



City of Cloquet

Stormwater Utility Manual & Credit Policy

Rules, Rates, Fees, Credits and Appeals

**Approved: March 15, 2011
Resolution No. 11-23**



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1.0 Introduction

In an effort to establish an equitable approach to funding required stormwater management services and facilities, the City Council of the City of Cloquet created a stormwater utility to be administered through the Department of Public Works & Engineering. Adopting a schedule of utility fees related to the burden of stormwater quality and quantity each property produces proportionately distributes the burden of such services.

Important stormwater management activities funded by the fee include:

- 1) Planning and ordinance development.
- 2) Ordinance enforcement.
- 3) Response to citizen inquiries, violations, reports, and complaints.
- 4) Public education about pollution prevention techniques and practices.
- 5) Public participation opportunities.
- 6) Detection and elimination of illicit discharges to the stormwater system.
- 7) System mapping.
- 8) Grading and drainage plan review and approval.
- 9) Construction of water quality and quantity control structures.
- 10) Construction of stormwater conveyance facilities.
- 11) Stabilization of highly erodible creeks and drainage ways.
- 12) Storm sewer, ditch, and outfall inspection, maintenance and replacement.
- 13) Street sweeping.
- 14) Materials management to reduce exposure to stormwater.
- 15) Record keeping and report preparation.

The impact of individual properties on the stormwater management system is quantified based on the amount of impervious area on a property. The baseline stormwater fee does not take into account the value provided by some property owners that independently implement and maintain Best Management Practices (BMPs) that offset, to some extent, the impacts of their developed property. Using a credit process, the City may make an adjustment to the base fee for any non-residential customer that provides stormwater management services that support and complement the City's stormwater management program.

Residents do not qualify for fee credit because the stormwater utility rate equates to the base fee every property must pay to support the community wide requirements of the stormwater permit and the benefits of stormwater management. Thus, City Ordinance does not allow a reduction below the amount of the residential fee for any single-family home.

This policy manual provides supplemental policies and technical guidance for developers, architects, engineers and property owners that would like to take advantage of credits offered through the stormwater utility.

1.1 Stormwater Management Overview

As Cloquet grows and the amount of impervious surface increases, the ability of land to naturally absorb rain and snow melt decreases, causing increases in the volume of stormwater and the rate at which it discharges. Urban activities also increase the potential for surface and ground water pollution which have been widely documented as the leading source of pollution in our rivers lakes and streams. It is for these reasons that the City must manage stormwater in order to:

- 1) Reduce the potential for property damage by providing adequate conveyance of stormwater through constructed and natural pipes and channels.
- 2) Address resultant increases in the discharge rates and volumes of stormwater.
- 3) Reduce pollutant loading and protect the quality of our water resources through stormwater treatment and pollution prevention practices.

Every City resident, business and visitor uses and benefits from the City's stormwater management activities that help achieve these objectives.

As of February 2007, the City became obligated to supplement its existing stormwater management activities with a Stormwater Pollution Prevention Program (SWPPP) that specifically addresses the permit requirements for Minnesota's Phase II Stormwater Permit for Municipal Separate Storm Sewer Systems (MS4s). The goal of this state required permit is to maintain and improve the chemical, biological, and physical health of the waters of the state.

1.2 Definitions

Best Management Practices (BMP) - schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the storm drainage system. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

Credit - a conditional reduction in the amount of a stormwater utility fee to a qualifying individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or the provision of a service or activity by the property owner, which system, facility, service, or activity reduces the stormwater utility's cost of providing stormwater services and facilities. Credits for on-site stormwater systems shall be generally proportional to the beneficial affect that such systems have on the peak rate of runoff and/or improved water quality from the individual property.

Detention Facility - a stormwater structure, by means of a single control point, which provides temporary storage of stormwater runoff in ponds, parking lots, depressed areas, rooftops, buried underground vaults or tanks, etc., for future release, and is used to delay and attenuate peak flow rates from a design storm event(s).

Developed Land - property altered from a natural state by construction or installation of more than 500 square feet of impervious surfaces as defined in this Chapter.

Duplex Residential Property - Land use classification of parcels with two (2) or three (3) living units.

Impervious Surface(s) - those surfaces on a property that prevent or impede the infiltration of stormwater into the soil at the same rate as natural or pre-developed conditions. Common impervious areas may include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel or soil surfaces, and any other surface that prevents or impedes the natural infiltration of stormwater runoff.

Other Developed Property (Non-residential Property) - Any developed property that is not classified as single-family or duplex residential by the definitions given in this policy. Property that has a mixture of residential and nonresidential uses shall be considered nonresidential.

Residential Equivalency Factor (REF) - the average impervious area of residential property per dwelling unit located within the city. A typical 0.33 acre single-family residential parcel with 30% impervious shall represent the basic unit of the stormwater utility's charge structure.

Single-Family Residential Property - Land use classification of parcels with one (1) living unit.

Stormwater - stormwater runoff, snowmelt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration (other than infiltration contaminated by seepage from sanitary sewers or other discharges), and general drainage related to a precipitation event.

Stormwater Management Facility - those natural and man-made drainage structures, conveyances, conduits, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated, and/or disposed of.

Stormwater Utility Rate - the stormwater fee applied to each REF or 4,312 square feet of impervious surface.

Total Aggregate Credit - the total sum of credits that a ratepayer may take is a maximum credit of ninety (90) percent. The total sum of credits may combine quality, quantity, industrial NPDES, direct discharge and, if applicable, education credits.

2.0 Credit System

The City of Cloquet has developed a system of credits based on four (4) general criteria:

- 1) Stormwater Quantity and Quality Credit.
- 2) National Pollutant Discharge Elimination System (NPDES) Industrial Permit Credit.
- 3) Direct Discharge (Receiving Water) Credit.
- 4) Education Credit.

To qualify for these credits the stormwater utility customer must fill out the appropriate credit application form and submit the required information to the Department of Public Works & Engineering. The application will be evaluated to determine the amount of credit to which the property is entitled. The total aggregate credit shall not be greater than ninety (90) percent. See the Appendix for a credit application form.

2.1 General Credit Guidelines

The following rules, policies, details, and special circumstances must be met to determine program qualification, amount of credit, and long term program compliance:

- 1) It is the responsibility of the property owner or appointed designee to apply for stormwater credits and to provide the necessary substantiating information with the appropriate credit application.
- 2) Credits for stormwater utility fees paid prior to approval for a credit will not be applied retroactively except for applications filed within one year of the effective date of the Stormwater Utility Ordinance. The City will not refund any portion of the stormwater fees paid for property prior to receiving approval for a stormwater credit.
- 3) Only a fully completed stormwater credit application will be reviewed. If approved, the credit will be reflected during the next month's billing cycle.
- 4) Site plan and as-built construction drawings (signed and sealed by a qualified licensed engineer) shall be at an approved scale, showing the site, topographic details, overland flow paths, all stormwater facilities, easements and other pertinent information.
- 5) Appropriate hydraulic calculation methods shall be used as approved by the Director of Public Works.
- 6) Credit reductions are maintained on a property as long as the activity is being performed in accordance with City requirements, or the stormwater facility is properly functioning in accordance with applicable City ordinances, and the policies stated herein.
- 7) A credit shall only be applied to that portion of the property served by the stormwater facility / best management practice.

- 8) Each application for the stormwater utility fee credit will serve as permission for City representatives to enter onto the owner's property for the purpose of inspecting the facility/structure for which credit is requested.
- 9) Inspection and Maintenance Plans for structural Best Management Practices (BMPs) must be submitted with the required site information.
- 10) No credit shall result in a stormwater utility fee for less than one (1) REF.

2.1.1 General Ownership Guidelines

In order to be eligible for credit, a BMP must be located on the property requesting the credit and must be maintained by the property owner. Properties draining to offsite BMPs or to any BMPs maintained by the City will not receive credit for those BMPs.

2.1.2 General Operation, Maintenance and Inspection Guidelines

The applicant must provide documentation in the form of an Inspection and Maintenance Plan. A plan for maintenance and inspection of structural BMPs shall be signed by the owner or his designee. The plan shall show the stormwater system, its components, and a schematic for each best management practice. One of the purposes of the plan is to inform property owners about the system components on their properties so they will know the locations and maintenance needs of the BMPs. The plan shall include or address the following program elements:

- 1) Description and location of stormwater systems to be inspected, as prepared by the design engineer.
- 2) Schedule of inspections and the techniques used to inspect and maintain the systems to ensure that they are functioning properly as designed.
- 3) Inspection checklists for each type of BMP and a proposed inspection schedule. (Templates for checklists may be located in the Minnesota Stormwater Treatment: Assessment & Maintenance Manual <http://stormwaterbook.safl.umn.edu/>).
- 4) Name(s) and phone number(s) of the person(s) who will be responsible for inspection and maintenance. If the organization that will be responsible is yet to be organized, list the name, address, and phone number of the person or entity with interim responsibility.
- 5) Schematics of BMPs located on the site.
- 6) Provisions of permanent access and maintenance easements.

The Inspection and Maintenance Plan must be submitted as a part of the credit approval process. No final credit issuance will occur without an approved plan in place.

Guidelines for inspection and maintenance of structural BMPs are contained in the Minnesota Stormwater Treatment: Assessment & Maintenance Manual (<http://stormwaterbook.safl.umn.edu/>); as are templates for inspection checklists for detention / retention and other facilities. As noted above, inspection priorities and schedules for each BMP type must be submitted as a component of the long-term maintenance plan for the site. The inspection checklists can serve this purpose, as well as serving as inspection reports for each facility. The template checklists are a general guideline of inspection elements; however, the design engineer may modify checklists to include inspections and maintenance elements as needed.

All Inspection/Maintenance records shall be made available upon request by the City.

2.1.3 BMP Inspections/Right of Entry

Personnel from the City of Cloquet shall have the right to enter upon any property to inspect stormwater drainage systems for compliance with the conditions of any permits or credits being received.

2.1.4 Violation of Terms

If the City of Cloquet determines that any condition exists on a property receiving a stormwater credit which does not meet the requirements of the credit being received, the following action will be taken:

- 1) The property owner will be notified in writing of the violation, any corrective actions required, and a deadline for compliance.
- 2) If the violation is not corrected within the required deadline, any credit affected by the violation will be revoked. Reinstatement of the credit will require resubmittal of a full credit application.
- 3) If circumstances exist such that violations with this policy or City ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action to correct the deficiency. The City shall require reimbursement for all costs incurred in correcting any deficiency. If payment is not made within sixty (60) days after costs are incurred by the City, then the City may assess the remaining amount against the property. As a condition of the credit application, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of such assessment costs related to corrective actions taken by the City.

2.1.5 Change of Ownership

In the event a property is sold which is receiving a stormwater utility credit, the new property owner must complete all the appropriate applications and documents requiring owner signatures for the credit(s) being received within 30 days of the transfer of ownership. Failure to do so will be considered a violation of the credit terms.

2.1.6 Application Process for Credits

The Applicant for stormwater utility fee credits will be required to go through the following general steps:

Pre-Submittal Meeting - Prior to the submittal of a stormwater facility design or other stormwater programs for review, the design engineer or other responsible party must hold a conference with Engineering staff to discuss system/program requirements, standards & specifications, available credits as well as any coordination or other issues related to the proposed design. The design engineer must be licensed to practice in the State of Minnesota.

Application for Credit and Plan/Calculation Submittal - Once the pre-submittal meeting is completed, the applicant may apply for the appropriate credit(s) using the appropriate forms.

Site Plan and Calculations Review - When construction and/or modification of structural facilities are required, the City will review the submitted site plan and calculations for all required information. Once reviewed, a review sheet will be e-mailed or faxed to the design engineer and owner/developer either stating approved or denied with required information listed on the review. New development retrofits or existing stormwater facilities work that is part of a larger development may be required to be approved by the Community Development Department before construction can begin.

Grading Permit - Once the site plan and calculations have been approved the responsible party may make application for a grading permit. Note that any project which requires a NPDES permit from the Minnesota Pollution Control Agency must also submit a copy of the required Stormwater Pollution Prevention Plan (SWPPP) for approval by the City.

As-Built and Inspection/Maintenance Plans - Stormwater facility as-builts, and inspection and maintenance plans will be required to be completed and executed before final approval of stormwater utility fee credit. If the project is part of a new development/redevelopment, these plans will be required before final the Certificate of Occupancy and/or final plat is released.

Final Approval and Credit Implementation - After all City requirements are met final approval will be granted and the utility credit will be implemented on the next months billing cycle.

2.2 Structural BMP (Quality and Quantity) Credits – Maximum 90%

Water quantity and quality credits are available to properties in the category of “other developed lands” which implement BMPs to provide detention, retention, infiltration, and/or treatment of stormwater runoff. Specific policies for quantity and quality credits are listed below:

- 1) Complete information must be provided to the Department of Public Works & Engineering to verify that controls meet the following criteria:
 - a) Peak runoff rate under developed conditions must be less than or equal to undeveloped conditions.
 - b) Detention / Retention pond information requirements:
 1. Hydraulic calculations showing stage-discharge and stage-storage relationships of stormwater runoff storage facilities / structural controls.
 2. Pond surface area.
 3. Minimum and maximum depth.
 4. Total storage, permanent pool, and water quality volumes.
 5. Drainage area.
- 2) Credit applications for new development or redevelopment may be submitted to Public Works & Engineering during the normal site plan review process. See section 2.1.6 Application Process for Credits.
- 3) Credit will also be considered on a case by case basis for other types of facilities, activities, or control devices that restrict and control the volume and/or peak flow related impacts on a property’s stormwater runoff on the

municipal stormwater system, providing sufficient technical justification is submitted in the application package to make such determination.

- 4) All existing detention / retention facilities for which credit is applied must be working in proper operating condition at the time that the application is submitted.
- 5) As-built information and inspection and maintenance plans shall be required before final credit is awarded.
- 6) BMPs which provide water quality benefits, but no detention will be eligible for a maximum credit of 25%.

2.2.1 Levels of Credit

The total amount of credit received for detaining stormwater is dependent on the magnitude of the storm event controlled by the facility. Recognizing that stormwater specifications have changed over the years, the City may grant stormwater credits to customers that successfully control a storm event(s) that are less than currently required. All calculations shall be based on the *24-hour type II SCS storm event* unless otherwise approved by the City. See Table 2.0 for eligible credits:

Table 2.0	
Design Storm Event Percent Credit	
2 -Year	25%
10 -Year	30%
50 - Year	50%
100 - Year	90%

2.2.2 Minimum Maintenance Requirements – Detention/Retention

In order for stormwater retention and detention facilities to operate as they were intended, maintenance must be routinely performed. Improperly maintained stormwater retention and detention facilities do not reduce stormwater impacts effectively. The following items are the basic minimum maintenance requirements for all detention / retention facilities and must be included in the Maintenance Covenants as specified in Section 2.1.2:

- 1) Sediment shall be removed when approximately 50% of storage volume of the facility is filled.
- 2) Sediment traps / fore bays, if existing shall be cleaned out when filled.
- 3) No woody vegetation shall be allowed to grow on the dam, unless otherwise approved.
- 4) Other vegetation shall be cut when it exceeds 18 inches in height unless part of an approved managed landscaping or water quality feature.
- 5) Debris shall be removed from blocking inlet and outlet structures and from areas of potential clogging. This is especially important after major storms. Extended detention control devices shall be checked often for debris accumulation and/or clogging.
- 6) Litter and other “floatables” shall be removed from the pond on a regular basis.
- 7) The control structure shall be kept structurally sound, free from erosion, and functioning as designed.

- 8) No long term standing water is allowed within detention basins without special design provisions.
- 9) Any bare or eroded areas on the pond slopes shall be stabilized with sod or if conditions warrant, stabilized with other means as approved by the Director of Public Works & Engineering or his designee.

2.3 NPDES Industrial Permit Credit – 25%

The NPDES Industrial Credit is available to “other developed lands” that have and maintain a current National Pollutant Discharge Elimination System Industrial Stormwater Discharge Permit associated with all appropriate facilities. Applicants approved for the NPDES Industrial credit will receive twenty-five percent (25%) credit to the assessed stormwater utility fee for that property. Specific policies for the NPDES Industrial Permit credit are listed below:

- 1) The property will receive the NPDES Industrial credit only for the duration of the active NPDES Industrial permit. The property owner must re-apply for the NPDES credit each time that the NPDES Industrial permit is renewed with the State of Minnesota.
- 2) To obtain this credit, the property owner must provide:
 - a. A completed copy of the NPDES credit application form;
 - b. A copy of the latest Notice of Intent (NOI) for the permit;
 - c. A copy of the facility’s Stormwater Pollution Prevention Plan (SWPPP), BMP Plan, and other applicable data as required by the NPDES permit.
 - d. A copy of all monitoring data as required by the NPDES permit.

2.4 Direct Discharge Credit – Maximum 90%

A Direct Discharge Credit is available to “other developed lands” if stormwater runoff is generated on the property immediately adjacent to the St. Louis River and flows directly to the waterbody. The following minimum criterion must be met:

- 1) Stormwater runoff generated on the property **cannot** flow within, across, through, or underneath areas which:
 - a) Are located within publicly dedicated streets, rights-of-way, and easements;
 - b) Are subject to publicly dedicated easements, easements-by-use, rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions of adequate access of operation, maintenance, and/or improvement of systems and facilities; or
- 2) Applicants approved for the Direct Discharge credit will receive a maximum of ninety (90) percent credit to the assessed stormwater utility fee for that property.
- 3) Credit will be proportional to the property area draining to the river.
- 4) It is the responsibility of the property owner or appointed designee to provide the necessary site plan information in order to determine the amount of credit.

2.5 Education Credit – Maximum 25%

The education credit is available to elementary and/or secondary schools that educate and inform their students about the importance of our natural water resources using an approved stormwater curriculum. The rationale behind this credit is that the information

provided by the school(s) will translate into appreciation and stewardship of our water resources and thereby reduce negative impacts that result from an uninformed citizenry. Policies specific to the Education Credit are as follows:

- 1) The Education Credit is available to both public and private schools located in the City of Cloquet.
- 2) To be eligible for the credit, the school must teach a water resource-based curriculum that is approved by the Department of Public Works & Engineering. With input from the applicant school the City will base approval on the sufficiency of the curriculum to meet State standards and for City compliance with NPDES Phase II MS4 permit requirements.
- 3) The individual school may receive a maximum of 25% credit to the utility fee for the education credit. However, if the school meets other credit criteria a total aggregate credit of 90% may be achieved. The credit will be applied to the school property only. (e.g., if the High School is teaching the approved curriculum the credit will be applied only to that property).
- 4) The Director of Schools or responsible party will be required to re-certify annually, before July 1, to the Department of Public Works & Engineering, the extent to which the curriculum was taught during the previous school year.

Appendix

**CITY OF CLOQUET
COUNTY OF CARLTON
STATE OF MINNESOTA**

RESOLUTION NO. 11-23

RESOLUTION ADOPTING THE STORMWATER UTILITY CREDIT POLICY

WHEREAS, In an effort to establish an equitable approach to funding required stormwater management services and facilities, the City Council of the City of Cloquet had adopted a stormwater utility.

WHEREAS, Baseline stormwater fees do not take into account the value provided by some property owners that independently implement and maintain Best Management Practices (BMPs) which offset, to some extent, the impacts of their developed property.

WHEREAS, A credit process allows the City may make an adjustment to the base fee for any non-residential customer that provides stormwater management services that support and complement the City's stormwater management program.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA, That the Council hereby adopts the City of Cloquet Stormwater Utility Credit Policy to be administered through the Department of Public Works & Engineering.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CLOQUET
THIS 15TH DAY OF MARCH, 2011.**

Bruce Ahlgren, Mayor

ATTEST:

Brian Fritsinger, City Administrator

ORDINANCE NO. 390A

**AN ORDINANCE TO CREATE SECTION 11.10 OF THE MUNICIPAL CODE,
RELATED TO UTILITIES AND THE
ESTABLISHMENT OF STORMWATER UTILITY CHARGES**

THE CITY COUNCIL OF THE CITY OF CLOQUET HEREBY ORDAINS AS
FOLLOWS:

Section 1. That Section 11.10 of the Municipal Code be created and read as follows:

Section 11.10: Stormwater Utility Charges

11.10.01. Stormwater Utility and Authority. There is hereby established a public utility to be known as the Stormwater Utility for the City of Cloquet. The Stormwater Utility shall be operated as a public utility pursuant to City Code and Minnesota Statutes, Section 444.075.

11.10.02. Purpose. The purpose of this ordinance is to provide a funding mechanism for the following services:

- A. The administration, planning, analysis, installation, operation, maintenance and replacement of public drainage systems.
- B. The administration, planning, implementation, construction, and maintenance of stormwater Best Management Practices (BMPs) to reduce the introduction of sediment and other pollutants into local water resources.
- C. Other education, engineering, inspection, monitoring, testing and enforcement activities as necessary to maintain compliance with local, state and federal stormwater requirements.
- D. Activities necessary to maintain compliance with the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) Permit requirements established by the Minnesota Pollution Control Agency, including preparation, implementation and management of a Stormwater Pollution Prevention Plan (SWPPP) to address the following control measures:
 - (1) Public education and outreach on storm water impacts.
 - (2) Public involvement/participation.
 - (3) Illicit discharge detection and elimination.

- (4) Construction site stormwater runoff control.
- (5) Post-construction runoff control in new development and redevelopment.
- (6) Pollution prevention for municipal operations.

11.10.03. Definitions

Subd. 1. Residential Equivalency Factor, referred to herein as “REF”, is defined as the average impervious area of residential property per dwelling unit located within the city. A typical 0.33 acre single-family residential parcel with 30% impervious shall represent the basic unit of the stormwater utility’s charge structure.

Subd. 2. REF Rate is defined as a utility fee applied to each REF or 4,312 square feet of impervious surface as established by resolution of the Cloquet City Council as provided herein.

Subd. 3. Single-Family Residential is defined as the land use classification of parcels with one (1) living unit.

Subd. 4. Duplex Residential is defined as the land use classification of parcels with two (2) or three (3) living units.

Subd. 5. Nonresidential Property is defined as any developed property that is not classified as single-family or duplex residential by the definitions given above. Property that has a mixture of residential and nonresidential uses shall be considered nonresidential.

Subd. 6. Impervious Area is defined as areas on a property that prevent or impede the infiltration of stormwater into the soil at the same rate as natural or pre-developed conditions. Common impervious areas may include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel or soil surfaces, and any other surface that prevents or impedes the natural infiltration of stormwater runoff.

Subd. 7. Developed Land is defined as property altered from a natural state by construction or installation of more than five hundred square feet of impervious surfaces as defined in this Section.

Subd. 8. Stormwater Drainage System or System is defined as the existing constructed and natural stormwater drainage facilities and channels of the City and all improvements thereto which are the property and responsibility of the Utility, to be operated by the Utility to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or

otherwise affect the quality and quantity of discharge from such system.

11.10.04. Rates and Charges

Subd. 1. Minimum or Maximum Fees. The City Council may establish minimum or maximum monthly fees per property.

Subd. 2. Estimated Charges. If, for any reason, precise information related to the use, development or impervious area of a premise is not available; then Stormwater Utility Charges for such premise shall be estimated, and billed, based upon information then available to the City.

Subd. 3. Standardized Charges. The following rules shall apply for the purpose of simplifying and equalizing charges:

- A. A typical surface area of 0.33 acres containing 30% impervious (i.e. 4,312 sq. ft. of impervious surface) shall be used as the single-family residential equivalency factor.
- B. Any duplex or triplex which is situated on a single parcel shall be billed at 1.5 REFs.
- C. Parcels subject to these standardized charges shall not be eligible for adjustments (credits) to charges or adjustments to impervious area as set forth elsewhere herein.

Subd. 4. Exceptions. The following land uses are exempt from the Stormwater Utility Fees established herein:

- A. Public Street right-of-way.
- B. Wetlands and public waters as defined by state law.
- C. Undeveloped properties.
- D. Airport runways and taxiways.
- E. Tribal owned land within the Fond du Lac Reservation.

Subd. 5. Establishing Rates. Each developed property shall pay a rate of four dollars (\$4) per REF. The REF Rate so established shall be on file with the City Administrator/Clerk and shall be used to compute the stormwater charges for a given property based on the following formulas for each land use designation:

Single-Family Residential Charge = (\$4) x (1 REF)
Duplex Residential Charge = (\$4) x (1.5 REF)
Nonresidential Property Charge = (IMPERVIOUS SURFACE AREA)/(4,312 sq. ft.) x (\$4)

11.10.05. Stormwater Fee Adjustments. Stormwater Utility fees may be adjusted under the conditions stated below. It shall be the responsibility of the property owner to provide justification for the fee adjustment.

Subd. 1. Appeals Process. Any person liable for the payment of stormwater utility fees on a property may, appeal to the City Engineer for a utility fee adjustment if the person believes the utility fee to be incorrect. The request for adjustment shall be made in writing and shall state, in detail, the grounds upon which relief is sought. The Engineer may require the applicant to submit, at applicant's expense, supplemental information including, but not limited to, survey data certified by a registered land surveyor and engineering reports certified by a registered professional engineer. The director may grant an adjustment if it is found that:

- A. A substantial error was made in the calculation of the impervious area on a nonresidential property.
- B. The land use designation used to calculate the stormwater fee is inaccurate

Acceptance and denials of appeals for adjustment shall be made in writing by the Engineer. No adjustment shall be made retroactively, except for initial appeals filed within one year of the effective date of this ordinance.

Any person denied an adjustment by the Engineer may appeal the denial to the City Council by filing written notice of appeal with the city clerk within 30 days of receipt of the Director's decision. The City Council shall hear the appeal and affirm, modify or reverse the decision of the Director, applying the standards for granting adjustments set forth in this Section.

Subd. 2. Credits. In determining charges, the City Council may adopt a Stormwater Utility Credit Policy in order to provide an incentive for property owners to manage stormwater quantity and quality. All applications for credits shall be submitted to the Director of Public Works and are subject to the following provisions:

- A. Residential properties subject to standardized charges shall not be eligible for credits.
- B. Maximum Credits are cumulative and cannot exceed 90 percent.
- C. It the responsibility of the property owner to provide all documentation, maintenance and inspection records as required the Public Works Director in order to prove the benefit of any Best Management Practice (BMP).

11.10.06. Collections and Penalties

Subd. 1. Billing Schedule. The City shall render invoices for stormwater fees monthly, quarterly or semi-annually as the City Council shall determine suitable and necessary. Charges shall be payable to the City and may be rendered in conjunction with other utility billings.

Subd. 2. Accounts in Name of Owner and/or Occupant. All accounts shall be carried in the name of the owner of the premises connected to the water and sewer services, and/or the occupant of the premises, if the owner is not directly paying for the services. Where the term “user” appears in this Code in reference to the payment for stormwater fees, the term shall include the owner and the occupant of the premises.

Subd. 3. Required Information. The owner, occupant or person in charge of any premises shall furnish the City with such information as may reasonably be required relating to services provided by the City system. Willful failure to provide the information, willful falsification of the information, or willful failure to comply with any requirement or order issued pursuant to this Section shall constitute a violation of this Section.

Subd. 4. Minimum Fee. The minimum stormwater utility fee that shall be billed by the City for all developed properties within the City of Cloquet shall be one Residential Equivalency Factor.

Subd. 5. Penalty for Late Payment. All charges for stormwater fees and miscellaneous service shall be due on the date specified by the City for the respective account. Penalty for past due bills shall be 5% of the total bill, except, no penalty shall be charged on past due sales tax.

Subd. 6. Delinquent Accounts. All charges for stormwater utility fees shall be due on the date specified by the City for the respective amount and shall be delinquent twenty (20) days thereafter. The City shall endeavor to collect delinquent accounts promptly. When satisfactory arrangements for payment have not been made, delinquent accounts shall be certified to the City Administrator who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. The assessment roll shall be delivered to the Council for adoption on or before November 30th of each year for certification to the County Auditor for collection along with taxes. Such action shall be optional and may be subsequent to taking legal action to collect delinquent accounts.

If the delinquent customer shall be a tenant who has vacated the property or an owner who no longer has an ownership interest because of mortgage foreclosure,

cancellation of contract for deed or for any other reason, collection of the delinquent account shall, at the option of the City Administrator, be either through a collection agency or legal proceedings in accordance with the City's Collection Policy.

Subd. 7. Liability for Payment of Services. The owner of developed property, and the occupant thereof, shall be jointly and severally liable to pay for the service to the premises and the service shall be furnished to the premises by the City only upon the condition that the owner and occupant of the premises shall be jointly and severally liable to the City for the charges. The owner of rental property agrees, as a condition of receiving service, to be personally liable for stormwater utility fees charged to the tenants, lessees, or other occupants. A claim for unpaid charges which have been billed to the occupant of the premises or the user of the service may be recovered against the owner or occupant in a civil action in any court of competent jurisdiction or in the discretion of the City Administrator may be certified to the County Auditor to be collected with taxes against the premises so served or reported to a collection agency. Money paid to the County Auditor on the account shall belong to the City and shall be remitted to the City Administrator by the County Auditor in the manner provided by law for the payment of other money belonging to the City.

Subd. 8. Disposition of Revenues. All revenues derived from charges imposed under this Section shall be respectively credited to the City Stormwater Enterprise Fund, unless otherwise designated by City Council resolution.

Section 2. Effective Date. This ordinance shall take effect and be in force from and after its passage and publication in accordance with law.

Passed this 15th day of March, 2011.

CITY OF CLOQUET

By: Bruce Ahlgren
Its Mayor

ATTEST:

Brian Fritsinger
Its City Administrator

Published this _____ day of _____, 2011.

CHAPTER 18: STORM WATER MANAGEMENT.

Section 18.1: General.

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

The objectives of this Chapter are as follows:

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

Section 18.2: Definitions.

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

Subd. 1. APPLICANT. Any person or group that applies for a building permit, subdivision approval, zoning change, approach, excavation or special use permit, storm water plan approval, or any other permit which allows land disturbing activities. Applicant also means that person's agents, employees, and others acting

under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

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

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

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

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

Subd. 6. COMMON PLAN OF DEVELOPMENT OR SALE. A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

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

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

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

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

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

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

Subd. 13. DRAINAGE EASEMENT. A right to use the land of another for a specific purpose, such as a right-of-way for the movement of water across or under the land surface or the storage of water.

Subd. 14. EROSION. Removing the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

Subd. 15. EROSION CONTROL. Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Subd. 16. EROSION & SEDIMENT CONTROL PLAN (E&S CONTROL PLAN). A written description and/or plan indicating the number, locations, sizes, and other pertinent information about best management practice methods designed to reduce erosion of the land surface and the deposition of sediment within a waterway. An E&S Control Plan is required as part of a Storm Water Management Plan. Both the Storm Water Management Plan and E&S Control Plans are used in developing the State mandated Storm Water Pollution Prevention Plan (SWPPP). An E&S Control Plan may be required for certain projects not requiring a full Storm Water Management Plan, as outlined in this ordinance or determined necessary by the City Engineer.

Subd. 17. EXPOSED SOIL AREAS. All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered "exposed soil," until it meets the definition of "final stabilization."

Subd. 18. FINAL STABILIZATION. Means that all soil disturbing activities at the site have been completed, and that a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of seventy (70) percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or rangeland, final stabilization constitutes returning the land to its preconstruction agricultural use.

Subd. 19. HYDRIC SOILS. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

Subd. 20. HYDROPHYTIC VEGETATION. Macrophytic (large enough to be observed by the naked eye) plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Subd. 21. IMPERVIOUS AREA. A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas; and concrete, asphalt, or gravel parking lots and roads.

Subd. 22. ILLICIT DISCHARGE. (See PROHIBITED DISCHARGE).

Subd. 23. LAND DEVELOPMENT ACTIVITY. The act of subdivision or platting properties for personal use, adding value or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities.

Subd. 24. LAND DISTURBING ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City's jurisdiction, including construction, clearing & grubbing, grading, excavating, transporting and filling of land. Within the context of this ordinance, land disturbance activity does not mean:

- a) Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work, which will not result in sediments entering the storm water system.
- b) Additions or modifications to existing single family structures that result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.
- c) Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.
- d) Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.

- e) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.

Subd. 25. LANDOWNER. Any person, firm, corporation or other entity holding title to or having a divided or undivided interest in land.

Subd. 26. LOCAL DETENTION. Detention intended to serve only the developing area in question and no areas outside of the development boundaries. As such it is under the control of one owner or group of owners. This is also known as on-site detention.

Subd. 27. LOCAL DRAINAGE SYSTEM. The storm drainage system which transports the minor and major storm water runoff to the major storm water system serving only the property within the development boundaries, under the control of one owner or group of owners. This is also known as the on-site drainage system.

Subd. 28. MANAGEMENT PRACTICE. A practice or combination of practices to control erosion and water quality degradation.

Subd. 29. NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER PERMIT. Any permit or requirement enforced pursuant to the Clean Water Act as amended for the purposes of regulating Storm Water discharge.

Subd. 30. NONCOMPLIANCE FEE. The administrative penalty, or fee, for re-inspection of a property which may be assessed to a Permittee, Land Owner, Developer or their Contractor(s) for noncompliance with the provisions and/or conditions of an approved storm water plan and/or permit or the violation of any other provisions contained in this storm water ordinance.

Subd. 31. NATIONWIDE URBAN RUNOFF PROGRAM (NURP). An urban runoff study by the United States Environmental Protection Agency.

Subd. 32. ON-SITE DETENTION. (See Local Detention System).

Subd. 33. ON-SITE DRAINAGE SYSTEM. (See Local Drainage System).

Subd. 34. OUTLET. Any discharge point, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Subd. 35. OWNER OR OCCUPANT. Any person owning or using a lot, parcel of land, or premises connected to and discharging Storm Water into the storm water system of the City, and who pays for and is legally responsible for the payment of storm water rates or charges made against the lot, parcel of land, building or premises, if connected to the Storm Water system or who would pay or be legally responsible for such payment.

Subd. 36. PERMANENT COVER. Means "final stabilization." Examples include grass, gravel, asphalt, and concrete. See also the definition of "final stabilization." Any buildings, structures, landscaping and related features as part of a development project approved for construction or constructed prior to the passage of this ordinance.

Subd. 37. PERMANENT FACILITIES. Those features of a storm water management plan which are part of any natural or constructed storm water system that requires periodic maintenance to retain their operational capabilities. This includes but is not limited to storm sewers, infiltration areas, detention areas, ponds, channels, streets, etc.

Subd. 38. PERMIT. With in the context of this rule a "permit" is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities.

Subd. 39. PERMITTEE. Any person who applies for and receives approval of a storm water plan and/or permit from the City and/or State.

Subd. 40. PERSON. Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private.

Subd. 41. PROHIBITED DISCHARGE. (Can also be referred to as Illicit Discharge.) A non-storm water discharge into the storm water system or a natural water, including but not limited to:

- a) Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.
- b) The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.).
- c) Erosion and sediment originating from a property and deposited onto City streets, private properties or into the storm water conveyance

system, including those areas not specifically covered under an approved Storm Water Management Plan or Storm Water Permit.

- d) Failure to remove sediments transported or tracked onto City streets by vehicles or construction traffic within 24 hours of it being deposited on the street.
- e) For the purposes of this ordinance, Prohibited Discharges do not include the following, unless information is available to indicate otherwise:

- Water line flushing;
- Landscape irrigation;
- Diverted stream flows;
- Rising ground water;
- Uncontaminated ground water infiltration;
- Uncontaminated pumped ground water;
- Discharges from potable water sources;
- Foundation drains;
- Air conditioning condensate;
- Irrigation water;
- Springs;
- Water from crawl space pumps;
- Footing drains;
- Lawn watering;
- Individual residential car washing;
- Flows from riparian habitats and wetlands;
- De-chlorinated swimming pool discharges and
- Street wash water

Subd. 42. PUBLIC STORM SEWER. A storm sewer that is owned and operated by the City and is located entirely within publicly owned land or easements.

Subd. 43. REGIONAL DETENTION. Detention facilities provided to serve an area outside the development boundaries. A regional detention site generally receives runoff from multiple storm water sources and serves an area of approximately one quarter section.

Subd. 44. RETENTION FACILITY. A natural or man made structure that provides for the storage of all or a portion of storm water runoff.

Subd. 45. RUNOFF. The rainfall, snowmelt, dewatering, or irrigation water flowing over the grounds surface and into open channels, underground storm sewers, and detention or retention ponds.

Subd. 46. SEDIMENT. Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

Subd. 47. SEDIMENT CONTROL. The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Subd. 48. SIGNIFICANT REDEVELOPMENT. Alterations of a property that changes the "footprint" of a site or building in such a way that results in the disturbance of over one (1) acre of land. This term is not intended to include activities, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls, such as exterior remodeling.

Subd. 49. SITE. The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the storm water plan or permit application.

Subd. 50. STABILIZED. The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization. Ground surfaces may be temporarily or permanently stabilized (also see Final Stabilization).

Subd. 51. STATE. The State of Minnesota.

Subd. 52. STORM SEWER. A pipe or conduit for carrying storm waters, surface runoff, and drainage, excluding sewage and industrial wastes.

Subd. 53. STORM WATER. Means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage. Storm water does not include construction site dewatering.

Subd. 54. STORM WATER MANAGEMENT. The planned set of public policies and activities undertaken to regulate runoff and reduce erosion, and maintain or improve water quality under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows and/or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Storm water management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.

Subd. 55. STORM WATER MANAGEMENT CRITERIA. Specific guidance provided to the engineer/designer to carry out drainage and storm water management policies. An example might be the specification of local design hydrology and use of the design storm.

Subd. 56. STORM WATER MANAGEMENT PLAN. (See STORM WATER POLLUTION PREVENTION PLAN (SWPPP)).

Subd. 57. STORM WATER MANAGEMENT FACILITIES. Physical facilities that collect, store, convey, and treat storm water runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

Subd. 58. STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A joint storm water and erosion and sediment control plan that is written as a prerequisite to obtaining an NPDES Storm Water Permit for Construction Activity, that when implemented will decrease soil erosion on a parcel of land and off-site non-point pollution. It involves both temporary and permanent controls. The SWPPP, which draws its information from a Storm Water Management Plan and is typically condensed, must be incorporated into the construction grading plans for the project.

Subd. 59. STORM WATER RETENTION STRUCTURE. Storage designed to eliminate or reduce the frequency of subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage). Anything manufactured, constructed, or erected for the purpose of retaining storm water, which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

Subd. 60. SUBDIVISION. Any tract of land divided into building lots for private, public, commercial, industrial, etc. development for the purpose of sale, rent, or lease, including planned unit development."

Subd. 61. SYSTEM CHARGE OR ASSESSMENT. A charge for connecting an outlet to a regional storm water management facility, typically a pond. The charge is normally assessed to recover the proportional cost of constructing a regional pond or storm water treatment facility.

Subd. 62. TEMPORARY PROTECTION. Short-term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.

Subd. 63. UNDEVELOPED LAND. Land that in its current state has not been impacted by significant land disturbance activities.

Subd. 64. USER. Any person who discharges, causes, or permits the discharge of storm water into the City's Storm Water management system.

Subd. 65. VIOLATION. The willful or negligent act of noncompliance with the conditions attached to an approved storm water plan and/or permit, or any other provisions contained in this ordinance, subject to enforcement and penalty or noncompliance fees.

Subd. 66. WATERS OF THE STATE. (as defined in Minn. Stat. 115.01, Subd. 22) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Subd. 67. WATERCOURSE. The natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel or an open channel facility that has been constructed for such purpose. This shall include any easements obtained for the purposes of runoff conveyance.

Subd. 68. WATERWAY. A channel that directs surface runoff to a watercourse, or to a storm sewer.

Subd. 69. WET POND or WET DETENTION FACILITY. A Retention Facility which includes a permanent pool of water used for the purposes of providing for the treatment of storm water runoff.

Subd. 70. WATERSHED MASTER PLAN. A plan that an engineer/designer formulates to manage urban storm water runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land use, and grading plan, peak rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It may be submitted to regulatory officials for their review for adoption.

Subd. 71. WETLAND or WETLANDS. (as defined in Minn. R. 7050.0130, Subp. F) and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designated for wastewater treatment are not Waters of the State. For purposes of this definition, wetlands must have the following three attributes:

- a) A predominance of hydric soils;
- b) Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- c) Under normal circumstances support the prevalence of such vegetation.

Section 18.3: Waste Controls and Prohibited Discharges.

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

Subd. 1 Illegal Disposal.

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

Subd. 2. Prohibited or Illicit Discharges and Connections.

- a) No person shall cause any prohibited or illicit discharge to enter the municipal storm water system unless such discharge:

- 1) Consists of non-storm water that is authorized by an NPDES point source permit obtained from the MPCA; or
 - 2) Is associated with fire fighting activities.
- b) No person shall use any illicit connection to convey non-storm water to the City storm water system.

Subd. 3. Good Housekeeping Provisions. Any owner or occupant of property within the City shall comply with the following good housekeeping requirements:

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

Section 18.4: National Pollution Discharge Elimination System (NPDES) Program.

18.4.01 National Pollution Discharge Elimination System (NPDES) Permit Program

General Requirements. Mandated by Congress under the Federal Clean Water Act, the National Pollution Discharge Elimination System (NPDES) Stormwater Program is a comprehensive national program that regulates stormwater discharges from construction sites and industrial facilities. It is unlawful to initiate any land development activity, land disturbing activity, or other activities which may result in an increase in storm water quantities, degradation of storm water quality, or restriction of flow in any storm sewer system, open ditch or natural channel, storm water easement, water body, or wetland outlet within the jurisdiction of the City, without having first complied with the terms of this Chapter and the NPDES Program.

Subd. 1. For construction or development projects, or any land disturbing activity that disturbs one or more acres of land, site owners and their construction operators must apply for coverage under the Minnesota Pollution Control Agency's (MPCA's) National Pollutant Discharge Elimination System (NPDES) permit program. This permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for the specific project.

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

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

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

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

Minnesota Department of Natural Resources, the Minnesota Department of Transportation, the State Historical Preservation Office, and others.

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

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

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

- 1) All residential or non-commercial/industrial projects that include less than five acres of impervious surface.
- 2) All residential development projects with an ultimate planned density of less than one-half (0.5) units per acre.

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

Subd. 4. Subdivision Plat Approval and Subdivision Registration Process. No subdivision approval, plat approval or building permit shall be issued, nor shall any land be disturbed until the SWPPP has been approved by the City and a copy of a State issued NPDES permit for the project has been provided to the City. Upon the sale of individual lots, the new owners shall be required to file a Subdivision Registration Form with the MPCA, which allows the original

permittee to transfer the responsibilities of the project NPDES permit for a portion of the site to another party without reapplying for permit coverage. Each new owner must complete this form and submit it to the MPCA and provide the assigned registration number to the City.

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

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

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

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

Subd. 9. Adequacy of Outlets. The adequacy of any Outlet used as a discharge point for proposed Storm Water Management Systems must be assessed and documented to the satisfaction of the City Engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate post-development runoff discharges and volumes. In

addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion.

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

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

Subd. 12. Maintenance Agreements for Privately Owned Storm Water Management Facilities. For storm water management facilities that are on private property or owned by an entity other than the City and discharge within the City, a plan for maintenance and inspections of the system must be submitted to and approved by the City as part of any SWPPP.

Subd. 13. Exemptions. Exemptions to the SWPPP requirements of this section include:

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

18.4.03. Plan Review.

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

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

Section 18.5: General Storm Water Practices.

18.5.01. General Stormwater Management Practices and Erosion Control Requirements for Any Land Disturbing Activity. The following general stormwater management practices and erosion control requirements shall apply to all land disturbing activities, regardless of project size and whether or not a NPDES Permit or SWPPP is required.

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

Subd. 2 Land disturbing activity involving the construction of single-family or two-family dwellings. Construction of single family or two family dwellings must comply with in place approved BMPs and any existing permitted SWPPP for the subdivision, including NPDES Permit requirements and Subdivision Agreements. Upon the sale of individual lots, the new owners shall be required to file a Subdivision Registration Form with the MPCA, which allows the original permittee to transfer the responsibilities of the project NPDES permit for a portion of the site to another party without reapplying for permit coverage. Each new owner must complete this form and submit it to the MPCA and provide the assigned registration number to the City. A City issued Grading Permit shall also be required as provided for in Section 18.5.01, Subd. 1, above.

Subd. 3. Utility Work or Any Other Work Within Street Right-of-Ways. Utility contractors working in a street right-of-way to repair existing or install new utilities, or any other work disturbing less than one acre, are required to provide appropriate inlet protection and sediment control during the course of the work so as to ensure the storm sewer system is protected from pollution. The utility contractor is also required to provide street sweeping as necessary to insure that sediment resulting from their activity does not enter the storm water system

following construction. The street shall be swept within (1) working day of completion of all work on the site. All disturbed vegetation shall be replaced with seed or sod within seven (7) days of completion of utility installation on the site. The City will provide guidance regarding acceptable temporary protection BMPs for inlets and methods to stabilize the exposed soil areas until they meet the definition of final stabilization.

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

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

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

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

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

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

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

Section 18.6: Inspections.

18.6.1. Inspections.

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

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

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

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

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

- c. **Erosion into streets, wetlands or water bodies.** If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

- d. **Failure to do corrective work.** When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take the following actions.
 - 1) Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a Certificate of Occupancy.

 - 2) Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.

 - 3) If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action to correct the deficiency or hire a contractor to correct the deficiency. The issuance of a permit constitutes a right-of-entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.

 - 4) Require reimbursement to the City for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within sixth (60) days after costs are incurred by the City, then the City may assess the remaining

amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of such assessment costs related to cleanup or corrective actions taken by the City.

Section 18.7: Enforcement and Penalties.

18.7.1. Enforcement and Penalties. Any person, firm, or corporation failing to comply with or violating any of these regulations, may be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. In addition, all land use and building permits may be suspended until the applicant has corrected the violation. Each day that a separate violation exists shall constitute a separate offense.

18.8: Abrogation and Greater Restrictions.

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

Useful Links and Resources

[City of Cloquet Stormwater Utility Page](#) - Part of the City of Cloquet's official website, this page offers detailed information about the Utility as well as links for downloading electronic [credit application forms](#) for completion and submittal.

[Minnesota Stormwater Manual](#) – A great resource for newcomers to stormwater management as well as professionals. The first half of the Manual is dedicated to the general Minnesota context for stormwater management. The second half of the manual, which includes many diagrams and formulas, is intended mainly for professionals—but homeowners should find useful content as well.

[Minnesota Stormwater Treatment: Assessment & Maintenance Manual](#) - An online manual that has been developed to help users assess the performance of, and schedule maintenance for, stormwater treatment practices. It is intended as a supplement to the Minnesota Stormwater Manual, which provides guidance for the *design and installation* of stormwater treatment practices.

[Industrial Stormwater Best Management Practices Guidebook](#) – Developed by the MN Pollution Control Association, this guidebook is an excellent resource for anyone who deals with stormwater management in an industrial setting.

[Regional Stormwater Protection Team \(RSPT\)](#) – A group made up of local Municipal Separate Storm Sewer (MS4s) Permit holders, this website provides a wealth of information on stormwater management in the Cloquet area. Be sure to check out the site design toolkit for information on management techniques common to our area.

[Minnesota Pollution Control Agency Stormwater Page](#) – An excellent resource for anyone with questions regarding Minnesota rules, regulations, and permits for municipal, industrial, and construction site stormwater.

[Blue Thumb.org](#) - Are you planning on planting a rain garden or a shoreline buffer? This website has all the information and tools you will need in order to select the appropriate plantings for your site.