance if such person is readily available. If the owner or
1167 person performing the work is not readily available, that person refuses to voluntarily comply
1168 immediately, or the noncompliance presents an imminent damage, or will cause or threatens to
1169 cause bodily injury or damage to off-site property, including, but not limited to off-site run-off,
1170 the City shall post in a conspicuous place on the premises a stop work order which shall cause all
1171 activity not necessary to correct the noncompliance to cease until compliance is corrected.
- 1172 1. Contents: The stop work order shall contain the following information:
- 1173 a. Date of issuance.
- 1174 b. Sufficient information to identify the property.
- 1175 c. Violation(s).
- 1176 2. Unauthorized Removal of Posted Notice: Any unauthorized removal of a posted stop work
1177 order shall be punishable as a misdemeanor.
- 1178 3. Additional Notice: In addition to posting a stop work order, the City shall provide notification
1179 to the applicant by personal service, written notice by certified mail, or facsimile transmission.

1180 **725.11: RIGHT OF ENTRY AND INSPECTION:**

- 1181 A. By submitting a Stormwater Management Plan application to the City, the applicant hereby
1182 consents and authorizes the City and their authorized representatives, upon presentation of
1183 credentials to:
- 1184 1. Enter upon the permitted site for the purpose of obtaining information, examination of records,
1185 and conducting investigations or surveys.

- 1186 2. Bring such equipment upon the permitted development as is necessary to conduct such surveys
1187 and investigations.
- 1188 3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records
1189 required to be kept under the terms and conditions of this chapter.
- 1190 4. Inspect the stormwater pollution control measures and BMPs.

1191 725.12: ILLCIT DISCHARGE PROHIBITION:

1192 A. Applicability: This section shall apply to all water and general pollution entering the City of
1193 Brainerd's storm drain system generated on any developed and undeveloped lands unless
1194 explicitly exempted by the City.

1195 1. Ultimate Responsibility of Polluter: The standards set forth herein and promulgated pursuant
1196 to this section are minimum standards; therefore, this section does not intend nor imply that
1197 compliance by any person will ensure that there will be no contamination, pollution, nor
1198 unauthorized discharge of pollutants into waters of the State caused by said person. This
1199 section shall not create liability on the part of the City of Brainerd, or any agent or employee
1200 thereof for any damages that result from any polluter's reliance on this section, or any
1201 administrative decision lawfully made thereunder.

1202 B. Discharge Prohibitions:

1203 1. Prohibition Of Illegal Discharges: No person shall discharge or cause to be discharged into the
1204 Municipal storm drain system or watercourses any materials, including but not limited to
1205 pollutants or waters containing any pollutants that cause or contribute to a violation of
1206 applicable water quality standards, other than stormwater.

1207 No person shall throw, deposit, place, leave, maintain, or keep or permit to be thrown, placed,
1208 left, maintained or kept, any refuse, rubbish, garbage, or any other discarded or abandoned
1209 objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet,
1210 catch basin conduit or drainage structure, business place, or upon any public or private plot
1211 of land in Brainerd, so that the same might be or become a pollutant, except in containers,
1212 recycling bags, or other lawfully established waste disposal facility.

1213 No owner or custodian of any animal shall cause or allow such animal to soil, defile or
1214 defecate on any public property or upon any street, sidewalk, public way, play area or
1215 common grounds owned jointly by the members of a homeowners' or condominium
1216 association, or upon private property other than that of the owner, unless such owner
1217 immediately removes and disposes of all feces deposited by such animal in a sanitary
1218 manner.

1219 It is unlawful for any person owning, keeping or harboring an animal to cause or permit said
1220 animal to be on any public property without having in his/her immediate possession a
1221 device for the removal of feces and depository for the transmission of excrement to a
1222 proper receptacle located on the property owned or possessed by such person.

1223 It is unlawful for any person in control of, causing or permitting any animal to be on any
1224 public property to fail to remove feces left by such animal and dispose of it properly.

1225 Proper disposal of animal waste shall be limited to burial where lawfully permitted, flushing
1226 in the toilet, bagging for disposal in the owner or keeper's waste receptacle, and bagging for
1227 disposal in a waste receptacle in a public park or park area.

1228 Disposal of animal waste in storm drains is prohibited.

1229 Disposal of animal waste in public compost is prohibited.

1230 The provisions of this section shall not apply to the ownership or use of any properly
1231 identified service animals, animals when used for police activities, or tracking animals when
1232 used by or with the permission of the appropriate authorities.

1233 Any peace officer, animal control officer, or any duly authorized assistant should be
1234 responsible for issuing the citations.

1235 All commercial, institutional, and non-NPDES permitted industrial facilities must meet the
1236 following salt storage requirements:

1237

- 1238 • Designated salt storage areas must be covered or indoors.
- 1239 • Designated salt storage areas must be located on an impervious surface.
- 1240 • Implement practices to reduce exposure when transferring material in designated salt
1241 storage areas (e.g., sweeping, diversions, and/or containment).

1241 No person shall intentionally dispose of grass, leaves, dirt, or other landscape debris into a
1242 water resource buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural
1243 watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

1244 2. Exemptions: The commencement, conduct or continuance of any illegal discharge to the
1245 storm drain system is prohibited except as described as follows:

1246

- 1247 a. Discharges from the following activities will not be considered a violation of this section,
1248 an illegal discharge, or a source of pollutants to the storm drain system and to waters of
1249 the State when properly managed: potable water line flushing; uncontaminated pumped
1250 groundwater and other discharges from potable water sources; landscape irrigation and
1251 lawn watering; diverted stream flows; rising groundwater; uncontaminated groundwater
1252 infiltration to the storm drain system; uncontaminated foundation and footing drains;
1253 uncontaminated water from crawl space pumps; air conditioning condensation;
1254 uncontaminated non-industrial roof drains; springs; individual residential and occasional
1255 non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated
1256 swimming pool discharges; street wash waters; flows from firefighting; and any other
water source not containing pollutants.

- 1257
1258
- b. Discharges specified in writing by the City of Brainerd as being necessary to protect public health and safety.
- 1259
1260
- c. Dye testing is an allowable discharge but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- 1261
1262
1263
1264
1265
1266
- d. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the MPCA or 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 storm drain system.
- 1267
1268
- e. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit.
- 1269
3. Prohibition Of Illicit Connections:
- 1270
1271
- a. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- 1272
1273
1274
- 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.
- 1275
1276
- c. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.
- 1277
- C. Requirement to Prevent, Control and Reduce Stormwater Pollutants:
- 1278
1. Authorization to Adopt and Impose BMPs:
- 1279
1280
1281
1282
1283
1284
1285
1286
- a. Any person engaged in activities or operations or owning facilities or property which will or may result in pollutants entering stormwater, the storm drain system, or waters of the State shall implement BMPs to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the Municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.
- 1287
1288
1289
1290
1291
- b. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the

1292 maximum extent practicable, shall be deemed compliance with the provisions of this
1293 section.

1294 c. The City may adopt requirements identifying BMPs for any activity, operation, or facility
1295 which may cause or contribute to pollution or contamination of stormwater, the storm
1296 drain system, or waters of the State as a separate BMP Guidance Policy as such
1297 information is found to be needed by the City. Where BMP requirements are required by
1298 the City or any Federal, State, or regional agency for any activity, operation, or facility
1299 which would otherwise cause the discharge of pollutants to the storm drain system or
1300 water of the State, every person undertaking such activity or operation, or owning or
1301 operating such facility shall comply with such requirements.

1302 2. Suspension Due to Illicit Discharges in Emergency Situations: The City of Brainerd may,
1303 without prior notice, suspend MS4 discharge access to a person when such suspension is
1304 necessary to stop an actual or threatened discharge which presents or may present imminent
1305 and substantial danger to the environment, or to the health or welfare of persons, or to the
1306 MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an
1307 emergency, the authorized enforcement agency may take such steps as deemed necessary to
1308 prevent or minimize damage to the MS4 or waters of the State, or to minimize danger to
1309 persons.

1310 3. Suspension Due to The Detection of Illicit Discharge: Any person discharging to the MS4 in
1311 violation of this chapter may have their MS4 access terminated if such termination would
1312 abate or reduce an illicit discharge. The City will notify a violator of the proposed termination
1313 of its MS4 access. The violator may petition the City for a reconsideration and hearing. A
1314 person commits an offense if the person reinstates MS4 access to premises terminated
1315 pursuant to this section, without the prior approval of the City of Brainerd.

1316 4. Watercourse Protection: Every person owning property through which a watercourse passes,
1317 or such person's lessee, shall keep and maintain that part of the watercourse within the
1318 property reasonably free of trash, debris, excessive vegetation, and other obstacles that
1319 would pollute, contaminate, or significantly retard the flow of water through the watercourse.
1320 In addition, the owner or lessee shall maintain existing privately owned structures within or
1321 adjacent to a watercourse, so that such structures will not become a hazard to the use,
1322 function, or physical integrity of the watercourse. The owner or lessee shall not remove
1323 healthy bank vegetation beyond that actually necessary for maintenance, nor remove said
1324 vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.
1325 The property owner shall be responsible for maintaining and stabilizing that portion of the
1326 watercourse that is within their property lines in order to protect against erosion and
1327 degradation of the watercourse originating or contributed from their property.

1328 5. Notification Of Spills: Notwithstanding other requirements of law, as soon as any person
1329 responsible for a facility or operation, or responsible for emergency response for a facility or
1330 operation has information of any known or suspected release of materials which are resulting

1331 or may result in illegal discharges or pollutants discharging into stormwater, the storm drain
1332 system, or water of the State from said facility, said person shall take all necessary steps to
1333 ensure the discovery, containment, and cleanup of such release. In the event of such a release
1334 of a hazardous material said person shall immediately notify emergency response officials of
1335 the occurrence via emergency dispatch services (911). In the event of a release of non-
1336 hazardous materials, said person shall notify the City's Public Works Department in person or
1337 by phone no later than four thirty o'clock (4:30) P.M. of the next business day. Notifications
1338 in person or by phone shall be confirmed by written notice addressed and mailed to the City's
1339 Public Works Department within three (3) business days of the phone notice. If the discharge
1340 of prohibited materials emanates from a commercial or industrial establishment, the owner
1341 or operator of such establishment shall also retain an on-site written record of the discharge
1342 and the actions taken to prevent its recurrence. Such records shall be retained for at least
1343 three (3) years.

1344 D. Inspection And Monitoring:

1345 1. Authority to Inspect:

1346 a. The City shall be permitted to enter and inspect facilities subject to regulation under this
1347 section as often as may be necessary to determine compliance with this chapter. If a
1348 facility has security measures in force which require proper identification and clearance
1349 before entry into its premises, the facility shall make the necessary arrangements to allow
1350 access to representatives of the City.

1351 b. Facility operators shall allow the City ready access to all parts of the premises for the
1352 purposes of inspection, sampling, examination and copying of records that must be kept
1353 under the conditions of an NPDES permit to discharge stormwater, and the performance
1354 of any additional duties as defined by City, State and Federal law.

1355 c. Whenever necessary to make an inspection to enforce any provision of this section, or
1356 whenever the City Engineer has cause to believe that there exists, or potentially exists, in
1357 or upon any premises any condition which constitutes a violation of this section, the City
1358 Engineer or designated staff person may enter such premises at all reasonable times to
1359 inspect the same and to inspect and copy records related to stormwater compliance. In
1360 the event the owner or occupant refuses entry after a request to enter and inspect has
1361 been made, the City is hereby empowered to seek assistance from any court of
1362 competent jurisdiction in obtaining such entry.

1363 2. Authority To Sample, Establish Sampling Devices and Test:

1364 a. The City shall have the right to set up on any permitted or discharging facility such devices
1365 as are necessary in the opinion of the City to conduct monitoring and/or sampling of the
1366 facility's stormwater discharge.

1367
1368
1369
1370
1371

1372
1373
1374

- b. The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- c. During any inspection as provided herein, the City Engineer or designated staff person may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

DRAFT