

Section 365: Stormwater System Use Code

Section 365:00. Purpose and Policy. This ordinance establishes standards and requirements for stormwater conveyance, treatment and discharge within the City of St. Cloud; erosion and sediment control measures to be taken during the development of and alterations to lands within the City of St. Cloud; and regulation of non-stormwater discharges to the City of St. Cloud municipal separate storm sewer system (MS4). The purpose of this ordinance is to protect public health, safety and general welfare, property and the environment, and administer and implement stormwater best management practices (BMPs) as required by federal (United States Environmental Protection Agency) and state (Minnesota Pollution Control Agency) law.

The Objectives of this ordinance are:

- (a) To maintain compliance with the City of St. Cloud's Stormwater Pollution Prevention Program (SWPPP).
- (b) To regulate the contribution of pollutants and prohibit illicit connections and discharges to the City of St. Cloud's MS4.
- (c) To regulate land disturbing activity; installation, operations, maintenance and replacement of the stormwater system (MS4); and protect and prevent the discharge of sediment into public and/or private lands, public infrastructure, wetlands and waters of the State.
- (d) To establish legal authority to carry out all inspections, monitoring and enforcement procedures necessary to comply with this ordinance.

This ordinance shall apply to all water entering the stormwater system (MS4) generated on any developed and undeveloped lands unless exempted by the City of St. Cloud.

Section 365:10. Definitions. Unless the context specifically indicates otherwise, the following terms as used in this ordinance, shall have the meanings designated.

Subd. 1. "Applicant" is any person or group that applies for a permit to allow land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

Subd. 2. "Best Management Practices (BMPs)" means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing degradation of waters of the state, including avoidance of impacts, prohibitions of practices, general housekeeping practices, pollution prevention and educational practices, operating and maintenance procedures, and other applicable management practices.

Subd. 3. "Builder, Commercial" is any building contractor engaging in work other than work

performed under a license from the State of Minnesota as a residential building contractor, remodeler or specialty contractor in the business of contracting or offering to contract to improve residential real estate, as defined by Minnesota Statute.

Subd. 4. “Builder, Residential” is any building contractor engaging in work performed under a license from the State of Minnesota as a residential building contractor, remodeler or specialty contractor in the business of contracting or offering to contract to improve residential real estate, as defined by Minnesota Statute.

Subd. 5. “Building Construction” is the construction of any principle building or accessory structure or modification of a parcel of land or platted lot.

Subd. 6. “City” is the City of St. Cloud

Subd. 7. “Developer” is any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision engaged in a land disturbance activity.

Subd. 8. “Dewatering” means the removal of surface or ground water to dry and/or solidify a construction site to enable construction activity.

Subd. 9. “Director” is the City of St. Cloud Public Utilities Director or authorized designee.

Subd. 10. “Erosion Prevention” means measures employed to prevent erosion. Examples include but not limited to: soil stabilization practices, limited grading, mulch, temporary erosion protection or permanent cover, and construction phasing.

Subd. 11. “Final Stabilization” means all soil disturbing activities at the site have been completed and all soils must be stabilized by a uniform perennial vegetative cover with a density of seventy (70) percent of the expected final growth density over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions and,

- (a) All drainage ditches, constructed to drain water from the site after construction is complete, must be stabilized to exclude erosion;
- (b) All temporary synthetic and structural erosion prevention and sediment control BMP’s (such as silt fence) must be removed. BMPs designed to decompose on site (such as some compost logs) may be left in place;
- (c) The area must be cleaned out of all sediment from conveyances and from temporary sedimentation basins that are to be used as permanent water quality management basins. Sediment must be stabilized to prevent it from being washed back into the basin and/or into conveyances or drainage ways discharging off-site or to surface waters. The cleanout of permanent basins must be sufficient to return the basin to design capacity; and
- (d) The permanent stormwater management system is constructed, to meets all of the required design parameters, and is functioning as designed.

Subd. 12. “Hazardous waste” means any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Subd. 13. “Illicit Connections” mean any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the municipal separate storm sewer system (MS4) including, but not limited to, any conveyances that allow non-stormwater discharge including sewage, process wastewater and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether they had been previously allowed, permitted or approved by the County or City; or any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps or equivalent records and approved by the City.

Subd. 14. “Illicit Discharge” is any direct, indirect or accidental non-stormwater discharge to the MS4, except as exempted in this ordinance.

Subd. 15. “Industrial Activity” is an activity subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b)(14).

Subd. 16. “Land Development (Develop)” is the process whereby improvement to a single lot or to an entire site, occurs in one continuous process or in more than one distinct phase, including but not limited to the following activities: site grading; installation of utilities; construction of public streets; construction or grading of drainage ways; other grading or filling of any area within the site; grading of building pad areas; utility hookups; construction of buildings; parking lots; driveways; storage areas; private streets; and any other construction or land disturbing activity within the subject property site.

Subd. 17. “Land Disturbing Activity” is any activity that results in a change or alteration in the existing ground cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, excavating, grading, clearing, filling, stockpiling, hauling, construction, reconstruction and borrow pits. Routine vegetation management, and mill and overlay/resurfacing activities that do not alter the soil material beneath the pavement base, are not considered land disturbance.

Subd. 18. “Land Disturbance Permit (LDP)” is a permit issued by the City for the control of pollutants, erosion and sediment during land disturbing activities.

Subd. 19. “Municipal Separate Storm Sewer System (MS4)” is the system of conveyances and

structural stormwater BMPs (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by the City, designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to waters of the United States.

Subd. 20. “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” is a permit issued by the USEPA (or by a State under authority delegated by the USEPA) that authorizes discharge to waters of the United States.

Subd. 21. “Non-Stormwater Discharge” is any discharge to the MS4 that is not composed entirely of stormwater.

Subd. 22. “Owner(s)” means a natural person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination of, with a legal or equitable interest in the parcel.

Subd. 23. “Parcel” is a tract, plot, lot, and/or portion of subdivision or other parcel of land, intended as a unit for the purpose, whether immediate or future, of transfer of ownership, possession or for building development.

Subd. 24. Permittee” is a LDP holder.

Subd. 25. “Pollutant” means anything which causes or contributes to pollution, including but not limited to sediments, dirt, rocks and sand; paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, that may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; wastewater, coliform bacteria 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.

Subd. 26. “Preliminary Plat” is a drawing of the entire subdivision meeting all requirements of the City’s Land Development Code.

Subd. 27. “Premises” means any building, lot, parcel or portion of land whether undeveloped or developed, adjacent sidewalks and parking strips.

Subd. 28. “Public Waters” are all waterbasins and watercourses that meet the criteria set forth in Minnesota Statutes, Section 103G.005 subd.15.

Subd. 29. “Sediment” means soil or sand particles exposed to movement.

Subd. 30. “Sediment Control” means methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, bio rolls, rock logs, compost logs, storm drain inlet protection, and temporary or permanent sedimentation basins.

Subd. 31. “Stabilize, Stabilized, Stabilization” means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Grass, agricultural crop or other seeding alone is not stabilization. Mulch materials must achieve approximately 90 percent ground coverage (typically 2 ton/acre).

Subd. 32. “Stormwater” is rainwater runoff, snowmelt and subsurface runoff and drainage.

Subd. 33. “Stormwater Management Plan” is a document that describes the BMPs and activities to be implemented to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Subd. 34. “Stormwater Pollution Prevention Plan (SWPPP)” is a plan developed to identify the sources of pollution that affect the quality of stormwater discharges from a site and to describe and ensure the implementation of practices to prevent or reduce pollutants in stormwater discharge.

Subd. 35. “Stormwater Structures” mean any structure used to capture, convey and/or treat stormwater runoff including but not limited to catch basins, manholes, sumps, stormdrains, outfalls, inlets, outlets, ponds and infiltration/filtration treatment areas.

Subd. 36. “Structural Stormwater BMPs” mean stationary and permanent BMPs designed, constructed and operated to prevent or reduce the discharge of pollutants in stormwater.

Subd. 37. “Temporary Erosion Protection” means methods employed to prevent erosion during construction activities. Examples of temporary erosion protection include, but are not limited to: straw, wood fiber blanket, wood chips, vegetation, mulch, and rolled erosion control products.

Subd. 38. "Wastewater" is liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions which is discharged into or permitted to enter the City's wastewater treatment system.

Section 365:20. Stormwater Utility Fee.

Subd. 1. Fee Calculation. The charges for a given parcel of land will be determined by adding the Fixed Charge (FC) to the product of the Unit Rate (UR), Residential Equivalent Factor (REF) and Unit Area (UA).

$$\begin{aligned} \text{Stormwater Charges} &= \text{Fixed Charge} + (\text{Unit Rate} \times \text{Residential Equivalency Factor} \times \text{Unit Area}) \\ &= \text{FC} + (\text{UR} \times \text{REF} \times \text{UA}) \end{aligned}$$

Subd. 2. Unit Area Determination. Unit Area will be determined by the following formula:

- (a) Divide the area of a parcel (expressed in square feet) by 10,000.
- (b) “Round-down” the quotient to one decimal place. The minimum Unit Area

value for any parcel will be 1.0.

The following table provides examples of the determination of Unit Area values:

Parcel Area Area (Square Feet)	Unit (UA)
5,000*	1.0*
10,000	1.0
20,000	2.0
43,560**	4.3**
65,000	6.5

* Minimum value rule applies

** Round-down rule applies

Subd. 3. Residential Equivalency Factor (REF). The ratio of the volume of runoff generated by a Unit Area of a particular land use to the volume of runoff generated by a Unit Area of single-family residential property based on typical surface conditions and average annual rainfall. The REF for the various land uses within the City will be as follows:

Land Use *	REF
Single-Family and Patio Home:	1.00
Townhouse, Duplex Residential, Detached Townhouse and Twin-Home Residential:	1.00
Manufactured Home Park:	1.00
Multi-Family Residential containing three or more attached dwelling units including Dormitories and Nursing Homes:	1.50
Schools, Day Care Facilities serving 16 or more persons, and Religious Institutions:	1.50
Other Institutional:	1.50
Commercial, Industrial, Hospital, Medical District:	1.75

* The land and building uses listed in this table are defined in the St. Cloud Land Development Code.

The REF for land uses not listed in the table will be determined by the Public Utilities Director based on probable hydrologic response.

Subd. 4. Standardizing Charges. The following will apply for the purpose of standardizing charges:

- (a) Each single-family and patio home parcel, all undeveloped parcels, parcels situated within the AG (Agricultural) and the RR (Rural Residential) zoning districts of the City without sewer are considered to have a UA value of 1.0.
- (b) Parcels containing townhomes, duplexes, twin homes, and detached townhouse

housing units, including manufactured home parks, are considered to have a UA value of 1.0 per each housing unit on the parcel (for example, a parcel that contains four (4) townhouse units will be considered to have a UA value of 4.0).

- (c) Parcels containing tri-plex or larger multi-family residential structures are considered to have a UA value of 0.5 per each housing unit on the parcel (for example, a parcel that contains a 12-unit apartment building will have a UA value of 6.0).
- (d) Parcels subject to standardized charge provisions are not eligible for fee adjustments.

Subd. 5. Fee Adjustment Procedure.

- (a) An adjustment to Stormwater Fees can be made at the Public Utilities Director's discretion with a maximum of a fifty percent (50%) discount given to property owners that demonstrate hydrologic response substantially different from the REF used to calculate fees. Adjustments will not be effective retroactively.
- (b) The total parcel area as shown in the City Assessor's records will be used to calculate the parcel Unit Area (UA). It is the responsibility of the owner or manager of any premises to provide the City with necessary land surveys and other information to determine if a parcel, or a portion of a parcel, qualifies for an exemption or a fee adjustment. Requests will be reviewed after the receipt of all required information. Fee adjustments must be approved by the Public Utilities Director, and will become effective at the beginning of the next billing cycle following approval.

Subd 6. Stormwater Utility Fee Exemptions. Accounts that are billed annually are exempted from the Fixed Charge (FC). The following land uses are exempt from the established Stormwater Utility Fees:

- (a) Public street right-of-way,
- (b) Wetlands and public waters as defined by state law,
- (c) ~~Purposes~~ Locations up to the 100-year flood elevation,
- (d) Publicly-owned park lands, natural areas, and recreational fields,
- (e) Railroad right-of-way,
- (f) Cemeteries,
- (g) City-owned land,

- (h) Golf courses are an exempt use except for the club house/building/paved surface portions.

Subd 7. Fee Information.

- (a) Failure to provide information related to the use, development and area of a premise, or falsification of such information, will constitute a violation of this ordinance.
- (b) If, precise information related to the use, development or area is not available; stormwater fees will be estimated and billed based upon available information.
- (c) Stormwater fees will be computed and collected by the City, in accordance with the procedures set forth in Section 245 of this Code.

Section 365:25. Stormwater Impact Fund Fee.

Subd. 1. The fee is charged when the post construction stormwater standard cannot be met as required in Article 19.12 of the Land Development Code.

Subd. 2. Any volume not met onsite will be subject to the stormwater impact fee. The fee is determined by multiplying the remaining stormwater volume by the fixed cost multiplied by an administrative multiplier.

$$\begin{aligned} \text{Stormwater Impact Fund Fee} &= (\text{Volume}) \times (\text{Fixed Cost} \times \text{Multiplier}) \\ &= (V) \times (FC \times M) \end{aligned}$$

Subd. 3. Volume (V). The stormwater volume reduction not met on site as required by Article 19.12 of the City's Land Development Code.

Subd. 4. Fixed Cost (FC). The fixed cost, as set in ordinance section 575, Public Utilities Department Fees, is determined by the average expected cost per cubic foot of volume reduction needed to construct off-site BMPs.

Subd. 5. Multiplier (M). The multiplier, as set in ordinance section 575, Public Utilities Department Fees, is determined by the expected cost to administer, design and provide long-term maintenance on installed BMP(s).

Section 365:30. Illicit Discharge Detection and Elimination.

Subd. 1. Prohibited Discharges. No person shall throw, drain or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the City's MS4, any pollutants or waters containing any pollutants, other than stormwater.

Subd. 2. Stormwater Discharge Exemptions. If not causing a public safety or nuisance, or water quality violation, the following shall not be considered prohibited discharges.

- (a) Discharges from landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space sump pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, water main flushing and street wash water. Discharges associated with dye testing; verbal approval prior to testing is required.
- (b) Discharges or flow from firefighting and other discharges specified by the City as necessary to protect public health and safety.
- (c) 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 USEPA, 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 MS4.

Subd. 3. Illicit Connections.

- (a) The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited. This prohibition includes, without limitation, previous illicit connections regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (b) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or upon approval, to the City's wastewater treatment system.
- (c) Any drain or conveyance that has not been documented in record drawings, maps or equivalent, and which may be connected to the MS4, shall be located by the owner or occupant of that property within twenty-one (21) days upon receipt of written notice from the City requiring that the location be disclosed. Documentation shall be provided to the City including location of drain or conveyance, drain or conveyance identification as storm sewer, sanitary sewer or other, and the outfall location or point of entry into the City's storm sewer, sanitary sewer or other point of discharge.

Subd. 4. Illicit Discharges. All users shall provide adequate protective procedures and BMP's to prevent discharges of any non-stormwater discharge to the City's MS4.

- (a) Discharges of prohibited waste shall be reported to the Public Utilities Director or designee by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the discharge. Such notification will not relieve users of liability for expense, loss or

damage to the MS4, or any fines imposed on the City under any State or Federal law. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge. The responsible person shall send detailed written notification describing the illicit discharge to the Public Utilities Director or designee within seven (7) days of knowledge of the discharge. The letter shall include the following information:

- i. The time and location of the discharge;
- ii. Description of the discharge, including estimate of pollutant concentrations;
- iii. Time period and volume of discharge;
- iv. Actions taken to correct or control the discharge; and
- v. A schedule of corrective measures to prevent further discharges.

Subd. 5. Stormwater Inspections. The City may conduct tests as necessary to enforce this ordinance, and authorized City employees may enter any property for the purpose of inspection, observation, measurement, sampling, obtaining information or conducting surveys or investigations to enforce this ordinance. Entry shall be made during operating hours unless circumstances require otherwise.

Subd. 6. Discharge Sampling. The City may require installation of monitoring equipment. All sampling and monitoring equipment shall be maintained and in proper operating condition by the discharger, at their expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure accuracy.

Subd. 7. Requirement of Best Management Practices (BMPs). Compliance with all terms and conditions of a valid NPDES Permit or LDP shall be deemed compliance 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 MS4 or waters of the United States. The owner or operator of such activity, operation or facility shall provide, at the owner's expense, reasonable protection from accidental discharges of prohibited materials or other wastes into the MS4 or watercourses through the use of the BMPs. Any person responsible for a property or premise that 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.

Subd. 8. Industrial or Land Disturbing Activity Discharges. Any person subject to an industrial or construction activity NPDES Stormwater Permit shall comply with all provisions of such permit. Written proof of compliance may be required prior to discharge to the City's MS4.

Section 365:40. General Land Disturbance Requirements.

Subd. 1. Land Disturbing Activities Exemptions. All land disturbing activities are subject to this ordinance except the following activities:

- (a) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.
- (b) Nursery, home gardening and agricultural operations that are confined to private property.

Subd. 2. Land Disturbance Permit (LDP) Requirements. The following are required to obtain a (LDP) for each lot.

- (a) All new construction of single family homes, excluding garages and additions or repairs to the existing home; or
- (b) Land disturbing activities that disturb land of equal to or greater than five thousand (5,000) square feet.

Subd. 3. The following activities do not require a LDP but are subject to the conditions of this ordinance:

- (a) Maintenance work by City employees.
- (b) Federal, State, County, and other MS4 projects where the City does not have regulatory authority.
- (c) Commercial, industrial, subdivision development, roadway, utility and grading land disturbing activities disturbing land less than 5,000 square feet.

Subd. 4. Other Permits: The LDP does not replace, eliminate or satisfy the need for any other permits required by any other public or private entity.

Subd. 5. Land Disturbance Permit (LDP). Prior to any land disturbing activities, the owner or applicant shall be required to obtain a LDP, unless exempt in Subd. 3.

- (a) The LDP application shall be submitted to the City.
- (b) All single family residential LDPs shall be processed within seven (7) calendar days from receipt of a completed application. All other LDPs shall be processed within thirty (30) calendar days from receipt of a completed application.
- (c) The City shall in writing:
 - (i.) Approve the permit application;
 - (ii.) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Ordinance, and issue the permit subject to these conditions; or

- (iii.) Disapprove the permit applications, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- (iv.) Failure of the City to act on an original or revised LDP application within seven (7) calendar days for single family residential permits and thirty (30) calendar days for all other permits upon receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City, or the City notifies the applicant of errors and/or omissions in the application requiring corrective action on the part of the applicant. Once the LDP is approved, permit coverage will be issued to the Permittee.

Subd. 6. Land Disturbance Permit (LDP) Submittals. The application for a LDP shall include the following:

- (a) One full set of site plans and a copy of the SWPPP, or portion of the SWPPP that applies to the site, prepared for the MPCA if not included in the full set of site plans. The City reserves the right to approve the SWPPP subject to conditions deemed necessary to meet the purpose of this ordinance and the MPCA requirements. City approval of a SWPPP does not mean approval by the MPCA, and MPCA approval of a SWPPP does not mean City approval. At a minimum, all conditions of the MPCA NPDES Construction Permit MN R100001 must be met; in some cases the City may apply stricter standards or require temporary and permanent erosion and sediment control measures in addition to those required by other public or private entities.
- (b) For all projects that include structural stormwater BMP's the Permittee shall include the name of the responsible party for post construction maintenance along with a detailed maintenance plan. A permanent public easement and recorded Maintenance Agreement is required for all structural BMP's as part of the building permit process per Land Development Code Section 19:12.
- (c) If a SWPPP is not required by the MPCA, the following must accompany the LDP application regarding site information:
 - (i.) Delineation of the subject property and the location of existing and proposed buildings, structures and impervious surfaces;
 - (ii.) Description of the construction or land disturbing activity to be performed on the property and proposed project schedule;
 - (iii.) Identification of all public waters located on and within 30 feet of the subject property's boundaries, and identify if a water body is intended to be used for water quality treatment. Identification by use of best available maps from the City, DNR or County will be sufficient;

- (iv.) Identification of all wetland buffer zones;
- (v.) Topographical data, including existing (dashed) and proposed (solid) contours at vertical intervals of not more than two feet, except that contour lines shall be no more than 100 feet apart;
- (vi.) Temporary benchmarks shall be established within the boundaries of the project area. Descriptions, reference ties and elevations of the benchmarks shall be furnished; and
- (vii.) The location and size of all existing sanitary sewer, water or storm sewer, and services on or adjacent to the property.

(d) Erosion and Sedimentation Control.

- (i.) Delineation of all areas to be graded or excavated, and the limits of land disturbing activities;
- (ii.) Identification of measures to be utilized to control erosion and sedimentation within and from the subject property during the project activity as required herein;
- (iii.) Identification of all permanent erosion control measures and a completion schedule.
- (iv.) Identification of the location of dirt or soil storage or stockpile areas to be utilized;
- (v.) Identification of all measures to be utilized to protect neighboring property, water bodies, and wetland buffer zones; and
- (vi.) Identification, use and maintenance plan of BMPs for temporary erosion and sedimentation control as recommended by the MPCA including but not limited to:
 - (a) Perimeter sediment control devices, including but not limited to silt fence, sediment logs, mulch, etc.;
 - (b) Stockpile protection;
 - (c) Phased grading;
 - (d) Temporary seeding, mulching, and disc anchoring (with seed and mulch type);
 - (e) Storm drain inlet protection devices;

- (f) Appropriately protected construction entrance;
- (g) Removal of all debris, dirt and soil from impervious ground surfaces, including abutting public or private roadways and sidewalks, in connection with the subject property (street sweeping);
- (h) Sediment basins and flow diversions; and
- (i) Any other erosion and sedimentation control device as deemed necessary by the City.

(e) Dewatering BMPs.

- (i) Identify BMPs so that turbid or sediment-laden waters are treated with appropriate BMPs such that the discharge water does not cause a nuisance condition to receiving waters or adversely affect downstream properties; and
- (ii) Discharge points identified and adequately protected from erosion and scour.

(f) Final Stabilization BMPs.

- (i.) Identification of BMPs used to meet final stabilization requirements including landscaping, seeding and stabilization BMPs.

(g) Management of Solid and Hazardous Wastes.

- (i.) Identification of BMPs for the storage, handling, and disposal of construction products, materials, and wastes per MPCA requirements;
- (ii.) Identification of BMPs for the fueling and maintenance of equipment and vehicles;
- (iii.) Identification of BMPs for spill prevention and response; and
- (iv.) Identification of BMPs for the management and containment of concrete and other washout wastes.

(h) Drainage and Grading.

- (i.) Identification of proposed contour grading at vertical intervals of not more than two feet;

- (ii.) The estimated time required to complete the work, the amount of material to be moved and/or removed from the site;
- (iii.) A map showing the stages or limits of grading together with the existing or proposed finished elevations based on sea level readings;
- (iv.) Identification of proposed building bench elevations and direction of flow of surface water within each lot;
- (v.) Methods of controlling dust;
- (vi.) Submission of preliminary plans or program for water supply, sewage disposal, drainage and flood control;
- (vii.) Soil borings, if required by the City Engineer; and drainage and grading design requirements such that no land shall be developed and no use shall be permitted that result in water runoff causing flooding or erosion on adjacent property (in excess of the natural drainage anticipated by the city stormwater management plan). Runoff shall be properly drained via overland drainage ways or channeled into the MS4, watercourse, ponding area or other suitable facility approved by the City.

Subd. 7. Exempt Land Disturbance Activities. Exempt land disturbing activities shall comply with the following requirements:

(a) Dewatering BMPs.

- (i.) Installation of BMPs so that turbid or sediment-laden waters are treated with appropriate BMPs such that the discharge water does not cause a nuisance condition to receiving waters or adversely affect downstream properties; and
- (ii.) Discharge points shall be adequately protected from erosion and scour.

(b) Final Stabilization BMPs.

- (i.) Installation of BMPs used to meet final stabilization requirements including landscaping, seeding and stabilization BMPs.

(c) Management of Solid and Hazardous Waste BMPs. Installation of BMPs for

- (i.) the storage, handling, and disposal of construction products, materials, and wastes per MPCA requirements; the fueling and maintenance of equipment and vehicles; spill prevention and response; and the management and containment of concrete and other washout wastes.

(d) Erosion Prevention and Sediment Control BMPs.

(i) Installation of BMPs to prevent erosion by employing measures such as but not limited to soil BMPs stabilization practices, limited grading, mulch, temporary erosion protection or permanent cover, and construction phasing.

(ii) Installation of BMPs to control sediment by employing measures such as but not limited to silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, bio rolls, rock logs, compost logs, storm drain inlet protection, street sweeping, protected construction entrance and temporary or permanent sedimentation basins.

(e) Drainage and Grading.

(i.) No land shall be developed or used which results in water runoff causing flooding or erosion on adjacent property (in excess of the natural drainage anticipated by city stormwater management plan). Runoff shall be properly drained via overland drainage ways or channeled into the MS4 watercourse, ponding area or other suitable facility approved by the City.

Subd. 8. Land Disturbance Activity Standards. All permitted land disturbing activities must comply with the approved SWPPP and/or appropriate BMPs as referenced in Section 365:40 Subd. 6 of this Ordinance until the LDP is terminated or the project reaches final stabilization. Each non-compliant BMP (e.g. perimeter controls, inlet protections, concrete washout), whether permitted or non-permitted, shall be considered a distinct violation of this Ordinance.

Subd. 9. Duration of Coverage by Land Disturbance Permit. A LDP shall remain effective until one of the following occurs:

- (a) Final Stabilization. Final Stabilization is achieved, a Notice of Termination (NOT) has been filed with the City, all termination of coverage requirements are met and the City has issued the NOT; or
- (b) Time Requirement Reached. The LDP becomes void if work does not begin within 180 days of permit approval or is suspended at any time for over 180 days. Extensions may be granted upon requests received at least 15 days prior to permit becoming void. If a permit becomes void, the permit application process will begin anew; or
- (c) Transfer of LDP. To transfer the LDP prior to issuing Notice of Termination (NOT) to the LDP Permittee, (e.g. a homebuilder sells a house and lot to the final homebuyer or the entire site changes ownership), the transferor must:
 - (i.) Submit a completed LDP Notice of Termination/Permit Transfer Form to the Public Utilities Department. The original SWPPP, or equivalent plan, shall remain in effect unless no longer relevant or a new plan is to

be used. A new plan must be submitted with the LDP Notice of Termination/Permit Transfer Form.

- (ii.) The transfer form must be submitted to the City within seven (7) calendar days of assuming operational control of the site, commencing work on their portion of the site, or of the legal transfer, sale, or closing on the property. No new fees will be required.
- (iii.) The transfer becomes effective five (5) calendar days from receipt of the completed form unless the Permittee is contacted by the City during the five (5) day period and notified of an incomplete form. The permit modification portion of the NOT/permit modification form acts as the permit application for the new applicant and a NOT for the current applicant only for the portion of the site which was sold.
- (iv.) Late submittals of LDP transfers will not be rejected, however, the City reserves the right to take enforcement for any unpermitted discharges or permit noncompliance for the new registered party that has assumed control of the site.
- (v.) For stormwater discharges where the LDP is transferred, the new Permittee can implement the original SWPPP created for the project or develop and implement their own SWPPP.
- (vi.) The new Permittee shall ensure their SWPPP meets all terms and conditions of this ordinance and that their activities do not render ineffective another party's erosion prevention and sediment control BMP's.

Subd. 10. Termination of LDP Coverage. A Permittee wishing to terminate the LDP must complete Final Stabilization of the Parcel and submit a Notice of Termination (NOT) request. Requests for NOT is done by completing the NOT/permit modification form supplied with the permit; or using other proper NOT communication (phone call, e-mail) and submitting it to the Public Utilities Director or designee as provided with the notice of coverage.

Compliance with the LDP is required until a NOT is submitted and approved by the City. The NOT becomes effective fifteen (15) calendar days after the postmarked date of the completed NOT form or other proper notification, unless the Permittee is contacted by the City during the fifteen (15) day period and notified of an incomplete NOT. As-built drawings for all stormwater structures must be provided to the City before overall subdivision permits are terminated. All other LDPs must show that all stormwater structures are in compliance with the grading plan. A notice of permit termination will be issued once the termination is approved.

Subd. 11. Land Disturbance Inspections. The City shall have the right to enter and inspect a property to determine compliance with this ordinance.

- (a) Self-Inspections. The Permittee or their designee must make regular inspections of

all the BMPs and the entire site at least once every seven (7) days during active construction and within twenty-four (24) hours after a rainfall event greater than 0.5 inches in 24 hours. Records of these inspections shall be made available to the City upon request.

- (b) City Inspections. The Public Utilities Director and/or their designee shall make inspections and either approve that portion of completed work or notify the Permittee where work is non-compliant. The LDP fee shall cover the cost of routine inspections. Additional inspections due to noncompliance will be billed to the affected property owner at 2.5 times the base hourly salary of the Inspector.

Subd. 12. Post Construction Maintenance. Property owner shall maintain all stormwater facilities in proper condition consistent with the performance standards for which they were originally designed.

Section 365:50. Violations and Enforcement.

Subd. 1. Violation Enforcement. It shall be unlawful to violate any provision or fail to comply with any of the requirements of this ordinance. A violation of the provisions of this ordinance, may be subject to the enforcement actions outlined in this ordinance or may be restrained by injunction or otherwise abated in a manner provided by law. It is the duty of the Public Utilities Director or designee to enforce the provisions of this ordinance, including the power to inspect private premises and issue orders for abatement.

Subd. 2. Right of Entry. In the event the violation constitutes an immediate danger to public health or public safety, the City is authorized to enter the property, without prior notice, to take any and all measures necessary to abate the violation and/or restore the property, at the owner's expense. The City will pursue measures to recover all costs associated with the restoration.

Subd. 3. MS4 Service Suspension. The Public Utilities Director or designee may suspend MS4 service when necessary to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to public health or safety, the environment, or the MS4, or would cause the City to violate any condition of its NPDES Stormwater Permit. Any user notified of a suspension of the MS4 service shall immediately stop the discharge. In the event the user fails to comply voluntarily with the suspension order, the Public Utilities Director or designee shall take steps as deemed necessary, including immediate severance of the stormwater connection, to prevent or minimize damage to the system, public health or public safety. The Public Utilities Director or designee shall reinstate the MS4 service upon proof of elimination of the non-complying discharge.

Subd. 4. Stop Work Order. The City may issue a Stop Work Order in the event of immediate danger to public health and safety, or the environment; noncompliance of this Ordinance or a LDP; failure to obtain a LDP; or a LDP was issued based on incorrect information. Upon issuance of a Stop Work Order:

- (a) Only work to remedy the Stop Work Order will be allowed. The Stop Work Order will state what remedial work is necessary and state the time limits for completing the remedial work.

(b) If necessary remedial work is not begun or completed by the violator as specified in the Stop Work Order, the abatement of the violation will be under the direction of the Public Utilities Director, or designee. The expenses for the abatement will include a \$75.00 administrative fee in addition to the actual costs of the abatement. Abatement actions that require the presence of City staff for more than one hour during the abatement or other extraordinary coordination efforts will be billed to the property owner at the rate of \$60.00 per hour. If abatement expenses are not paid, they will be levied against the property as a special assessment and collected as in the case of other special assessments

A \$50.00 charge will be added to all accounts certified to the County Auditor's office for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of the certification.

(c) Upon successful remediation, the Stop Work Order will be lifted.

Subd. 5. Land Disturbance Permit (LDP) Revocation. If the violator refuses or fails to cease work after the Stop Work Order, the City shall revoke the LDP.

Subd. 6. Whenever the Public Utilities Director or designee finds a violation of this ordinance has occurred, where an immediate public health threat does not exist, the Director or designee shall issue a notice of violation and order to correct by personal service, regular mail or electronic mail. The notice of violation and order to correct will be served upon the property owners, responsible parties, violators, Permittees, and/or other responsible persons. The notice of violation will identify the violation(s) and corrective measures required for compliance. The notice will require corrective measures to be taken within a specified time period.

If compliance is not achieved, an administrative citation shall be issued. The administrative citation shall be presented in person or by mail. The citation shall state the date, time and nature of the offense, the name of the official issuing the citation, the amount of the scheduled civil fine, and the manner for paying the fine or appealing the citation by requesting a hearing pursuant to Ord. § 1100.

Subd. 7. Abatement of Violation. If, after service of notice, the person served fails to abate the violation or make the necessary repairs, alterations or changes in accordance as required by the order of the Public Utilities Department, the same may be abated under the direction of the Public Utilities Director or designee. The expenses for the abatement will include a \$75.00 administrative fee in addition to the actual costs of the abatement. Abatement actions that require the presence of City staff for more than one hour during the abatement or other extraordinary coordination efforts will be billed to the property owner at the rate of \$60.00 per hour. If abatement expenses are not paid, they will be levied against the property as a special assessment and collected as in the case of other special assessments

A \$50.00 charge will be added to all accounts certified to the County Auditor's office for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of the certification.

Section 365:125. Penalties.

Subd. 1. Administrative Fines. Notwithstanding any other section of this ordinance, any person

who is found to have violated any provision of this ordinance, or permits and orders issued hereunder, shall be fined in an amount not to exceed \$1,000 per violation. Each calendar day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.

Unpaid charges, fines and penalties shall constitute a lien against the individual user's property. Users desiring to dispute such fines must file a request pursuant to the administrative hearing procedure established in St. Cloud City Ordinance § 1100, Sec. 12 which is incorporated herein by reference.

Subd. 2. Criminal Penalties. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor

Subd. 3. Costs of Damage. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage. The Director may add to the violator's charges and fees, the costs assessed for any cleaning, repair or replacement work caused by the violation or discharge. Additional inspections caused by noncompliance will be billed to the affected property owner at 2.5 times the base hourly salary of the inspector.

Subd. 4. Falsifying Information. Any person who knowingly makes false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than 90 days, or both.

Subd. 5. Permit Fee Doubled. No construction, installation, alteration or repair, for which a LDP is required, will commence without first obtaining the LDP A violation of this permit requirement will result in the permit fee being doubled.

History: Ord. 2262, 1-9-07; Ord. 2403 8-18-08; Ord. 2414 11-24-08; Ord. 2415 11-24-08; Ord. 2483 12-6-10; Ord. 2592 6-9-14; Ord. 2612 2-9-15; Ord. 2654 5-2-16; Ord. 2736 12-4-17