

## CHAPTER 5

**STORMWATER CONTROL AND REGULATIONS**

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8-5-1: **PURPOSE:** The purpose of this chapter is to:

- A. Control or eliminate stormwater pollution along with soil erosion and sedimentation within the city, and
- B. Limit surface runoff volumes and reduce pollutant loading, and
- C. Establish surface water management requirements to protect and safeguard the general health, safety and welfare of the public. It establishes standards and specifications for conservation practices and planning activities, which minimize stormwater pollution, soil erosion, and sedimentation.

1. This chapter establishes a city of Baxter grading permit, which requires the applicant to develop and implement an SWPPP containing BMPs, which shall be calculated to prevent stormwater pollution from the beginning of site activity to final stabilization.

2. The chapter's plan review process and requirements will include postconstruction management. It requires the permit applicant to plan for, implement, and maintain all new development and redevelopment postconstruction stormwater management activities.

- D. Reserve the right for the city to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff of hydrologic or topographic conditions that warrant greater control than that provided by the minimum control requirements.
- E. Require all site designs establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater thereby utilizing pervious areas for stormwater treatment and infiltrating stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas.
- F. Require that all stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment.
- G. Prohibit illicit connections and discharge to the municipal separate storm sewer system (MS4).
- H. Establish the legal authority to carry out all inspections, surveillance, monitoring and correction measures necessary to ensure compliance with this chapter. (Ord. 2008-11, 7-15-2008)

8-5-2: **DEFINITIONS:**

**BEST MANAGEMENT PRACTICES (BMPs):**

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

Erosion and sediment control BMPs include avoidance of impacts, construction phasing, minimizing the length of time soil areas are

exposed, prohibitions, and other management practices published by state or designated areawide planning agencies. BMPs shall be as set forth in the current version of "Minnesota Stormwater Manual", Minnesota pollution control agency, 2006, as amended, unless a custom plan is specifically authorized by the city.

**DISCHARGE:**

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

**EROSION:**

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

**EROSION CONTROL:**

Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

**EXPOSED SOIL AREAS:**

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

**FILL:**

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

**FINAL STABILIZATION:**

All soil disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of seventy five percent (75%) 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. (Examples of vegetative cover practices can be found in the current version of the Minnesota department of transportation's publication, "Supplemental Specifications To The [year of the latest update] Standard Specifications For Construction".)

**HAZARDOUS MATERIAL:**

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

**ILLEGAL DISCHARGE:**

Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in this chapter.

**ILLICIT CONNECTION:**

Either of the following:

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

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

**INDUSTRIAL  
ACTIVITY:**

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

**LAND DISTURBANCE  
ACTIVITY:**

Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including, but not limited to: clearing and grubbing, grading, excavating, transporting and filling of land.

**MINNESOTA  
STORMWATER  
MANUAL:**

A guidebook authored and periodically updated by the Minnesota pollution control agency which provides practical stormwater management practices that are reviewed and edited regularly, found at <http://www.pca.state.mn.us/water/stormwater/stormwater-manual.html>.

**MUNICIPAL  
SEPARATE STORM  
SEWER SYSTEMS  
(MS4):**

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, storm drains, curbs, gutters, ditches, manmade channels, stormwater ponds, and sometimes waters of the state) that are:

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

B. Designed or used for collecting or conveying stormwater.

C. Not a combined sewer.

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

**NATIONAL  
POLLUTANT  
DISCHARGE  
ELIMINATION  
SYSTEM (NPDES)  
PERMIT:**

General, group, and individual permits which regulate facilities defined in federal NPDES regulations pursuant to the clean water act. The MPCA has adopted general permits, including, but not limited to, the general construction activity, general industrial activity, MS4 and wastewater permits.

NONSTORMWATER DISCHARGE:	Any discharge to the storm drain system that is not composed entirely of stormwater.
OWNER:	The person or party possessing the title of the land on which the construction activities will occur.
PERMANENT COVER:	"Final stabilization". Examples include established grass, gravel, asphalt, and concrete. See also the definition of Final Stabilization.
POLLUTANT:	Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including, but not limited to, sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.
RECHARGE:	The replenishment of underground water reserves.
REDEVELOPMENT:	Any construction, alteration or improvement of one acre or greater in areas where existing land use is already in a developed condition.
SEDIMENT:	The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest on the earth's surface either above or below water level.
SEDIMENT CONTROL:	The methods employed to prevent sediment from leaving the development site. Sediment control practices include silt fences, sediment

traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

- SITE:** The bounded area defined in an SWPPP including individual parcels of the larger plan's defined area.
- SOIL:** The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this chapter, stockpiles of gravel, aggregate, concrete, or bituminous materials are not considered "soil" stockpiles.
- STABILIZED:** The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, or other material that prevents erosion. Simply sowing grass seed is not considered stabilization.
- STOP WORK ORDER:** An order issued which requires that all construction activity on a site be stopped.
- STORMWATER:** Under Minnesota rules 7077.0105, subp. 41(b), stormwater means precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage.
- STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** A plan for stormwater discharge that includes best management practices consisting of erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion and stormwater pollution on a parcel of land. The erosion prevention measures contained in the plan shall consist of temporary and permanent measures to stabilize exposed soil.
- STORMWATER TREATMENT PRACTICES (STPs):** Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

SURFACE WATERS:	All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems.
TEMPORARY EROSION PROTECTION:	Methods employed to temporarily prevent erosion. Examples of temporary cover include: straw, wood fiber blanket, wood chips, and erosion netting.
WATERS OF THE STATE:	Surface watercourses and water bodies as defined by the state of Minnesota, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.
WETLANDS:	<p data-bbox="678 869 1362 1276">As defined in Minnesota rules 7050.0130, subp. F, wetlands are those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:</p> <ul data-bbox="678 1312 1362 1617" style="list-style-type: none"><li data-bbox="678 1312 1161 1346">A. A predominance of hydric soils;</li><li data-bbox="678 1381 1362 1617">B. Inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and under normal circumstances support a prevalence of such vegetation. (Ord. 2008-11, 7-15-2008)</li></ul>



8-5-3: **LAND DISTURBANCE ACTIVITIES SUBJECT TO GRADING PERMIT:**

- A. Applicability: Unless expressly exempted, a grading permit shall be required for any of the following activities:
1. Land disturbance activity of one acre or greater (43,560 square feet).
  2. Land disturbing activity that requires an NPDES construction permit as required by MPCA rules.
  3. Development that occurs in conjunction with a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more.
  4. Land disturbing activity that disturbs less than one acre of land that the city determines to have a high risk of soil erosion or water pollution, or that may significantly impact a lake, stream, river, or wetland area.
- B. Exempt Land Disturbance Activities: The following activities do not require a grading permit unless the city determines that there is a high risk of soil erosion or water pollution, or that there may be a significant impact on a lake, stream, river, or wetland area:
1. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work disturbing less than one acre;
  2. Construction, installation, and maintenance of fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under one acre of exposed soil;
  3. Tilling, planting and harvesting of agricultural, horticultural, or silvicultural (forestry) crops more than one hundred feet (100') from a public water as defined in Minnesota statute 103G.005, subdivision 15; and
  4. 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. (Ord. 2008-11, 7-15-2008)

**8-5-4: GRADING PERMIT AND STORMWATER AND POLLUTION PREVENTION PLAN ("SWPPP"):**

- A. Application: Every owner, prior to engaging in any land disturbing activity regulated by this chapter, must apply to, and obtain from the city a grading permit. For those projects subject to the general permit authorization to discharge stormwater associated with construction activity under the national pollutant discharge elimination system/state disposal system permit program (MN R100001) (the "MPCA permit"), the application must include the completed stormwater pollution prevention plan (SWPPP) required by that permit. For those projects not subject to the MPCA permit, an abbreviated grading permit application must be submitted. In all cases, the application must contain the required information, the application fee, and an SWPPP, which shall identify best management practices (BMPs) to be used to prevent stormwater pollution. No land disturbing activity regulated by this section may begin until the applicant has received a grading permit from the city. No permit will be issued or given until the SWPPP has been reviewed and approved by the MPCA or Crow Wing County soil and water conservation district (SWCD).
- B. Inspections: To the extent practicable, the city's designated representative will regularly inspect the site subject to the SWPPP for compliance and to ensure that erosion and sediment control measures are properly installed and maintained. The MPCA or SWCD will be responsible for the MPCA permit compliance and enforcement. However, this does not in any way remove from the owner and contractor the responsibility for inspecting the site for compliance on a weekly basis and after every storm or snowmelt event large enough to result in runoff from the site. A record of each inspection must be made and kept available for review by inspectors. At all times the applicant shall be responsible for implementing and maintaining the BMPs as provided in the approved SWPPP.
- C. Requirements Of The Stormwater Pollution Prevention Plan: The SWPPP must, at a minimum, and to the extent applicable, contain the items required by the MPCA permit. Nevertheless, due to the diversity of sites, each site will be individually evaluated and, where additional information and/or BMPs are needed, they will be specified at the discretion of the MPCA, SWCD, or the city.

- D. Minimum Standards For The Stormwater Pollution Prevention Plan: The minimum standards for guiding the design, implementation, and regulation of the SWPPP are found in the MPCA NPDES construction permit (MN R100001) and Minnesota state rules 7090.2000 to 7090.2060.
- E. Minimum Control Measures: These minimum control measures are required where one acre or greater of bare soil is disturbed or exposed. Due to the diversity of individual construction sites, each site will be individually evaluated and, where additional control measures are needed, the city will inform the MPCA or SWCD for inspections, design or enforcement activities.
1. NPDES Construction Permit: The owner and contractor are required to apply for and meet the conditions of the Minnesota NPDES construction permit (MN R100001).
  2. Sediment Control Measures: Sediment control measures must be properly installed by the applicant before construction activity begins. Such measures may be adjusted during dry weather to accommodate short term activities, such as those that require the passage of very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the original configuration or as specified by the MPCA or SWCD.
  3. Channeled Runoff: Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.
  4. Easements: If a stormwater management plan involves directing some or all of the site's runoff, the applicant or his designated representative shall obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of such water.
  5. Scheduling Activities: Scheduling of the site's activities to lessen the impact on erosion and sediment creation, so as to minimize the amount of exposed soil.
  6. Sediment Basins Related To Impervious Surface Area: Where a project's ultimate development replaces surface vegetation with one or more acres of cumulative impervious surface, and all runoff has not been accounted for in a local unit of government's existing stormwater management plan or practice, the runoff must be discharged to a wet sedimentation basin prior to entering waters of the state. The stormwater drainage design shall consider site design

and consecutive treatment BMPs as presented in the MPCA's publication, "Minnesota Stormwater Manual" and the current requirements found in the same agency's NPDES/SDS permits for stormwater associated with construction activities.

7. Parking: Parking on all bare lots is allowed with a conditional use permit. During construction all traffic on and off site shall use designated construction entrances and exits.

8. Cleaned Streets: Streets must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays. A regular sweeping schedule should be established.

9. Roof Drain Leaders: All newly constructed and reconstructed buildings must route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.

10. Inspections: Inspections shall be performed by the city on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. Any problems not meeting requirements of the MPCA construction permit or other requirements will be referred to the MPCA and/or SWCD for compliance and enforcement.

11. Minimum Requirements: For disturbed areas less than one acre sedimentation basins are encouraged, but not required, unless specifically required by city staff or city engineer. The applicant shall install erosion and sediment controls at locations directed by the city, MPCA or SWCD. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences are required along channel edges to reduce sediment reaching the channel. Silt fences, rock check dams, etc., must be regularly inspected and maintained.

- F. Minimum Protection For Natural Wetlands: Runoff must not be discharged directly into wetlands without appropriate quality and quantity runoff control, as required by the MPCA and Minnesota rules 7050.0185, 7050.0186 and 7090.2. Minnesota water quality standards as established by law and rule shall govern and be enforceable by the city.

G. Stormwater Design Standards:

1. Stormwater Retention: Stormwater retention shall be engineered so that the site shall retain the stormwater runoff of a 100-year rain event if said site is not served by storm sewer or some other city maintained stormwater drainage system. If the site is served by a city maintained stormwater drainage system it shall retain the stormwater runoff of a 5-year event.

2. Inspection And Maintenance:

a. Facility Requirements: All stormwater pollution control management facilities must be designed to minimize the need of maintenance, to provide easy vehicle and personnel access for maintenance purposes and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in stormwater runoff. The operation and maintenance plan shall be in writing and signed by the owner. A copy of the signed agreement shall be filed at city hall and with the project files. The city's designated representative shall inspect all stormwater management facilities during construction, during the first year of operation, and annually thereafter. The city will keep all inspection records on file for a period of five (5) years.

b. Inspection And Maintenance Easements: It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purposes. (Ord. 2008-11, 7-15-2008)

8-5-5: **APPLICATION REVIEW:**

- A. Review: The city engineer shall be responsible for reviewing the grading permit application. The MPCA and/or the SWCD shall be responsible for reviewing the MPCA construction permit application and SWPPP.
- B. Fee: A fee will be charged for the review of the application, the issuance of the permit, and inspections. The fee will be as set forth in the annual fee schedule.
- C. Completeness Of Application: Only applications that are complete will be reviewed by city staff. In order for a plan to be complete, it

must contain the necessary information, the MPCA construction permit application and SWPPP, and the required fee. All incomplete plans will be returned to the applicant with a written explanation of the application's deficiencies. The applicant will have the opportunity to correct the deficiencies and resubmit the application.

- D. Permit: If the city's staff and, when applicable, the city engineer determine that the SWPPP meets the requirements of this chapter, the city staff shall issue a permit valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation of the BMPs contained in the plan; which shall include actions necessary to achieve final stabilization of the site upon completion of the land disturbance activity.
- E. Permit Conditions: The BMPs contained in the approved SWPPP must be implemented prior to the start of any land disturbing activity and shall be maintained in accordance with the approved plan and the requirements of this chapter. Additional conditions may be imposed by the city.
- F. Costs: The applicant shall be liable at all times for the costs incurred, including costs and fines resulting from noncompliance with an approved plan.
- G. Denial Of Permit And Appeal: If reviewing agencies or city staff determines that the grading permit and MPCA construction permit do not meet the requirements of this chapter, the city shall not issue a permit for the land disturbance activity. Approval or denial shall be mailed to the applicant within fifteen (15) days of receipt of a complete application. The applicant may appeal the adverse decision within ten (10) days of receiving written notice by requesting in writing to city staff that the city council reviews the decision. City staff will then schedule a hearing on the appeal within twenty (20) days. Notice of the public hearing need not be published in the official newspaper. All decisions by the city council shall be final.
- H. Permit Termination: The permit holder shall notify the city when a project ceases and final stabilization is reached. When a state permit exists, the state termination form will suffice. (Ord. 2008-11, 7-15-2008)

**8-5-6: MODIFICATION OF PLAN:**

- A. An approved grading permit and plan may be modified on submission of a written application for modification to the city, and only after written approval by the city engineer. In reviewing such an application, the city engineer may require additional information. No approval of any modification will be given that is inconsistent with this chapter.
- B. Modification of the MPCA construction permit shall be made according to MPCA requirements. A copy of the amended SWPPP and application shall be sent to the city for their permanent records. The amendment shall be received by the city before the additional construction work is begun. (Ord. 2008-11, 7-15-2008)

**8-5-7: FINANCIAL SECURITY FOR PROJECTS SUBJECT TO A DEVELOPMENT AGREEMENT:**

- A. Security Required: If the project is proceeding under a development agreement with the city, the costs of any work required in this chapter shall be added to the letter of credit or bond in an amount pursuant to section 11-5-4 of this code and then enforced pursuant to said section 11-5-4 of this code.
- B. Emergency Action: If circumstances exist such that noncompliance with this chapter poses an immediate danger to the public health, safety and welfare, as determined by the city, the city may take emergency preventative action. The city shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the city may be recovered from the applicant's financial security. (Ord. 2008-11, 7-15-2008)

**8-5-8: PLAN AND PERMIT TRANSFER:**

- A. Notice To Transferee: When ownership, possession, or control of any site subject to an incomplete, approved SWPPP is transferred, the former owner (seller) shall notify the new owner (buyer) as to the current status of compliance and provide a copy of the approved SWPPP, as required by the MPCA construction permit. A copy of this notice shall be submitted to the city. A copy of the "modification/transfer", "subdivision registration", or "homeowner transfer" forms

required by the MPCA for transfers under the state required SWPPP plan shall suffice for this notice to the city.

**B. Successor Liability:**

1. The successor in interest to any portion of a site subject to an incomplete, approved SWPPP shall be responsible for implementing the BMPs contained in the plan.

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

3. The successor will be subject to all regulations under this chapter. (Ord. 2008-11, 7-15-2008)

**8-5-9: ENFORCEMENT:**

**A. Violations:** If an owner is in violation of the terms and conditions of an approved grading permit and/or this chapter, all city approvals relating to the site shall be either withheld or suspended until the owner or contractor is again compliant.

1. All directives, notices, and orders may be served by the public works director, the building official, and/or their designated staff person. Upon the issuance of directive, notice, or order, the owner or contractor shall immediately:

a. Develop a cleanup and restoration plan,

b. Obtain any necessary right of entry from any adjoining property owner,

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

2. In no case, unless written approval is received from the city, shall more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the city, the applicant does not repair the damage caused by the erosion, the city may do the remedial work required and charge or assess the cost to the applicant.



3. When an applicant fails to conform to any provision of this chapter within the time stipulated, the city may issue the following orders and/or complete action in accordance with title 1, chapter 4, "General Penalty", of this code:

- a. Issue a violation notice.
- b. Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy.
- c. Revoke any city permit for the site in violation.
- d. Direct the correction of the violation by city forces or by a separate contract. All costs incurred by the city in correcting violations must be reimbursed by the applicant.

(1) If payment is not made within thirty (30) days after costs are incurred by the city, payment will be made from any financial securities placed within the city pursuant to this chapter.

(2) If there is an insufficient financial amount in the applicant's security to cover the costs incurred by the city, the city may assess the remaining amount against the property in accordance with Minnesota statute 429.061.

- B. MPCA Construction Permit Violations: Whenever the city finds any noncompliance with the provisions of the approved MPCA construction permit the city shall notify the MPCA and/or the SWCD for compliance and enforcement.
- C. Stop Work Order: Whenever the city finds any noncompliance with the provisions of the approved grading permit and/or this section or any city ordinance, the city shall attempt to communicate with the owner or person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the owner or person performing the work is not readily available, that person refuses to voluntarily comply immediately, or the noncompliance presents an imminent damage, or will cause or threatens to cause bodily injury or damage to off site property, including, but not limited to, off site runoff, the city shall post in a conspicuous place on the premises a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until compliance is corrected.

1. Contents: The stop work order shall contain the following information:

- a. Date of issuance;
- b. Sufficient information to identify the property; and
- c. Violation(s).

2. Unauthorized Removal Of Posted Notice: Any unauthorized removal of a posted stop work order shall be punishable as a misdemeanor.

3. Additional Notice: In addition to posting a stop work order, the city shall provide notification to the applicant by personal service, written notice by certified mail, or facsimile transmission. (Ord. 2008-11, 7-15-2008)

8-5-10: **RIGHT OF ENTRY AND INSPECTION:** By submitting a grading permit application to the city, the applicant hereby consents and authorizes the city and their authorized representatives, upon presentation of credentials, to:

- A. Enter upon the permitted site for the purpose of obtaining information, examination of records, and conducting investigations or surveys;
- B. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations;
- C. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this chapter; and
- D. Inspect the stormwater pollution control measures and BMPs. (Ord. 2008-11, 7-15-2008)

8-5-11: **ILLICIT DISCHARGE PROHIBITION:**

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

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

**B. Discharge Prohibitions:**

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

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

a. Discharges from the following activities will not be considered a violation of this section, an illegal discharge, or a source of pollutants to the storm drain system and to waters of the state when properly managed: potable water line flushing; uncontaminated pumped ground water and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising ground water; ground water infiltration to the storm drain system; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated nonindustrial roof drains; springs; individual residential and occasional noncommercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash waters; flows from firefighting; and any other water source not containing pollutants.

b. Discharges specified in writing by the city of Baxter as being necessary to protect public health and safety.

c. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

d. The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the MPCA or EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

e. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit.

### 3. Prohibition Of Illicit Connections:

a. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

c. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

### C. Requirement To Prevent, Control And Reduce Stormwater Pollutants:

#### 1. Authorization To Adopt And Impose BMPs:

a. Any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering stormwater, the storm drain system, or waters of the state shall implement BMPs to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner's or operator's expense.

b. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

c. The city may adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state as a separate BMP guidance policy as such information is found to be needed by the city. Where BMP requirements are required by the city or any federal, state, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the storm drain system or waters of the state, every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.

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

3. Suspension Due To The Detection Of Illicit Discharge: Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. The violator may petition the city for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the city of Baxter.

4. Watercourse Protection: Every person owning property through which a watercourse passes, or such person's lessee, shall keep

and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

5. Notification Of Spills: Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the state from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of nonhazardous materials, said person shall notify the city's public works department in person or by phone or facsimile no later than five o'clock (5:00) P.M. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city's public works department within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

D. Inspection And Monitoring:

1. Authority To Inspect:

a. The city shall be permitted to enter and inspect facilities subject to regulation under this section and according to subsection

8-5-4G2 of this chapter as often as may be necessary to determine compliance with this chapter. If a facility has security measures in force which require proper identification and clearance before entry into its premises, the facility shall make the necessary arrangements to allow access to representatives of the city.

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

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

## 2. Authority To Sample, Establish Sampling Devices And Test:

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

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

c. During any inspection as provided herein, the public works director or designated staff person may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. (Ord. 2008-11, 7-15-2008)