

Section 725 – Stormwater Management

725.01: PURPOSE:

The purpose of this chapter is to:

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

725.02: Authorization, Findings, Purpose, Scope, and Interpretation

A. Statutory authorization

1. This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and, 462; Minnesota Rules, Parts 6120.2500-6120.3900; and Minnesota Rules Chapters 8410 and 8420.
2. This ordinance is intended to meet the current construction site erosion and sediment control and post-construction stormwater management regulatory requirements for construction activity and small construction activity (NPDES Permit) as defined in 40 CFR pt. 122.26(b)(14)(x) and (b)(15), respectively.
3. This ordinance is intended to meet the Minimal Impact Design Standards (MIDS) developed under Minnesota Statutes 2009, section 115.03, subdivision 5c.

B. Findings

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

1. Threaten public health, safety, property and general welfare by increasing runoff volumes and peak flood flows and overburdening storm sewers, drainage ways and other storm drainage systems.
2. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, toxics, debris, bacteria, pathogens, biological impairments, thermal stress and other pollutants.
3. Degrade physical stream/river habitat by increasing bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures.
4. Undermine floodplain management efforts by increasing the incidence and levels of flooding.
5. Alter wetland communities by changing wetland hydrology and increasing pollutant loads.
6. Impact groundwater by reducing recharge and increasing potential pollutant loading.

C. Purpose

The general purpose of this guidance is to establish an ordinance with regulatory requirements for land development and land disturbing activities aimed at minimizing the

threats to public health, safety, public and private property and natural resources within the community from construction site erosion and post-construction stormwater runoff.

Specific purposes are to establish performance goals that will:

1. Meet MIDS performance goals.
2. Assist in meeting NPDES/SDS Municipal Separate Storm Sewer System (MS4) and Construction Stormwater General Permit requirements.
3. Assist in meeting Total Maximum Daily Load (TMDL) plan wasteload allocations for impaired waters through quantification of load reductions.
4. Protect life and property from dangers associated with flooding.
5. Protect public and private property and natural resources from damage resulting from stormwater runoff and erosion.
6. Ensure the annual stormwater runoff rates and volumes from post development site conditions mimic and/or reduce the annual runoff rates and volumes from predevelopment site conditions.
7. Ensure site design minimizes the generation of stormwater and maximizes pervious areas for stormwater treatment.
8. Provide a single, consistent set of performance goals that apply to all developments.
9. Protect water quality from pollutant loadings of sediment, suspended solids, nutrients, heavy metals, toxics, debris, bacteria, pathogens, biological impairments, thermal stress and other pollutants.
10. Promote infiltration and groundwater recharge.
11. Provide vegetated corridors (buffers) to protect water resources from development.
12. Protect functional values of all types of natural waterbodies (e.g., rivers, streams, wetlands, lakes, seasonal ponds).
13. Sustain or enhance biodiversity (native plant and animal habitat) and support riparian ecosystems.

D. Scope

Land shall not be developed for any use without having provided stormwater management measures and erosion and sediment control measures that control or manage stormwater runoff from such developments.

E. Greater restrictions

Relationship to Existing Easements, Covenants, and Deed Restrictions – The provisions of this ordinance are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater

restrictions the provisions of this ordinance shall prevail.

F. Severability

The provisions of this ordinance are severable, and if any provision of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance must not be affected thereby.

725.03: DEFINITIONS:

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

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

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

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

BMP(s): Stormwater best management practices.

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

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

Construction activity: Includes construction activity as defined in 40 CFR pt. 122.26(b)(14)(x) and small construction activity as defined in 40 CFR pt. 122.26(b)(15) and construction activity as defined by Minn. R. 709.0080, subp. 4. This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling, and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more. Construction activity does not include a disturbance to the land of less than five (5) acres for the purpose of routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

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

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

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

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

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

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

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

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

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

EXPOSED SOIL AREAS: All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been disturbed or removed thus rendering the soil more prone to erosion. This includes topsoil stockpile areas; borrow areas, and disposal areas, within the construction site. It does not include stockpiles or surcharge areas of gravel, concrete or bituminous. Once soil is exposed it is considered "exposed soil", until it meets the definition of "final stabilization".

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

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

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

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

Green Infrastructure: means a wide array of practices at multiple scales that manage wet weather and that maintains or restores natural hydrology by infiltrating, evapotranspiring, or harvesting and using stormwater. On a regional scale, green infrastructure is the preservation or restoration

of natural landscape features, such as forests, floodplains and wetlands, couples with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On a local scale, green infrastructure consists of site and neighborhood-specific practices, such as bioretention, trees, green roofs, and permeable pavements.

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

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

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

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

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

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

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non- stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency.
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

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

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

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

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

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

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

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

- A. Owned or operated by a jurisdiction, public body, institution, or a designated and approved management agency that discharges to surface waters of the State.
- B. Designed or used for collecting or conveying stormwater.
- C. Not a combined sewer.
- D. Not a part of a publicly owned treatment works.

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

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

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

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

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

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

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

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

PERMANENT COVER: Means surface types that will prevent soil failure under erosive conditions. Examples include asphalt, concrete, rip rap, roof tops, perennial cover, or other landscaped material that will permanently arrest soil erosion. A uniform perennial vegetative cover (e.g., evenly distributed, without large bare areas) with a density of 70% of the native background vegetative cover for the area must be established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures. Permanent cover does not include the practices listed under temporary erosion protection. See FINAL STABILIZATION.

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

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

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

POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal

coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

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

Public waters: means all water basins and watercourses that are described in Minn. Stat. 103G.005 subd. 15.

RECHARGE: Means the replenishment of groundwater reserves.

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

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

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

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

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

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

Small construction activity: Means small construction activity as defined in 40 CFR part 122.26(b)(15). Small construction activities include clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction

activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres.

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

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

Standard plates: Means general drawings showing a common or repeated construction activity or practice.

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

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

STORM DRAIN SYSTEM: The City-owned facilities by which stormwater is collected or conveyed, including, but not limited to, any roads with drainage systems, Municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

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

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

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

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

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

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

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

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

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

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

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

- A. A predominance of hydric soils.

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

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

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

8. Land disturbing activities conducted by the City affecting less than one (1) acres.
9. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work disturbing less than one-half (1/2) acre.
10. Construction, installation, and maintenance of fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under one-half (1/2) acre of exposed soil.
11. Tilling, planting and harvesting of agricultural, horticultural, or silvicultural (forestry) crops more than one hundred feet (100') from a public water as defined in Minnesota Statutes 103G.005, subd. 15.
12. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible; or
13. Any construction activity that requires the NPDES Stormwater General Construction Permit (i.e., sites over 1-acre of disturbance).

C. Stormwater Management Plan Requirements

1. Delineation of the subject property, including all public and private easements thereon; the location of existing and proposed buildings, structures and impervious surfaces on the subject property, including quantities of impervious surface for both pre- and post-construction/activity, and the building bench elevations for all existing and proposed buildings.
2. Description of the construction or land disturbing activity to be performed on subject property, including the area and volume of earth material to be moved, and proposed project schedule.
3. Identification of all water bodies located on and within 100 feet of the subject property's boundaries, including identification of any off-site receiving waters for the site's runoff, including the structural control elevation (SCE), high water level (HWL), and ordinary high-water level (OHWL) elevations and if an existing water body is intended to be used for water quality treatment, then identification of the dead storage volume and area of the SCE.
4. Identification of all wetland buffers as set forth in the wetland protection and management regulations in this Code.
5. Identification of existing and proposed subwatersheds/site drainage areas, including any contributing runoff from off-site, and show drainage patterns using arrows depicting direction of flow.

6. Topographical data, including existing (dashed) and proposed (solid) contours at vertical intervals of not more than two feet, except that contour lines shall be no more than 100 feet apart.
7. Temporary benchmarks shall be established within the boundaries of the project area. Descriptions, reference ties and elevations of the benchmarks shall be furnished to the city. All elevations, topography and vertical control data shall be tied to sea level datum, NAD 83 and NGVD 29.
8. The location and size of all existing and proposed sanitary sewer, storm sewer, water supply, and other utility service facilities.

D. Inspections: The City will conduct inspections on a regular basis to ensure that the plan is properly installed and maintained. In all cases the inspectors will attempt to work with the builder or developer to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, after a verbal and written warning, the City shall issue construction stop work orders, until erosion and sediment control measures meet the requirements of this chapter. An inspection must follow before work can commence.

Inspections are required as follows:

1. Before any land disturbing activity begins.
2. At the time of footing, framing and final inspections.
3. At the completion of the project.
4. Prior to the release of any financial securities, if applicable.
5. Random inspections during the course of the project to ensure compliance with the SWPPP.

A qualified representative for the owner/operator is responsible for inspecting the site for compliance on a weekly basis and after every storm event greater than 0.5 inch in twenty-four (24) hours. A record of each inspection must be made and kept available on site for review by City inspectors. At all times the applicant shall be responsible for implementing and maintaining the BMPs as provided in the approved SWPPP.

E. Waiver: The City Council may waive any requirement of this Section upon making a finding that compliance will impose an unnecessary hardship or the project does not have any significant alterations of existing storm water conditions, and the waiver of such requirements will not adversely affect the standards and requirements of this Section. The City Council may require as a condition of the waiver such dedication or construction or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements. The City Council may require as a condition of the waiver that the applicant make an in kind or monetary contribution to the development and maintenance of community storm water management activities as designated by the City Council.

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

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

1. Any land development activity that may ultimately result in the disturbance of one or more acres of land, including smaller individual sites that are part of a common plan of development that may be constructed at different times.
2. Land development activity involving greater than 10,000 sq. ft of land disturbance or 50 cubic yards of earth movement that discharges to an impaired or special water as described in Appendix A of the NPDES/SDS Construction Stormwater General Permit.
3. A subdivision plat.
4. The construction of any new public or private road.
5. 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.

B. SWPPP Plan Requirements

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

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

1. Permit: The owner and contractor are required to apply for and meet the conditions of the Minnesota NPDES construction permit.
2. Site Erosion and Sediment Control Measures: Erosion and sediment control measures must be properly installed by the applicant before construction activity begins. Such measures may be adjusted during dry weather to accommodate short-term activities, such as those that require the passage of very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the original configuration.
3. Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the receiving channels, or in any wetland.
4. Waste And Material Disposal: All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum-based products, paints, toxic materials, or other hazardous materials) shall be properly disposed of off-site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland.
5. Tracking Management: Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to minimize sediment from being tracked onto public or private roadways. Any material deposited by vehicles or other construction equipment onto a public or private road shall be removed (not by flushing) before the end of each working day.
6. Water Quality Protection: The construction contractor, including the general contractor and all subcontractors, shall be required to control oil and fuel spills and chemical discharges to prevent such spills or discharges from entering any watercourse, sump, sewer system, water body, or wetland.
7. Concrete Washout Area: All liquids and solid waste generated by concrete washout operations must be contained in a leak-proof containment facility or impermeable liner. A compacted clay liner that does not allow washout liquids to enter groundwater is considered an impermeable liner. A sign must be installed adjacent to each washout facility to inform concrete equipment operators to utilize the proper facilities.
8. Storm Drain Protection: All storm drain inlets shall be protected during construction with control measures as contained in the SWPPP. These devices shall remain in place until final stabilization of the site. A regular inspection and maintenance plan shall be developed and implemented to assure these devices are operational at all times. Storm drain protection may conform to the protection alternatives pre-approved by City staff and available at City Hall and on the City website.

9. Soil Stockpiling: All exposed soil areas must be stabilized as soon as possible to limit soil erosion, but in no case later than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased. If the site is within one mile of a special or impaired water, soil areas shall be stabilized within seven (7) days after the construction activity in that portion of the site has temporarily or permanently ceased. Temporary clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles and the constructed base components of roads are exempt from this requirement.
 10. Channeled Runoff: Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.
 11. Easements: If a stormwater management plan involves directing some or all of the site's runoff, the applicant or his designated representative shall obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of such water.
 12. Impact On Erosion and Sediment: Schedule the site's activities to lessen the impact on erosion and sediment creation, so as to minimize the amount of exposed soil.
 13. Parking On Bare Lots: Parking on all bare lots is allowed with a conditional use permit. During construction all traffic on and off site shall use designated construction entrances and exits.
 14. Roof Drain Leaders: All newly constructed and reconstructed buildings must route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.
 15. Disturbed Areas Less Than One Acre: For disturbed areas less than one acre, sedimentation basins are encouraged, but not required, unless specifically required by City staff or City Engineer. The applicant shall install erosion and sediment controls at locations directed by the City. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences are required along channel edges to reduce sediment reaching the channel. Silt fences, rock check dams, etc., must be regularly inspected and maintained.
- D. Minimum Protection for Natural Wetlands: Runoff must not be discharged directly into wetlands without appropriate quality and quantity runoff control, as required by this chapter, the MPCA and Minnesota Rules 7050.0186, and 7090.2. Minnesota water quality standards as established by law and rule shall govern and be enforceable by the City.
- E. Inspections: The City will conduct inspections on a regular basis to ensure that the plan is properly installed and maintained. In all cases the inspectors will attempt to work with the builder or developer to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, after a verbal and written warning, the City shall issue

construction stop work orders, until erosion and sediment control measures meet the requirements of this chapter. An inspection must follow before work can commence. Inspections are required as follows:

1. Before any land disturbing activity begins.
2. At the time of footing, framing and final inspections.
3. At the completion of the project.
4. Prior to the release of any financial securities, if applicable.
5. Random inspections during the course of the project to ensure compliance with the SWPPP.

A qualified representative for the owner/operator is responsible for inspecting the site for compliance on a weekly basis and after every storm event greater than 0.5 inch in twenty-four (24) hours. A record of each inspection must be made and kept available on site for review by City inspectors. At all times the applicant shall be responsible for implementing and maintaining the BMPs as provided in the approved SWPPP.

725.06: STORMWATER Design PERFORMANCE Standards

- A. All permanent stormwater management plans must be submitted to the City Engineer prior to the start of construction activity. Designers are expected to follow the requirements of this section to meet the volume control, water quality, and water quantity requirements of the City of Brainerd. Designs should meet the stormwater design standard of this chapter and the City of Brainerd Stormwater Engineering Design Manual. Deviations from the recommended guidance will require detailed written explanation with discretion given by the City. Stormwater facilities included as part of the final design for a permanent development shall be addressed in the design package submitted to the City and shall meet the following criteria for design and performance.

- B. Cold Climate Issue Needs Engineering

All developments that incorporate either or both storage and rate control best management practices shall follow both the City of Brainerd stormwater Engineering Design Manual and the Minnesota stormwater Manual sections related to cold climate impacts on runoff management.

Small, green infrastructure best management practices within the right-of-way not part of a development or redevelopment permit may be exempt from this standard subject to City staff review.

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

1. Site design process
 - a. Better Site Design

Whenever possible, new development projects shall be designed using the Better Site Design Techniques of the current version of the Minnesota Stormwater Manual. Better Site Design involves techniques applied early in the design process to preserve natural areas, reduce impervious cover, distribute runoff and use pervious areas to more effectively treat stormwater runoff. Site design should address open space protection, impervious cover minimization, and runoff distribution and minimization, and runoff utilization through considerations such as:

- 1) Open space protection and restoration
 - a) conservation of existing natural areas (upland and wetland)
 - b) reforestation
 - c) re-establishment of prairies
 - d) restoration of wetlands
 - e) establishment or protection of stream, shoreline and wetland buffers
 - f) re-establishment of native vegetation into the landscape
- 2) Reduction of impervious cover
 - a) reduce new impervious through redevelopment of existing sites and use of existing roadways, trails etc.
 - b) minimize street width, parking space size, driveway length, sidewalk width
 - c) reduce impervious surface footprint (e.g. two story buildings, parking ramp)
- 3) Distribution and minimization of runoff
 - a) utilize vegetated areas for stormwater treatment (e.g. parking lot islands, vegetated areas along property boundaries, front and rear yards, building landscaping)
 - b) direct impervious surface runoff to vegetated areas or to designed treatment areas (roofs, parking, driveways drain to pervious areas, not directly to storm sewer or other conveyances)
 - c) encourage infiltration and soil storage of runoff through grass channels, soil compost amendment, vegetated swales, raingardens, etc.
 - d) plant vegetation that does not require irrigation beyond natural rainfall and runoff from the site
- 4) Runoff utilization
 - a) capture and store runoff for use for irrigation in areas where irrigation is necessary

b. Stormwater criteria

The following general criteria shall be incorporated in site design for stormwater runoff to protect surface and ground water and other natural resources by maintaining pre-development hydrological conditions:

- 1) Reduce impacts on water
- 2) Protect soils
- 3) Preserve vegetation
- 4) Decrease runoff volume
- 5) Decrease erosion and sedimentation
- 6) Decrease flow frequency, duration, and peak runoff rates
- 7) Increase infiltration (groundwater recharge)
- 8) Maintain existing flow patterns
- 9) Reduce peak flows
- 10) Store stormwater runoff on-site
- 11) Avoid channel erosion

c. Erosion and sediment control criteria

The following general criteria shall be incorporated in site design for erosion and sediment control and comply with Brainerd City Code 430:

- 1) Minimize disturbance of natural soil cover and vegetation
- 2) Minimize, in area and duration, exposed soil and unstable soil conditions
- 3) Protect receiving water bodies, wetlands and storm sewer inlets
- 4) Protect adjacent properties from sediment deposition
- 5) Minimize off-site sediment transport on trucks and equipment
- 6) Minimize work in and adjacent to waterbodies and wetlands
- 7) Maintain stable slopes
- 8) Avoid steep slopes and the need for high cuts and fills
- 9) Minimize disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing
- 10) Minimize the compaction of site soils

2. Stormwater Treatment Prioritization

Stormwater facility functioning will be chosen in the following order of preference and use the MIDS Design Sequence Flowchart to assist in the preferred best management practice that is feasible for any given site. The MIDS Design Sequence Flowchart can be found in the Minnesota Stormwater Manual.

- a. Infiltration
- b. Filtration
- c. Sedimentation
- d. Rate Control

3. MIDS calculator (or similar)

Final site design and choice of permanent stormwater volume reduction practices shall be based on outcomes of the MIDS Calculator (or other model that shows the performance goal can be met) and shall meet the performance goals in the following sections of this ordinance.

4. Stormwater Volume Reduction and Water Quality Performance Goals

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

Volume control measures are required on projects to meet the water quality criteria of the City and to meet the requirements of the City of Brainerd's MS4 permit obligations. Except where conditions listed below are not met, stormwater runoff abstraction via infiltration, evapotranspiration, capture, and/or reuse of stormwater runoff is required to treat the water quality volume of a 1.1-inch (or 1.1-inch minus the volume of stormwater treated by another system on the site) of runoff from new impervious surfaces created by the project when a development project creates one acre or more new impervious surfaces. For wet sedimentation pond design, for new development projects, stormwater discharge volume shall result in no net increase from pre-project conditions. For redevelopment projects, stormwater discharge volume shall result in a net reduction from pre-project conditions. For all ponds, water quality runoff must be infiltrated within forty-eight (48) hours or less. To simplify the review process, no runoff will be assumed from pervious surfaces from a 1.1-inch rainfall event.

Volume reduction techniques considered shall include infiltration, reuse & rainwater harvesting, and canopy interception & evapotranspiration and/or additional techniques included in the MIDS calculator and the Minnesota Stormwater Manual.

Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by sedimentation and rate control BMPs.

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

- a. That receive discharges from vehicle fueling and maintenance areas, regardless of the amount of new and fully reconstructed impervious surface;
- b. Where high levels of contaminants in soil or groundwater may be mobilized by the infiltrating stormwater. To make this determination, the owners and/or operators of construction activity must complete the Agency's site screening assessment checklist, which is available in the Minnesota Stormwater Manual, or conduct their own assessment. The assessment must be retained with the site plans;
- c. Where soil infiltration rates are more than 8.3 inches per hour unless soils are amended to slow the infiltration rate below 8.3 inches per hour;
- d. With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock;
- e. Of predominately Hydrologic Soil Group D (clay) soils;
- f. In an Emergency Response Area (ERA) within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, Subp. 13, classified as high or very high vulnerability as defined by the Minnesota Department of Health;
- g. In an ERA within a DWSMA classified as moderate vulnerability unless the permittee performs or approves a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater;
- h. Outside of an ERA within a DWSMA classified as high or very high vulnerability unless the permittee performs or approves a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater;
- i. Within 1,000 feet up-gradient or 100 feet down gradient of active karst features; or
- j. That receive stormwater runoff from these types of entities regulated under NPDES for industrial stormwater: automobile salvage yards; scrap recycling and waste recycling facilities; hazardous waste treatment, storage, or disposal facilities; or air transportation facilities that conduct deicing activities.

If infiltration practices are prohibited or infeasible, a permanent water quality pond shall be used to meet water quality and rate control requirements as specified within the City of Brainerd Stormwater Engineering Design Manual.

Any applicant for a permit resulting in site disturbance that creates one or more acres of new impervious surface or fully reconstructs one or more acre of impervious surface must meet all of the following stormwater performance goals:

- a. New development volume control

For new, nonlinear developments that create more than one acre of new impervious surface on sites without restrictions, stormwater runoff volumes will be controlled, and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from all impervious surfaces on the site.

a. Redevelopment volume control

Nonlinear redevelopment projects on sites without restrictions that create one or more acres of new and/or fully reconstructed impervious surfaces shall capture and retain on site 1.1 inches of runoff from the new and/or fully reconstructed impervious surfaces.

b. Linear development volume control

Linear projects on sites without restrictions that create one acre or greater of new and/or fully reconstructed impervious surfaces, shall capture and retain the larger of the following:

- 1) 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the site
- 2) 1.1 inches of runoff from the net increase in impervious area on the site

Mill and overlay and other resurfacing activities are not considered fully reconstructed.

Where the entire water quality volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way, easement, or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first. Volume reduction practices (e.g., infiltration or other) to retain the water quality volume on-site must be considered first when designing the permanent stormwater treatment system. The General Permit does not consider wet sedimentation basins and filtration systems to be volume reduction practices. If the General Permit prohibits infiltration other volume reduction practices, a wet sedimentation basin, or filtration basin may be considered. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, easements, or other permission cannot be obtained, owners of construction activity must maximize the treatment of the water quality volume prior to discharge from the MS4.

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

Applicant shall fully attempt to comply with the appropriate performance goals described above. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints

across the site. If full compliance is not possible due to any of the factors listed below, the applicant must document the reason. If site constraints or restrictions limit the full treatment goal, the following flexible treatment options shall be used:

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

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

- 1) Achieve at least 0.55” volume reduction from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.
- 2) Remove 60% of the annual TP load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.
- 3) Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.

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

- 1) Achieve volume reduction to the maximum extent practicable.
- 2) Remove 60% of the annual TP load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.
- 3) Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.

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

- 1) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
- 2) Locations within the same Department of Natural Resource (DNR) catchment area (Hydrologic Unit 08) as the original construction activity.
- 3) Locations within the next adjacent DNR catchment area upstream.

4) Locations anywhere within the community's jurisdiction.

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

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

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

5. Development Site Stormwater Standard for Rate Control

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

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

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

- a. The site or any portion of the site is included as part of a larger City approved regional stormwater management plan.
- b. The site is adjacent to a City-owned and maintained storm sewer system that drains to a regional stormwater storage facility and the site (or portion of) has been included as part of the contributing area for design of the system.
- c. The site contains topographic features that allow stormwater storage outside of the designated stormwater storage facility without inundating wetlands, causing adverse conditions or damage to adjacent properties.
- d. Other reasons as determined by the City Engineer.

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

6. Other Design Standards

- a. City of Brainerd Stormwater Engineering Design Manual

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

b. Site erosion and sediment control requirements

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

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

- a. Permanent infiltration stormwater management facilities may not receive discharges from or be constructed in areas where:
- b. Industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES industrial stormwater permit issued by the MPCA.
- c. Vehicle fueling or maintenance activities occur.
- d. There is less than three feet (3') of separation between the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.
- e. There are known groundwater contaminants or groundwater will be mobilized by the construction of infiltration BMPs.

725.07: APPLICATION REVIEW:

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

- A. Pre-application meeting: The City of Brainerd shall facilitate a pre-application meeting with the applicant, community staff (or their authorized representative), and staff of relevant partner agencies. The purposes of the meeting are to understand the general parameters of the proposed project and to convey the requirements of meeting the provisions of the ordinance.
- B. Application completeness review: The City of Brainerd shall make a determination regarding the completeness of a permit application within ten (10) business days of the receipt of the application and notify the applicant in writing if the application is not complete including the reasons the application was deemed incomplete. All incomplete plans will be returned to the applicant with a written explanation of the application's deficiencies. The applicant will have the opportunity to correct the deficiencies and resubmit the application.

- C. Application review: The applicant shall not commence any construction activity subject to this ordinance until a permit has been authorized by the City of Brainerd. A complete review of the permit application shall be done within ten (10) business days of the receipt of a complete permit application from the applicant. The city of Brainerd will work with the necessary state, county, and local agencies to complete the review. The City of Brainerd shall review all information in the permit application including proposed stormwater practices, hydrologic models, and design methodologies and certify compliance with this ordinance.
- D. Permit authorization: If the City of Brainerd determines that the application meets the requirements of this ordinance, the City of Brainerd may issue approval authorizing the project or activity. The approval shall be valid for one year. Approval will be in written form from the City of Brainerd to the applicant
- E. Permit denial: If the City of Brainerd determines the application does not meet the requirements of this ordinance the application must be denied. If the application is denied, the applicant will be notified of the denial in writing including reasons for the denial. Once denied, a new application must be resubmitted for approval before any activity may begin. All land use and building permits shall be suspended until the applicant has an authorized permit. Approval or denial shall be mailed to the applicant within fifteen (15) days of receipt of a complete application. The applicant may appeal the adverse decision within ten (10) days of receiving written notice by requesting in writing to City staff that the City Council reviews the decision. City staff will then schedule a hearing on the appeal within twenty (20) days. Notice of the public hearing need not be published in the official newspaper. All decisions by the City Council shall be final.
- F. Plan information requirements:
- The minimum information requirements of the application shall be consistent with the erosion and sediment control requirements in the most recent version of the NPDES/SDS Construction Stormwater General Permit and shall include a fully completed Application Checklist. The application information must also include permanent treatment information showing the proposed project meets the MIDS performance goals.
- G. Modification of permitted plans: The applicant must amend an approved Stormwater Management plan to include additional requirements such as additional or modified BMPs designed to correct problems whenever:
1. There is a change in design, construction, operation, maintenance, weather or seasonal conditions that has a significant effect on the discharge of pollutants to surface water or groundwater.
 2. Inspections or investigations by site operators, local, state or federal officials indicate the plans are not effective in eliminating or significantly minimizing the discharge of pollutants to surface water or groundwater or that the discharges are causing water

quality standard exceedances.

3. The plan is not achieving the general objectives of minimizing pollutants in stormwater discharges associated with construction activity.

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

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

H. Permit completion:

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

1. If a permanent stormwater treatment/volume retention facility was required, the facilities must be inspected by Water Resource staff and must be determined to be in compliance with proposed specifications and all requirements identified in City Code are met prior to final inspection and the release of stormwater performance securities.
2. The permit holder must establish permanent vegetative coverage of all impacted areas excluding paved areas or areas covered by permanent structures.
3. Vegetative coverage must consist of a uniform perennial vegetation with a density of 70% of the expected final growth.
4. All temporary pollution prevention devices must be removed, and any remediation or restoration efforts must be completed prior to final inspection and release of financial securities

I. Permit Conditions: The BMPs required by the Stormwater Management Plan and/or contained in the approved SWPPP must be implemented prior to the start of any land disturbing activity and shall be maintained in accordance with the approved plan and the requirements of this chapter. Additional conditions may be imposed by the City.

J. Fee: A fee will be charged for the Stormwater Management Plan for the issuance of the permit, and inspections. The fee will be as set forth in the annual fee schedule.

K. Costs: The applicant shall be liable at all times for the costs incurred, including costs and

finances resulting from noncompliance with an approved plan.

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

- A. Security Required: The City of Brainerd shall require financial securities from the applicant in an amount sufficient to cover the entirety of the estimated costs of permitted and remedial work based on the final design as established in a set financial security schedule determined by the community. If the project is proceeding under a development agreement with the City, the costs of any work required in this chapter shall be added to the letter of credit or bond.
- B. Release: Financial securities shall not be released until all permitted and remedial work is completed.
- C. Use by Community: Financial securities may be used by the community to complete work not completed by the applicant.
- D. Form of Security: The form of the securities shall be one or a combination of the following to be determined by the community:
 - 1. Cash deposit - The first 50% of the financial security for erosion and sediment control shall be by cash deposit to the community. The cash will be held by community in a separate account.
 - a. Securing deposit - Deposit, either with the community, a responsible escrow agent, or trust company, at the option of the community, either:
 - b. An irrevocable letter of credit or negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges funds are on deposit and guaranteed for payment.
 - c. Cash in U.S. currency.
 - d. Other forms and securities (e.g., disbursing agreement) as approved by the community.
- E. Community Indemnity: This security shall save the community free and harmless from all suits or claims for damages resulting from the negligent grading, removal, placement or storage of rock, sand, gravel, soil or other like material within the community.
- F. Maintaining the Financial Security: If at any time during the course of the work the amount falls below 50% of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the community that the amount has fallen below 50% of the required amount the community may:

1. Withhold inspections - Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 2. Revoke permits - Revoke any permit issued by the community to the applicant for the site in question or any other of the applicant's sites within the community's jurisdiction.
- G. Action Against the Financial Security: The community may access financial security for remediation actions if any of the conditions listed below exist. The community shall use the security to finance remedial work undertaken by the community, or a private contractor under contract to the community, to reimburse the community for all direct costs incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.
1. Abandonment - The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
 2. Failure to implement the SWPPP or Stormwater Management Plan - The applicant fails to conform to the grading plan and/or the SWPPP as approved by the Community.
 3. Failure to perform - The techniques utilized under the SWPPP fail within one year of installation.
 4. Failure to reimburse community - The applicant fails to reimburse the community for corrective action taken.
- H. Proportional Reduction of the Financial Security: When more than one-third of the applicant's maximum exposed soil area achieves final stabilization, the community can reduce the total required amount of the financial security by one-third. When more than two-thirds of the applicant's maximum exposed soil area achieves final stabilization, the community can reduce the total required amount of the financial security to two-thirds of the initial amount. This reduction in financial security will be determined by the community.
- I. Returning the Financial Security: The security deposited with the community for faithful performance of the SWPPP or the ESC Plan and any related remedial work shall be released one full year after the completion of the installation of all stormwater pollution control measures as shown on the SWPPP or ESC Plan.
- J. Emergency Action: If circumstances exist such that noncompliance with this chapter poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action. The City shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the City may be recovered from the applicant's financial security.

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

- A. Private stormwater facilities

1. Maintenance Plan Required - No private stormwater facilities may be approved unless a maintenance plan is provided that defines who will conduct the maintenance, the type of maintenance and the maintenance intervals. At a minimum, all private stormwater facilities shall be inspected annually and maintained in proper condition consistent with the performance goals for which they were originally designed.
2. Facility Access - Access to all stormwater facilities must be inspected annually and maintained as necessary. The applicant shall obtain all necessary easements or other property interests to allow access to the facilities for inspection or maintenance for both the responsible party and the community.
3. Removal of Settled Materials - All settled materials including settled solids, shall be removed from ponds, sumps, grit chambers, and other devices, and disposed of properly.
4. Inspections - All stormwater facilities within the community shall be inspected by the community during construction, during the first year of operation, and at least once every five years thereafter.

B. Public stormwater facilities

1. Acceptance of Publicly Owned Facilities - Before work under the permit is deemed complete; the permittee must submit as-builts and a maintenance plan demonstrating at the time of final stabilization that the stormwater facilities conform to design specifications. A final inspection shall be required before the community accepts ownership of the stormwater facilities.
2. Inventory of Stormwater Facilities - Upon adoption of this ordinance, the community shall inventory and maintain a database for all private and public stormwater facilities within community requiring maintenance to assure compliance with this ordinance. The community shall notify owners of public and private stormwater facilities of the need for conducting maintenance on an appropriate schedule based on the stormwater management practice.
3. Maintenance - The community shall perform maintenance of publicly owned stormwater facilities in accordance with their comprehensive stormwater management plan and other regulatory requirements.

C. Stormwater Facilities Maintenance Agreement: A Stormwater Facilities Maintenance Agreement regarding stormwater management shall be required for any project that requires a permanent stormwater management facility. The agreement shall guarantee the performance of the work described and delineated on the approved plan. In addition, the agreement will describe the City's inspection policy. Should the applicant fail to meet any

of the terms of the Stormwater Facilities Maintenance Agreement, the City may proceed with the actions listed in the enforcement section of this chapter.

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

E. Successor Liability:

1. The successor in interest to any portion of a site subject to an incomplete, approved Stormwater Management Plan or SWPPP shall be responsible for implementing the BMPs contained in the plan.
2. The successor shall be responsible for the implementation of this plan for the portion of the site transferred.
3. The successor will be subject to all regulations under this chapter.

725.10: ENFORCEMENT:

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

- A. Develop a cleanup and restoration plan,
- B. Obtain any necessary right-of-entry from any adjoining property owner,
- C. Implement the cleanup and restoration plan within forty-eight (48) hours of any one directive, notice, order, or of obtaining the adjoining property owner's permission.

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

A. Initial Contact: The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, forty-eight (48) hours after notification by the community or seventy-two (72) hours after the failure of erosion and sediment control measures, whichever is less, the community at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the community has been

unable to establish contact, the community may proceed with corrective work. There are conditions when time is of the essence in controlling erosion. During such a condition the community may take immediate action, and then notify the applicant as soon as possible.

- B. Erosion Off-site: If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the community, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the community, the permit holder does not repair the damage caused by the erosion, the Community may do the remedial work required. When restoration to wetlands and other resources are required, the applicant should be required to work with the appropriate agency to ensure that the work is done properly.
- C. Erosion into Streets, Wetlands or Water Bodies: If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- C. Failure to do Corrective Work: In no case, unless written approval is received from the City, shall more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the City, the applicant does not repair the damage caused by the erosion, the City may do the remedial work required and charge or assess the cost to the applicant. When restoration to wetlands and other resources are required, the applicant shall be required to work with the appropriate agency to ensure that the work is done properly. If eroded soils (including tracked soils from construction activities) enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

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

1. Issue a violation notice.
2. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
3. Permit Revocation - Revoke any permit issued by the community to the applicant for the site in question or any other of the applicant's sites within the community's jurisdiction.
4. Direct the correction of the violation by City forces or by a separate contract. All

costs incurred by the City in correcting violations must be reimbursed by the applicant.

- a. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from any financial securities placed within the City pursuant to this chapter. The owner shall waive all rights by virtue of Minnesota Statutes 429.081 to challenge the amount of validity of assessment.
 - b. If there is an insufficient financial amount in the applicant's security to cover the costs incurred by the City, the City may assess the remaining amount against the property in accordance with Minnesota Statutes 429.061.
- D. Stop Work Order: Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a Certificate of Occupancy. Whenever the City finds any noncompliance with the provisions of the approved Stormwater Management Plan, SWPPP, and/or this section or any City ordinance, the City shall attempt to communicate with the owner or person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the owner or person performing the work is not readily available, that person refuses to voluntarily comply immediately, or the noncompliance presents an imminent damage, or will cause or threatens to cause bodily injury or damage to off-site property, including, but not limited to off-site run-off, the City shall post in a conspicuous place on the premises a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until compliance is corrected.
1. Contents: The stop work order shall contain the following information:
 - a. Date of issuance.
 - b. Sufficient information to identify the property.
 - c. Violation(s).
 2. Unauthorized Removal of Posted Notice: Any unauthorized removal of a posted stop work order shall be punishable as a misdemeanor.
 3. Additional Notice: In addition to posting a stop work order, the City shall provide notification to the applicant by personal service, written notice by certified mail, or facsimile transmission.

725.11: RIGHT OF ENTRY AND INSPECTION:

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

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

725.12: ILLICIT DISCHARGE PROHIBITION:

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

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

B. Discharge Prohibitions:

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

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

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

It is unlawful for any person owning, keeping or harboring an animal to cause or permit said animal to be on any public property without having in his/her immediate

possession a device for the removal of feces and depository for the transmission of excrement to a proper receptacle located on the property owned or possessed by such person.

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

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

Disposal of animal waste in storm drains is prohibited.

Disposal of animal waste in public compost is prohibited.

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

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

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

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

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

2. Exemptions: The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
 - a. Discharges from the following activities will not be considered a violation of this section, an illegal discharge, or a source of pollutants to the storm drain system and to waters of the State when properly managed: potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising groundwater; uncontaminated groundwater infiltration to the storm drain system; uncontaminated foundation and footing drains; uncontaminated water from crawl

space pumps; air conditioning condensation; uncontaminated non-industrial roof drains; springs; individual residential and occasional non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash waters; flows from firefighting; and any other water source not containing pollutants.

- b. Discharges specified in writing by the City of Brainerd as being necessary to protect public health and safety.
 - c. Dye testing is an allowable discharge but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
 - 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.
 - e. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit.
3. Prohibition Of Illicit Connections:
- a. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
 - b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - c. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

C. Requirement to Prevent, Control and Reduce Stormwater Pollutants:

- 1. Authorization to Adopt and Impose BMPs:
 - 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.

- 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 maximum extent practicable, shall be deemed compliance with the provisions of this section.
 - c. The City may adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the State as a separate BMP Guidance Policy as such information is found to be needed by the City. Where BMP requirements are required by the City or any Federal, State, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the storm drain system or water of the State, every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.
2. **Suspension Due to Illicit Discharges in Emergency Situations:** The City of Brainerd may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the State, or to minimize danger to persons.
 3. **Suspension Due to The Detection of Illicit Discharge:** Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the City of Brainerd.
 4. **Watercourse Protection:** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually

necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

5. Notification Of Spills: Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the State from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the City's Public Works Department in person or by phone no later than four thirty o'clock (4:30) P.M. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City's Public Works Department within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

D. Inspection And Monitoring:

1. Authority to Inspect:
 - a. The City shall be permitted to enter and inspect facilities subject to regulation under this section as often as may be necessary to determine compliance with this chapter. If a facility has security measures in force which require proper identification and clearance before entry into its premises, the facility shall make the necessary arrangements to allow access to representatives of the City.
 - b. Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by City, State and Federal law.
 - c. Whenever necessary to make an inspection to enforce any provision of this section, or whenever the City Engineer has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this section, the City Engineer or designated staff person may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to

stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

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

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

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