

CHAPTER 57 STORMWATER, EROSION, AND SEDIMENT CONTROL

Section

57.01 Illicit Discharge Detection and Elimination.

57.02 Erosion and Sediment Control.

57.03 Stormwater Management

§ 57.01 ILLICIT DISCHARGE DETECTION AND ELIMINATION.

(A) *Purpose and objectives.* The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of non-stormwater discharges to the storm sewer system to the maximum extent practicable as required by state and federal law. This Section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) MS4 permit process. The objectives of this Section are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user;
- (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Section.

(B) *Definitions.* For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

AUTHORIZED ENFORCEMENT AGENCY. Employees or designees of the City or the Minnesota Pollution Control Agency as designated to enforce this Section.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

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

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits. These include construction project activities including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre, including the disturbance of less

than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre. This includes a disturbance to the land that results in a change in the topography, existing soil cover, both vegetative and non-vegetative, or the existing soil topography that may result in accelerated stormwater runoff that may lead to soil erosion and movement of sediment. Construction activity does not include a disturbance to the land of less than five acres for the purpose of routine maintenance performed to maintain the original purpose of the facility. Routine maintenance does not include activities such as repairs, replacement, and other types of non-routine maintenance. Pavement rehabilitation that does not disturb the underlying soils (e.g., mill and overlay projects) is not construction activity.

DISCHARGE. Adding, introducing, releasing, leaking, spilling, casting, throwing, or emitting any pollutant, or placing any pollutant where it is likely to pollute public waters.

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

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

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

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

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

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

MPCA. The Minnesota Pollution Control Agency.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains) owned or operated by the City and designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to waters of the United States.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by EPA (or by the State of Minnesota under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE. Any discharge to the storm sewer system that is not composed entirely of storm water.

PERSON. Any individual, association, franchise, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

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

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and boulevards.

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

STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP). A document which describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges from leaving the site to the maximum extent practicable in accordance with the standards set forth by the MPCA and the City Code.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility or property.

WATERS OF THE STATE. 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 of Minnesota or any portion thereof.

(C) *Applicability.* This Chapter shall apply to all water entering the storm sewer system generated on any developed or undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(D) *Responsibility for Administration.* The City and its authorized representatives are authorized to administer, implement, and enforce the provisions of this Chapter.

(E) *Severability.* The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

(F) *Illegal Disposal and Dumping.*

(1) No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain inlet, catch basin conduit or drainage structure, business, or upon any public or private land, so that the same might be or become a pollutant, unless the substance is in containers, recycling bags, or any other lawfully established waste disposal device.

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

(G) *Discharge Prohibitions.*

(1) No person shall discharge or cause to be discharged into the municipal storm sewer system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm sewer system is prohibited except as described as follows:

(a) *Discharge Exemptions:*

- (i) The following discharges are exempt from discharge prohibitions established by this Section: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (the water must be allowed to sit seven days without the addition of chlorine to allow for chlorine to evaporate before discharging to the storm sewer system), firefighting activities, and any other water source not containing pollutants, and the use of fertilizers, herbicides, and pesticides for agricultural or landscaping purposes when applied for their intended purpose in accordance with label directions and with all applicable local, state, and federal ordinances, laws and regulations.
- (ii) Discharges specified in writing by the MPCA as being necessary to protect public health and safety.
- (iii) Dye testing is an allowable discharge but requires verbal notification to the Public Works Director 48 hours before the test starts.

(2) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the MPCA or Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm sewer system.

(3) *Prohibition of Illicit Connections:*

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

- (c) A person is considered in violation of this Section if they connect a line conveying sewage to the storm sewer system or allow such a connection to continue.

(H) *Suspension Due to Illicit Discharges in Emergency Situations.*

- (1) The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this Section may have his or her MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access.
- (3) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City.

(I) *Industrial or Construction Activity Discharges.* Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Written proof of compliance may be required prior to discharge to the City's MS4.

(J) *Monitoring of Discharges.*

- (1) The City shall be permitted to enter and inspect facilities subject to regulation under this Section as often as may be necessary to determine compliance with this Section. If a discharger does not wish to allow the City to enter a building to conduct the required activity, he or she may retain a private inspector to conduct the activity. The private inspector must have credentials that are acceptable to the City. The private inspector shall provide the City with relevant samples, test results, reports, or any other information that is being requested.
- (2) Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of the NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

- (3) The City has the right to require the discharger to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy per manufacturer's recommendations.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (5) Unreasonable delays in allowing the City access to a permitted facility are a violation of a stormwater discharge permit and of this Section. A person who is the operator of the facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Section.
- (6) If the City has been refused access to any part of the premises from which stormwater is discharged, and the City is able to demonstrate probable cause to believe that there may be a violation of this Section, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify compliance with this Section or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

(K) *Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.* Compliance with all terms and conditions of a valid NPDES permit shall be deemed compliant with the provisions of this Section. The City will adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm sewer system, or waters of the state. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm sewer system or waters of the state through the use of these structural and non-structural BMPs. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit. Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at their expense, additional BMPs to prevent the further discharge of pollutants to the City's MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this Section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

- (1) *Salt Storage*: The following requirements apply to all commercial, institutional, and non-NPDES permitted facilities:
 - (a) Designated salt storage areas must be covered or indoors;
 - (b) Designated salt storage areas must be located on an impervious surface; and
 - (c) Practices to reduce exposure when transferring material in designated salt storage areas such as sweeping, diversions, and/or containment must be employed.

(L) *Watercourse Protection*. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(M) *Notification of Discharges*. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the storm sewer system, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such a release. In the event of such a release of hazardous materials, the said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. Any person that has knowledge of a discharge to the municipal separate storm sewer system must immediately notify the Minnesota Department of Public Safety Duty Officer at 1-800-422-0798 or 651-649-5451 if the source of the discharge may cause pollution of waters of the state as described in Minnesota Statutes Section 115.061. In the event of a release of non-hazardous materials, said person shall notify the City in person or by telephone, email, or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 57.02 EROSION AND SEDIMENT CONTROL.

(A) *Construction and Post-Construction Site Plan*

- (1) *Construction stormwater management*. Any applicant proposing a land disturbance activity within the City that is one acre or larger, including

projects less than one acre that are part of a larger common plan of development or sale, must apply to the City for a grading, erosion, and sediment control permit. Any applicant proposing a land disturbance activity within the City that is one acre or larger, including projects less than one acre that are part of a larger common plan of development or sale, will also have to obtain coverage under the Minnesota Pollution Control Agency's Construction Stormwater General Permit – MNR100001 (CSW permit). The applicant shall submit a grading plan and a site plan with the application. No construction activity shall begin until the site plan is approved by the city engineer and the grading permit is issued. At a minimum, the applicant's site plan must include all items as required by the most current CSW permit, including but not limited to:

- (a) Erosion prevention practices;
- (b) Sediment control practices;
- (c) Dewatering and basin draining;
- (d) Inspection and maintenance;
- (e) Pollution prevention management measures;
- (f) Temporary sediment basins; and
- (g) Termination condition.

(B) *Stormwater Pollution Prevention Plan (SWPPP)*. A stormwater pollution prevention plan shall be submitted for review and approval by the City for construction activities less than one acre that are part of a larger common plan of development or sale that disturbs one acre or more, or one acre or more of land outside of a common plan of development. Owners and operators of construction activities must keep site plans up to date with regard to stormwater runoff controls. The SWPPP shall comply with the latest version of the NPDES Construction Stormwater General Permit (MNR100001) and include: adjacent areas, neighboring streams, lakes, residential areas, roads, etc., within 100 feet of the subject site, which may be affected by the land disturbing activity.

(C) The methods that will be used to control erosion and sedimentation on the site, both during and after construction must include the following items:

- (1) *Minimum SWPPP Requirements*. The following minimum control measures are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the City.

- (a) Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.
- (b) The scheduling of the site's activities to lessen their impact on erosion and sediment control measures.
- (c) Minimize the amount of exposed soil.
- (d) Control runoff as follows:
 - (i) Stabilize inactive disturbed areas with sod or seed with mulch.
 - (ii) Construction of temporary or permanent sedimentation basins. Sedimentation basins must be constructed in accordance with the Construction Stormwater General Permit. Sedimentation basins must be maintained regularly, including sediment removal, to maintain a three-foot depth. Basin discharge rates must also be controlled to prevent erosion in the discharge channel.
 - (iii) For soil stockpiles , the toe of the pile must be more than 25 feet from a road, drainage channel or stormwater inlet. If left for less than seven days erosion from stockpiles must be controlled immediately with silt fences or rock check dams. If for any reason a soil stockpile is located closer than 25 feet from a road, drainage channel, or stormwater inlet, and left for more than seven days, it must be covered with tarps or controlled in some other manner.
 - (iv) Temporary stockpiling of 50 or more cubic yards of excess soil on any lot or other vacant area will not be allowed without issuance of a grading permit for the earthmoving activity in question.
 - (v) Sediment control measures shall be properly installed and maintained before construction activity begins. Such structures may be adjusted during dry weather to accommodate short term activities, such as those that require very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to a functioning configuration.

- (vi) Streets shall be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays.
- (vii) To limit soil erosion, all exposed soil areas must be stabilized as soon as possible but in no case later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. If the site is within one mile and discharges to a special or impaired water, the soil must be stabilized within seven days after the construction activity has ceased.
- (viii) A structure with a three-foot sump, minimum depth, for collecting coarse grained material shall be provided with new storm sewer systems. The sump catch basin or manhole shall be located within the street and just prior to discharge into a water body. Such basins shall be cleaned when they are half filled with material.
- (ix) If a stormwater management plan involves directing some or all runoff off the site, the applicant shall obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.
- (x) Stormwater pollution controls shall be installed on all down gradient perimeters before commencing the land disturbing activity and shall not be removed without City approval. Upon the City acceptance of turf establishment and other such permanent erosion control measures, the owner shall remove all silt fence and other temporary erosion control measures.
- (xi) If the activity is taking place on a site where the soils are currently disturbed (e.g., a tilled agricultural site that is being developed), areas that will not be disturbed as part of the development and areas that will not be disturbed according to the time frames and slopes specified in the NPDES/SDS permit, shall be seeded with temporary or permanent cover before commencing the proposed land disturbing activity.

- (xii) Slopes steeper than four to one shall have an erosion control blanket installed immediately after finished grading.
- (xiii) All erosion prevention and sediment control BMPs must be inspected to ensure integrity and effectiveness. All nonfunctional BMPs must be repaired, replaced, or supplemented with functional BMPs within 24 hours after discovery, or as soon as field conditions allow access.

§ 57.03 STORMWATER MANAGEMENT

Post-construction stormwater management applies to all land disturbances of greater than one acre, including projects less than one acre that are part of a larger common plan of development or sale. Applicants shall submit a site plan with post-construction stormwater management BMPs designed with accepted engineering practices to the city engineer for review and approval prior to any construction activity.

(A) *Water Quality Standards.* Land disturbances shall be governed by the following minimum water quality standards:

- (1) Post construction stormwater runoff quality measurements shall be designed in accordance with the requirements of the Construction Stormwater General Permit (MNR100001), or as otherwise specified by the City; and
- (2) Unless specifically exempted, land development and land disturbing activities shall comply with the Grading and Storm Water Management Standards adopted by the City Council in 2024 and any future amendments. The City shall determine whether the development meets the goals, policy, and design standards of the adopted standards.

(B) *Peak Runoff Rate Control Standards.* Land disturbances shall be governed by the following minimum runoff rate control standards:

- (1) A hydrograph method approved by the City and based on sound hydrologic theory will be used to analyze runoff for the design or analysis of flows and water levels.
- (2) Precipitation depths using NOAA Atlas 14 Volume 8 precipitation frequency estimates, published June 2013, or its most recent version, shall be used for each project location.
- (3) Not exceed existing runoff rates for the 2-year, 10-year, and 100-year, 24-hour storm events.

(C) *Runoff Volume Control Standards.* Volume reduction practices to retain the water quality volume on-site must first be considered when designing permanent stormwater management systems. The water quality volume shall be calculated as follows:

- (1) New and redevelopment projects (excluding linear projects) proposing one acre or more of newly constructed or fully reconstructed impervious surfaces shall treat a water quality volume calculated as one-inch times the sum of the new and fully reconstructed impervious surface.
- (2) Design standards and prohibitions for infiltration are described by the Minnesota Pollution Control Agency's Construction Stormwater General Permit – MNR100001 (CSW permit), MS4 General Permit (MNR040000), and the Minnesota Stormwater Manual. The requirements outlined in the most recent version of these publications must be followed.
- (3) For linear projects, the water quality volume must be calculated as the larger of one-inch times the new impervious surface or one-half inch times the sum of the new and the fully reconstructed impervious surface. Where the entire water quality volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way through obtaining an easement or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first but are not required if the practices cannot be provided cost-effectively. If additional right-of-way, easements, or other permission cannot be obtained, owners of construction activity must maximize the treatment of the water quality volume prior to discharge from the MS4.
- (4) The water quality control volumes necessary to meet the NPDES Construction Stormwater Permit that are satisfied using infiltration or filtration technologies (filtration only on Type C and D soils) can count toward the Volume Control requirements of this Ordinance.
- (5) Before infiltrating runoff, pretreatment shall be required for gravel and paved surface lot runoff that will enter the infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging and to protect ground water quality. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales, or filter strips. To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollution source areas such as parking lots.
- (6) All infiltration features shall have at least one soil boring, test pit or infiltrometer test in the location of the infiltration practice for determining

infiltration rates. If an infiltrometer test is performed and the results are below 8.3 inches/hour, the field measured infiltration rate shall be divided by two as a factor of safety. Infiltration in Type C soils is prohibited without soil corrections and proof of infiltration rate. Infiltration in Type D soils is prohibited. If the applicant is proposing infiltration on site, the MPCA Contamination Screening Checklist for Stormwater Infiltration must be completed and submitted with the SWPPP.

- (7) For linear projects that lack right-of-way for the installation of volume control practices, a reasonable attempt must be made to obtain right-of-way during the planning process. Exceptions may be made for a lesser volume on site if any limitations are encountered as allowed per the Minnesota Pollution Control Agency's Construction Stormwater General Permit – MNR100001 (CSW permit) and MS4 General Permit (MNR040000).
- (8) If the owner or operator of a construction activity believes that the water quality volume cannot be met on the site of the original construction activity, the owner or operator must provide appropriate documentation to the City as support. The stormwater requirements for the water quality volume not met on the site of the original construction activity must be mitigated off-site. If the entire water quality volume is not addressed on the site of the original construction activity, the remaining water quality volume must be addressed through off-site treatment and, at a minimum, the permittee must mitigate off-site according to the mitigation provisions below.
- (9) Mitigation Provisions: For non-linear projects, if the owner or operator of a construction activity believes that the requirements for the water quality volume cannot be met on the site of the original construction activity, the owner or operator must provide appropriate documentation to the City as support. Stormwater discharges that do not meet the water quality volume, on the site of the original construction activity must be mitigated off-site. If the entire water quality volume is not addressed on the site of the original construction activity, the remaining water quality volume must be addressed through off-site treatment and, at a minimum, the permittee must mitigate. The proposed mitigation must meet the following criteria:
 - (a) Mitigation project areas should be selected in the following order of preference and in consultation and with approval by the City:
 - (i) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity;

- (ii) Locations within the same Department of Natural Resources (DNR) catchment area as the original construction activity;
 - (iii) Locations in the next adjacent DNR catchment area upstream; or
 - (iv) Locations within the City.
- (b) Mitigation projects must involve the creation of new structural stormwater BMPs, the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP.
- (c) Routine maintenance of structural stormwater BMPs required by this Section cannot be used to meet mitigation requirements.
- (d) Mitigation projects shall be completed within 24 months after the start of the original construction activity. If the owner determines more time is needed to complete the treatment project, the owner must provide the reason(s) and schedule(s) for completing the project.
- (e) If the mitigation project is a private structural stormwater BMP and the City is not responsible for long-term maintenance of the project, the City will require a legal document from the applicant that includes the following:
 - (i) Allow the City to conduct inspections of structural stormwater BMPs not owned or operated by the City, perform necessary maintenance, and assess costs for those structural stormwater BMPs when the City determines the owner of that structural stormwater BMP has not ensured proper function.
 - (ii) Designed to preserve the City's right to ensure maintenance responsibility for structural stormwater BMPs not owned or operated by the City when those responsibilities are legally transferred to another party.
 - (iii) Designed to protect/preserve structural stormwater BMPs. If structural stormwater BMPs change, causing decreased effectiveness, new, repaired, or improved structural stormwater BMPs must be implemented to provide equivalent treatment to the original BMP.

(D) *Enforcement.* Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the City may order compliance by sending a written notice of violation to the person responsible. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) The violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs;
- (6) The implementation of source control or treatment BMPs; and
- (7) The deadline within which to remedy the violation.

(E) If abatement of a violation or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency, or a contractor and the expense thereof shall be charged to the violator.

- (1) *Appeal of a Notice of Violation.* Any person receiving a notice of violation may appeal to the determination of the City by filing a written notice of appeal with the City Clerk. The notice of appeal must be received by the City Clerk within seven calendar days from the date of the notice of violation. The appeal shall be heard by the City Council within 30 calendar days from the date of receipt of the notice of appeal. The decision of the City Council shall be final.
- (2) *Enforcement Measures after Appeal.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within the deadline extended by the decision of the City Council, then representatives of the City shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the City or its designated contractor to enter upon the premises for the purposes set forth above.

- (3) *Cost of Abatement of the Violation.* Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs, and the deadline to pay the abatement costs. If the amount due is not paid in a timely manner as determined by the decision of the City Council after hearing the appeal, the charges shall be certified against the property for collection with the property taxes.

- (4) *Penalty.* Violation of any provision of this Chapter, including maintaining a violation after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in Section 10.99 or Section 130.10 of the City Code.