








CHAPTER 10. HOUSING AND BUILDINGS

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Section 1000 - State Building Code

1000.01 State Building Code Adopted. The Minnesota State Building Code, established pursuant to M.S. Chapter 326B, as they may be amended from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, and published, shall be hereby adopted as the Building Code for the City of Hermantown, and shall be incorporated into this section with the exception of the optional chapters, unless specifically adopted in this ordinance.

1000.02 Option Enforcement Provisions Adopted.

1000.02.1. The following optional provisions identified in the most current edition of the Minnesota State Building code are hereby adopted and incorporated by reference as part of the building code for the City of Hermantown.

1000.02.1.1. Chapter 1306, Special Fire Protection Systems; and

1000.02.1.2. 2018 IBC Appendix Chapter J – Grading.

1000.03 Application, Administration and Enforcement. The application, administration and enforcement of the Minnesota State Building Code in the City shall be in accordance with M.S. Chapter 326B, as it may be amended from time to time, and Minnesota Rules Chapters 1300 and 1305, as they may be amended from time to time. The City Council, pursuant to M.S. Section 326B.133, as it may be amended from time to time, shall appoint a building official who shall attend to all aspects of Building Code administration. Additional members of a City Building Department shall be authorized by the City Council as needed. The Minnesota State Building Code shall be enforced within the incorporated limits of the City, and within the extrajurisdictional limits permitted by M.S. Section 326B.121, Subd. 2 (d), as it may be amended from time to time.

1000.04 Permits, Inspections and Fees. Permits shall be issued, inspections conducted and fees collected as provided for in M.S. Section 326B.153, as it may be amended from time to time.

1000.05 Surcharge. In addition to the permit fee required under Minnesota Rules Chapter 1300, the applicant for a building permit shall pay a surcharge to be remitted to the Minnesota Department of Administration as prescribed by M.S. Section 326B.148, as it may be amended from time to time.

(Am. Ord. 2021-04, passed 8-2-21)

Section 1010 - Flood Hazard Prevention

1010.01 Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1010.01.1. “Administrative authority” shall mean a state certified building official designated by the appointing authority.

1010.01.2. “Appointing authority” shall mean the City Council.

1010.01.3. “Building Department” shall mean the Building Inspection Department of the City of Hermantown.

1010.01.4. “Corporation counsel” shall mean the attorney for the City of Hermantown.

1010.01.5. “Flood hazard area” shall mean the special areas as indicated on the flood hazard boundary map, prepared by the U. S. Department of Housing and Urban Development for the City of Hermantown.

1010.01.6. “Jurisdiction” shall mean the City of Hermantown.

1010.01.7. “UBC” shall mean the latest Uniform Building Code adopted by reference by the Minnesota State Building Code.

1010.02 Enforcement. The Hermantown Building Code shall be enforced and administered by the City of Hermantown within its corporate limits. The City Council of the City of Hermantown shall annually appoint a building official to enforce and administer the Hermantown Building Code. The administrative chapters of the UBC, Chapters 1, 2 and 3, as amended by the Minnesota State Building Code, shall govern the application of this Code.

1010.03 Floodproofing Permit.

1010.03.1 Permit Required. In addition to the permits required by Chapter 3 of the UBC, as it may be amended from time to time, a separate flood proofing permit shall be obtained from the Building Official or his or her authorized representative prior to the commencement of any improvement to any land, building or structure within any flood hazard area.

1010.03.2 Application for Floodproofing Permit. To obtain a flood proofing permit, the applicant shall provide the following information to the Building Official:

1010.03.2.1. A list of all spaces affected by the flood proofing regulations adopted by reference by this section giving flood proofing class, elevation, regulatory flood datum (RFD), floor elevations, proposed uses and contents and references to drawings and specifications which explain the flood proofing measures that apply to each space;

1010.03.2.2. All plans and specifications for the permit shall be noted with the proposed flood proofing class of each space below the regulatory flood datum (RFD) including detailed drawings of walls and wall openings; and

1010.03.2.3. Two copies of the owner's contingency plan, which shall describe in detail all procedures for temporary placement and removal or contingent protection proposed for items in spaces affected by the above mentioned flood proofing regulations including:

1010.03.2.3.1. Plans and schedules for items to be removed and locations of places above the regulatory flood datum to which they shall be removed if these contents violate restrictions associated with the flood proofing class of the space in which they are placed temporarily, including specific organizational responsibilities for accomplishing this removal.

1010.03.2.3.2. Procedures, materials and equipment for protecting items required to have protection by their flood proofing class but for which this protection shall be proposed to be provided contingently, including specific organizational responsibilities for accomplishing this protection.

1010.03.3 Action on Permit Application.

1010.03.3.1. Applications for flood proofing permits, together with all accompanying documents required under this section, shall be checked by the Building Official or his or her designated representative.

1010.03.3.2. The applications and accompanying documents shall be reviewed as necessary by other departments of the City to check compliance with the laws and ordinances under their jurisdiction.

1010.03.3.3. In connection with applications for a flood proofing permit, the Building Official or his or her designated representative shall determine that the regulatory flood datum elevation noted in the application shall be correct and that all requirements for the flood proofing classes selected by the applicant shall be met.

1010.03.4 Administration. The provisions of Section 303 of Chapter 3 of the UBC, as it may be amended from time to time, shall, to the extent applicable, govern the issuance of flood proofing permits.

1010.03.5 Posting of Permit. Any flood proofing permit that is issued shall be posted at the site of operations in a conspicuous place open to public inspection during the entire time of performance of the work and until completion of the same.

1010.04 Miscellaneous Provisions Relating to Permits.

1010.04.1 Posting of Permit. Any building permit that is issued shall be posted at the site of operations in a conspicuous place open to public inspection during the entire time of performance of the work and until completion of the same.

1010.04.2 Limitation on Permit. No permit to erect, repair or alter any building or structure shall authorize the use of any part of any public thoroughfare or other public ground or easement.

1010.03.4 Administration. The provisions of Section 303 of Chapter 3 of the UBC, as it may be amended from time to time, shall, to the extent applicable, govern the issuance of flood proofing.

1010.04.3 Special Permits. Special permits shall be obtained from the Building Official prior to engaging in any of the following activities:

1010.04.3.1. Moving any building or structure;

1010.04.3.2. Razing or demolishing any building;

1010.04.3.3. Fencing permits;

1010.04.3.4. In-ground pool and spa permits; and/or

1010.04.3.5. Any other construction or accessories to a building or structure the use of which shall be regulated by the provisions of the Hermantown Building Code and which for any reason is not included in the permit for general construction.

1010.04.4 Review by Other Departments. All commercial, industrial and multi-residential development plans shall be reviewed and approved by the appropriate commission(s) of the City and the Fire Inspector of the City before any permit provided for under this section shall be issued.

1010.04.5 Compliance with Other Conditions. The Building Official shall not issue any permit under this section until all conditions and requirements placed on the development by other departments of the City have been satisfied, such as, the Planning and Zoning Commission and the Fire Inspector of the City. Any permit issued by the Building Official in violation of this requirement shall be void.

1010.05 Fees.

1010.05.1 Building Permit Fees. A fee for each building permit shall be paid to the City through the Building Inspection Department. The City Council shall from time to time by resolution, establish a schedule of fees for building permits. No building permit may be issued by the Building Inspection Department of the City until the building permit fee for the building permit has been paid in full.

1010.05.2 Floodproofing Permit Fee; Inspection Fee. A fee for each flood proofing permit shall be paid to the City prior to the issuance of the permit by the Building Official. The flood proofing permit fee shall be equal to one-fourth of the building permit fee. A fee as set by the Fee Schedule, as it may be amended from time to time for each inspection made pursuant to this section shall be paid by the owner of such property at the time of such inspection.

1010.05.3 Special Permit Fees. A fee as set by the Fee Schedule, as it may be amended from time to time for each special permit shall be paid to the Building Inspector prior to the issuance of the permit by the Building Inspector.

1010.05.4 Plan Checking Fees. A plan checking fee shall be paid to the City at the time of submitting plans and specifications for checking whenever plans are required to be submitted for checking under this section. The plan checking fee shall be equal to 65% of the building permit fee. An additional fee as set by the Fee Schedule, as it may be amended from time to time shall be paid to the City for all plan checks and inspection work relating to fire sprinkler systems.

1010.05.5 Surcharge.

1010.05.5.1. In addition to the fees required in the preceding provisions, the applicant shall pay to the Building Official a surcharge as set by the Fee Schedule, as it may be amended from time to time.

1010.05.5.2. The surcharges collected by the Building Official shall be remitted quarterly to the Minnesota Department of Administration.

1010.05.6 Valuation. The determination of value or valuation under any provisions of the Hermantown Building Code shall be made by the Building Official. The valuation to be used in

computing the permit and plan checking fees shall be the total value of all construction work for which the permit is issued to be determined in accordance with Section 304 of the Uniform Building Code, as it may be amended from time to time.

1010.05.7 Work Commenced Before Permit Issued. Where work for which a permit is required by the Hermantown Building Code is started prior to obtaining the permit, the fees specified in this section shall be doubled, provided, however, that the payment of the double fee shall not relieve any person from full compliance of the requirement of the Hermantown Building Code in the execution of the work nor from any other penalties prescribed by law.

1010.05.8 Other Permits. The payment of a fee in this section shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance, for the temporary occupation of public property, for inspection of sewer connections, water connections, gas connections or other privileges or requirements.

(Am. Ord. 2008-11, passed 12-15-08)

1010.06 Floodproofing Inspections. Buildings or structures and parts thereof that contain or utilize contingent or emergency (temporary) type flood proofing element or devices shall be subject to inspection by the Building Official at intervals of three years or less. The owner or his or her agent shall be notified at least ten days in advance of inspection date and shall be present at the inspection. The owner or his or her agent shall be responsible for demonstrating the availability, installment and proper functioning, anchorage and support of all closure assemblies and other contingent or emergency (temporary) flood proofing items. All necessary corrections of deficiencies shall be performed within 90 calendar days of the inspection date and at the owner's expense. Failure to perform the required remedial work within the prescribed time shall be a violation of the Hermantown Building Code.

1010.07 Nonconforming Use. A structure or the use of a structure or premises which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of these regulations may be continued subject to the following conditions:

1010.07.1. No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.

1010.07.2. No structural alteration, addition or repair to any conforming structure over the life of the structure shall exceed 25% of its value at the time of its becoming a nonconforming use, unless the structure shall be permanently changed to a conforming use.

1010.07.3. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this section. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of six months.

1010.07.4. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50% or more of its value, it shall not be reconstructed except in conformance with the provisions of these regulations.

1010.07.5. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

1010.07.6. Any alteration, addition or repair to any nonconforming structure which would result in substantially increasing its flood damage or flood hazard potential shall be protected as required by these regulations.

1010.07.7. The Building Official shall maintain a list of nonconforming uses including the date of becoming nonconforming, assessed value at the time of its becoming a nonconforming use, and the nature and extent of nonconformity. This list shall be brought up-to-date annually.

1010.07.8. The Building Official shall prepare a list of those nonconforming uses which have been flood proofed or otherwise protected in conformance with these regulations. He or she shall present the list to the Building Code Appeal Board which may issue a certificate to the owner stating that such uses, as a result of these corrective measures, shall be in conformance with these regulations.

1010.08 Building Code Appeal Board. The Fire Code, established under Ord. No. 80-03, shall constitute the Building Code Appeal Board and shall operate under the same rules that govern the operation and membership of the Fire Code Appeal Board. Wherever "Fire Chief" is used in Ord. No. 80-03, it shall mean Building Official when the Fire Code Appeal Board is acting as the Building Code Appeal Board. Likewise, wherever "Hermantown Fire Code" or "State Fire Marshal" are used in the Ord. No. 80-03, it shall mean the Hermantown Building Code or the State Building Inspector, respectively, when the Fire Code Appeal Board is acting as the Building Code Appeal Board.

1010.09 Appeals to the Building Code Appeals Board. Any person affected by any decision of the Building Official may appeal therefrom to the Building Code Appeal Board by serving written notice on the Building Official within ten days after knowledge or notice of the decision. The notice of appeal shall contain a complete statement of the matter in controversy, and, if from a refusal of a permit for the use of alternate material or type of construction, shall contain a guarantee of payment of all expenses of any tests made or ordered by the Building Code Appeal Board. The notice shall be accompanied by a fee as set by the Fee Schedule, as it may be amended from time to time to be retained by the City.

(Am. Ord. 2008-11, passed 12-15-08)

1010.10 Limitation on Liability. The City, the Building Official and/or any employee charged with the enforcement of the Hermantown Building Code, shall not be liable for any damage that may occur to persons or property as a result of any act required of the Building Official or any employee herein or by reason of any act or omission of the Building Official or any such employee.

1010.11 Severability. In the event any clause or provision this section shall be determined to be illegal or unconstitutional the determination shall not affect the validity of any other provisions of the Hermantown Building Code. In addition, in the event any provision of this section is determined to be in conflict with any provisions of the Minnesota State Building Code then the provisions of the latter shall govern.

Section 1020 - Fire Code

1020.01 Scope.

1020.01.1. The purpose of these regulations shall be to adopt uniform fire safety standards governing the maintenance of buildings and premises; regulating the storage, use and handling of dangerous and hazardous materials, substances and processes; and regulating the maintenance of adequate egress facilities. These provisions shall be collectively adopted for the purpose of protecting the interests of the municipality as a whole against fire hazards. No inspections carried out in furtherance of this section shall be for the purpose of assuring either the person inspected or third parties that any structure or property shall be free from all fire hazards. In particular, no inspection carried out pursuant to 1020.09 shall be construed as assuring that the day-care center that is inspected shall be free from all fire hazards.

1020.01.2. This section shall be collectively referred to as the Hermantown Fire Code.

1020.02 Regulations and Standards Adopted by Reference. The following described material, one copy of each of which has been marked as the official copy and shall be on file in the office of the City Clerk, shall be hereby adopted, except as modified or amended by this section, as part of the Code:

1020.02.1. 2003 Minnesota Uniform Fire Code (Uniform Fire Code);

1020.02.2. 1997 National Fire Code (NFPA);

1020.02.3. 1997 Life Safety Code; and

1020.02.4. 1997 Uniform Building Code (UBC).

(Am. Ord. 2004-03, passed 8-2-04)

1020.03 Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1020.03.1. “City Council” shall mean the City Council of the City.

1020.03.2. “Code” shall mean the Hermantown Fire Code.

1020.03.3. “Corporation counsel” shall mean the attorney for the City.

1020.03.4. “Fire Chief” or “Chief” shall mean the Fire Chief of the Fire Department serving the City.

1020.03.5. “Jurisdiction” shall mean the City.

1020.04 Enforcement.

1020.04.1. The Fire Chief or his or her duly authorized representative shall enforce the provisions of the Hermantown Fire Code.

1020.04.2. The Fire Chief may designate such members of the Fire Department serving the City as inspectors as shall from time to time be necessary. The designation shall be confirmed by the City Council. The Chief may recommend to the City Council the employment of technical inspectors. Upon authorization by the City Council, the technical inspectors shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the Fire Department, and appointments made by the Fire Chief and confirmed by the City Council shall be under the terms and conditions as specified in a written contract entered into at the time of the appointment.

1020.04.3. All fees for permits required under the Uniform Fire Code, the NFPA Code or any regulations of the State Fire Marshal that are adopted by this section shall be collected by the City Clerk and deposited in the general fund of the City.

1020.04.4. All permits issued under this section shall be valid for such period as shall be designated on the permit.

1020.05 Storage of Liquefied Petroleum Gases.

1020.05.1 Bulk Storage. New bulk storage facilities for liquefied petroleum gas shall be allowed in the City only in MI and M2 Zone Districts and only if the property on which the facility is to be located shall abut on and shall be served by an adequate water supply for fire protection.

1020.05.2 Protection of Outside Above Ground Storage Tanks.

1020.05.2.1. Storage tanks containing liquefied petroleum gases located within 25 feet of any driveway, parking lot or other area where motor vehicles may be driven shall be protected by a fenced enclosure. The fenced enclosure shall be located at least 24 inches from all sides of the storage tank and be constructed of noncombustible material at least 60 inches high, have an access gate not less than 36 inches wide and be posted with no smoking signs on all sides. Prior to the erection of the enclosure, the Fire Chief shall determine the suitability of the material proposed to be used for the construction of the enclosure and shall advise the owner of the property of his or her determination in writing.

1020.05.2.2. Storage tanks containing liquefied petroleum gases located within ten feet of any driveway, parking lot or other area where motor vehicles may be driven shall be protected by

guardrails of sufficient strength to withstand impact from a motor vehicle. The guardrail shall be located on all sides of the storage tank that could be struck by a motor vehicle. Prior to the erection of the guardrail, the Fire Chief shall determine the suitability of the materials proposed to be used for the construction of the guardrail and shall advise the owner of the property of his or her determination in writing.

1020.05.2.3. All storage tanks containing liquefied petroleum gases shall be placed on reinforced concrete pads. The area of the concrete pad and an area 24 inches on each side of the pad shall be kept free of all vegetation and combustible material.

1020.05.2.4. Alternate methods of protecting storage tanks containing liquefied petroleum gases may be approved by the Fire Chief provided that the alternate method shall provide the same degree of protection to the tanks as shall be provided by the methods prescribed by this section.

1020.05.2.5. The provisions of this section shall be applicable to all installations of storage tanks containing liquefied petroleum gases in the City. Installations in place on the effective date of this section shall meet the requirements of this section within six months of the effective date of the enactment of this code.

1020.06 Establishment of Districts.

1020.06.1. With respect to the limits referred to in Section 3401 of the Uniform Fire Code, storage of flammable or combustible liquids in outside above ground tanks shall be allowed only in M1 and M2 Zone Districts, and only if the property on which the tanks are to be located shall be served by an adequate water supply for fire protection.

1020.06.2. With respect to the limits referred to in Section 3402 of the Uniform Fire Code, new bulk plants for flammable or combustible liquids shall be allowed only in M1 and M2 Zone Districts, and only if the property on which the plants are to be located shall be served by an adequate water supply for fire protection.

(Am. Ord. 2004-03, passed 8-2-04)

1020.07 Removal of Abandoned Underground Storage Tanks.

1020.07.1. Any underground combustible liquid storage tank that has not been used for a period of one year shall be removed from the ground by the owner of the property within which the tank is located and the hole resulting from the removal properly filled within 30 days of a written order from the Fire Chief to the owner of the property directing that the tank be removed from the ground. For purposes of this section, the owner of the property shall be as shown on the most recent records of the St. Louis County Auditor.

1020.07.2. The removal of any tank ordered to be removed by the Fire Chief pursuant to this section shall be accomplished in a manner approved by the Fire Chief. The Fire Chief shall, without limiting the generality of the foregoing, require:

1020.07.2.1. That all flammable or combustible liquids be removed from the tank and from any connecting lines prior to the removal of the tank from the ground;

1020.07.2.2. That all piping be disconnected at all tank openings;

1020.07.2.3. That all connecting lines which are not to be used further be removed from the ground;

1020.07.2.4. That all tank openings be capped or plugged;

1020.07.2.5. That the tank shall be freed from gas vapors after its removal from the ground either on the property from which it is removed, if it can be safely done at that location, or at such other location that the Fire Chief determines that it would be safe to free the tank from the gas vapors; and

1020.07.2.6. That any tank removed from the ground that is to be disposed of as junk be tested for flammable vapors, and if necessary, rendered gas free and a sufficient number of holes or openings be made in the tank to make it unfit for further use as a combustible liquid storage tank.

1020.08 Hydrants on Industrial, Commercial or Multi-Residential Property.

1020.08.1. Installation of fire hydrants shall be required on all property in zone districts allowing industrial, commercial and multiple residential uses that abut on and is served by a City waterline. The number and location of fire hydrants shall be determined in accordance with the Uniform Fire Code, and with related sections of the NFPA Code, subject to the following:

1020.08.1.1. There shall be fire hydrants placed at 300-foot intervals along the street right-of-way.

1020.08.1.2. Additional hydrants shall be located in such a manner that the maximum length of hose line from any hydrant shall be 300 feet. Upon approval of fire protection plans and certified fire flow data, the Fire Chief may authorize a maximum hose line length of up to 500 feet.

1020.08.1.3. For Group R-3 and Group U occupancies, the maximum hose length of hose line from any hydrant shall be 250 feet.

1020.08.1.4. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 of the Uniform Fire Code, the maximum hose length of hose line from any hydrant shall be 250 feet.

1020.08.2. Duly authorized officers of the City may enter upon private property for the purpose of operating and maintaining fire hydrants.

(Am. Ord. 2004-03, passed 8-2-04)

1020.09 Day-Care Centers.

1020.09.1 Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1020.09.1.1. “Child” shall mean a person under 14 years of age.

1020.09.1.2. “Day-care center” shall mean a licensed family day-care home, a licensed group family day-care program and a licensed group day-care center as those terms are defined in regulations DPW 2 and DPW 3 of the Minnesota Department of Welfare, as they may be amended from time to time.

1020.09.2 Inspections.

1020.09.2.1. All day-care centers in the City shall be inspected by the Fire Chief or his or her designated representative upon the establishment of the day-care center and each year thereafter to determine whether the requirements of this section shall be met. The operators of the day-care centers shall allow the inspections to be made at reasonable times by the Fire Chief or his or her designated representatives.

1020.09.2.2. Day-care centers in existence on the effective date of this section shall be inspected within three months of the effective date of this section by the Fire Chief or his or her designated representative, and annually thereafter. The operators of the day-care centers shall allow the inspections to be made at reasonable times by the Chief or his or her designated representative.

1020.09.3 Reports of Inspectors.

1020.09.3.1. The Fire Chief or his or her designated representative shall provide the operators of the inspected day-care center with a duplicate copy of the day-care inspection format completed as appropriate to show where the day-care center meets the minimal code provisions as well as where the day-care center shall not meet minimal code requirements.

1020.09.3.2. The Fire Chief or his or her designated representative shall conduct exit interviews at the inspected day-care center at the conclusion of every inspection to alert the operators of the day-care center to problems discovered in the inspection. The exit interview shall inform the operator of the day-care center of any violations of the Hermantown Fire Code that are discovered, the remedial measures to be taken by the operator to correct the violations and the time period in which the violations shall be corrected.

1020.09.3.3. The Fire Chief or his or her designated representative shall transpose all appropriate information to the appropriate State Fire Marshal standard inspection form and prepare an exit interview report form. A copy of the exit interview report form shall be signed by the Fire Chief or his or her designated representative and the operator of the day-care center and a copy given to the operator of the day-care center at the time of the exit interview.

1020.09.3.4. The Fire Chief or his or her designated representative shall thereafter transmit all pertinent information to the State Fire Marshal and the St. Louis County Social Services Department for further processing and filing. The State Department of Public Welfare and the St. Louis County Social Services Department shall be furnished a copy of the inspection form describing any violations of the Hermantown Fire Code that are discovered.

1020.09.4 Re-inspection. Upon the expiration of the time period for correcting any violations that are discovered, the Fire Chief or his or her designated representative shall re-inspect the premises of the day-care center to determine whether the recommended remedial measures have been taken. A report of the determination of the Fire Chief or his or her designated representative shall be given to the operator of the day-care center, the St. Louis County Social Services Department, the State Fire Marshal and the State Department of Public Welfare.

1020.09.5 Enforcement. Notwithstanding anything to the contrary contained in this section, the enforcement of the provisions of the Hermantown Fire Code with respect to day-care centers shall be the ultimate responsibility of the State Department of Public Welfare and not the City. The Fire Chief or his or her designated representative shall refer any enforcement action against any day care center to the State Department of Public Welfare.

1020.09A Fire Prevention Division. There shall be hereby continued for and within the government of the City a Fire Prevention Division. The Fire Prevention Division shall be responsible for fire prevention duties including, but not limited to, Code enforcement, conduct of fire inspections, public relations or public information work, fire investigation, the keeping of fire records and any other activity that may have as its ultimate purpose the prevention of fire and the reduction of life and property losses from fire. The Fire Chief and the inspectors designated shall be members of and shall constitute the Fire Prevention Division.

1020.10 Fire Code Appeal Board.

1020.10.1. A Fire Code Appeal Board shall be hereby continued. The Board shall consist of five members to be appointed by resolution of the City Council. Members shall be appointed to serve for two years and thereafter until their successors are duly appointed and qualified. The City Attorney shall act as legal advisor to the Board. Any vacancy occurring in the membership of the Board shall be filled, for the unexpired term only, by resolution of the City Council.

1020.10.2. The members of the Fire Code Appeal Board shall reside in and be registered voters of the City, and shall elect from among the appointed members a chairperson. One member shall be a member of the Planning and Zoning Commission of the City; one a member of the Board of Appeals and Adjustments of the City; one a member of the City Council of the City and two members shall be citizens experienced in real estate and/or the building trades. The members of the Board shall serve without pay.

1020.10.3. The Board shall meet at stated intervals, fixed by resolution of the Board, or at the call of the chairperson or of any two members of the Board.

1020.10.4. The Board shall adopt reasonable rules and regulations for the conduct of its business. It shall render any decisions and findings in writing to the Fire Chief with one duplicate copy to the appellant and another duplicate copy to the State Fire Marshal within 15 days of the decision.

1020.10.5. In special cases the Fire Code Appeal Board may interpret the provisions of the Hermantown Fire Code if it appears that the provisions shall not definitely cover the problem raised.

1020.10.6. On appeal or by request of the Fire Chief, the Fire Code Appeal Board may determine the appropriateness of alternate methods of construction or the use of alternate materials not specifically prescribed by the Hermantown Fire Code. The Board shall approve the method of construction or material only if reasonable proof shall be presented that the method or material shall be at least equivalent to Hermantown Fire Code standards in quality, strength, effectiveness, durability, fire resistance and safety.

1020.10.7. Upon any appeal being brought pursuant to 1020.11, the Board shall fix a day of hearing on the appeal and shall give written notice thereof, by mail or personal service, to the party bringing the appeal.

1020.10.8. The Fire Code Appeal Board shall make its decision on any matters properly presented to it by resolution adopted by the majority vote of all of the members voting thereon. The resolution of the Board in each such case shall describe the conditions under which relief shall be granted or variation permitted, and a complete report of the hearing held thereon by the Board, together with a copy of its resolution, shall be submitted to the City Council in each such instance for confirmation or disapproval. No such variation shall become effective unless confirmed by the City Council.

If and when any decision of the Board granting a variation is confirmed by the City Council, the variation so permitted shall apply to all buildings, installations or conditions where the facts are substantially the same as the facts relied upon by it to make its determination. A properly indexed record of all such variations permitted by decision of the Board, which shall be confirmed by the City Council, shall be kept in the office of the Fire Chief and open to public inspection.

1020.10.9. In cases where relief is denied or variation refused by the Board, a complete report of the hearing held thereon by the Board reciting its decision shall be submitted to the City Council in each instance. The City Council may at any time request that the chairperson of the Fire Code Appeal Board, or any member thereof selected by the chairperson, appear before the City Council to further explain the reasons for the action of the Board in any case.

1020.10.10. No member of the Fire Code Appeal Board shall pass upon any question in which he or she shall be personally interested.

1020.11 Appeals.

1020.11.1. Any person affected by any decision of the Fire Chief which is related to or made pursuant to this section or the code may appeal therefrom to the Fire Code Appeal Board established by 1020.10. An appeal may be taken by the affected party serving the Fire Chief with written notice of intention to appeal the Fire Chief's decision within ten days after the affected party received knowledge or notice of the decision.

1020.11.2. The notice of appeal shall contain a complete statement of the matter in controversy, and, if from a refusal of a permit for use of alternate materials or type of construction, shall contain a guarantee of payment of all expenses of any tests made or ordered by the Fire Code Appeal Board. The notice shall be accompanied by a fee as set by the Fee Schedule, as it may be amended from time to time to be retained by the City.

1020.11.3. Any such appeal shall be subject to and shall be conducted in accordance with the provisions of 1020.10.

1020.11.4. A copy of any decision or finding of the Board relative to any appeal made pursuant to this section shall be provided to the Fire Chief by the Board.

(Am. Ord. 2008-11, passed 12-15-08)

1020.12 New Materials, Processes or Occupancies; Permits. The Building Official, the Fire Chief and the Fire Inspector of the City shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require fire protection permits under the Hermantown Fire Code, in addition to those now enumerated in the Minnesota Uniform Fire Code or the NFPA Code. The Fire Chief shall post a list of the additional permits required in a conspicuous place in his or her office, and distribute copies thereof to interested persons.

1020.13 Severability. In the event any clause or provision of this section shall be determined to be illegal or unconstitutional, the determination shall not affect the validity of the remaining provisions of this section.

1020.14 Limitation of Liability. The City, the Fire Chief or his or her designated representative, and any employee charged with the enforcement of this section, shall not be liable for any damage that may occur to persons or property as a result of any act required of the Fire Chief, his or her designated representative or any employee herein or by reason of any act or omission of the Fire Chief, his or her designated representative or any such employee.

1020.15 Violations; Penalties.

1020.15.1. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions as provided this section.

1020.15.2. When a person fails to eliminate a fire hazard as ordered by the Fire Chief, the Fire Chief may eliminate the hazard. Every person who fails to obey such an order shall be individually liable for the cost incurred by the Chief in eliminating the hazard.

1020.15.3. Where the Fire Chief eliminates such a hazard, the City shall have a lien upon the real property upon which the fire hazard existed, and upon the personal property which constituted the fire hazard.

1020.15.4. The lien shall be in the amount of the cost of eliminating the hazard and shall attach to real property when a statement of claim therefrom is filed for record with the County Recorder or Registrar of Titles of St. Louis County. The lien shall attach to personal property when a statement of the claim therefor is filed for record with the City Clerk.

1020.15.5. It is further unlawful to give or make or cause to be given or made, an alarm of a fire without probable cause, or to neglect or refuse to obey any reasonable order of the Fire Chief at a fire, or to interfere with the Fire Department in the discharge of its duties.

1020.16 Fires or Barbecues on Balconies or Patios.

1020.16.1. In any structure containing two or more dwelling units, no person shall kindle, maintain, or cause any fire or open flame on (i) any balcony above ground level, or (ii) on any ground floor patio within 15 feet of the structure.

1020.16.2. No person shall store or use any fuel, barbecue, torch, or other similar heating or lighting chemical or device on (i) any balcony above ground level, or (ii) on any ground floor patio within 15 feet of the structure.

1020.16.3. Electrical or gas-fired barbecue grills that are permanently mounted and plumbed or wired to the building's gas supply or electrical system, and that maintain a minimum clearance of 18 inches on all sides, unless listed for lesser clearances, may be installed on balconies and patios when approved by the Fire Chief.

(Am. Ord. 2004-03, passed 8-2-04)

Section 1030 - Hazardous And Unsafe Structures

“The provisions of Minnesota Statutes §§ 463.15-463.261, inclusive, (Hazardous or Substandard Buildings) shall be followed by the City in dealing with hazardous buildings or hazardous properties in the City of Hermantown. The City will, from time to time, establish procedures for handling complaints regarding hazardous buildings or hazardous properties in the City of Hermantown and shall follow such procedures.”

(Am. Ord. 2002-05, passed 5-20-02) (Am. Ord. 2008-11, passed 12-15-08) (Am. Ord. 2002-05, passed 5-20-02) (Am. Ord. 2016-46, passed 4-4-16)

Section 1040 - Address Numbering System

1040.01 Purpose. The purpose of this section shall be to provide a system by which the owners of all primary structures located in the City shall be required to maintain the address number assigned to his, her or their primary structure in specified locations in accordance with this section. This section shall be intended to promote the public health, safety and general welfare and to further the implementation of the Emergency Telephone Services Act, M.S. Chapter 403, as it may be amended from time to time.

1040.02 Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1040.02.1. “Address number” shall mean the number for each primary structure as assigned by the City.

1040.02.2. “Address sign” shall mean a blue sign measuring six inches high by 15 inches wide which contains an address number in reflective white letters and/or numbers that are at least four inches tall and that are positioned horizontally on the sign.

1040.02.3. “Driveway” shall mean a private road serving not more than two primary structures.

1040.02.4. “Primary structure” shall mean a building in which shall be conducted the principal use of the lot or parcel in which it is located.

1040.02.5. “Road” shall mean a public or private way, no matter how designated, which affords primary means of access by vehicles to adjacent property. A public or private way which is accessible only by foot or off-road vehicle shall not be a road, as defined in this section.

1040.02.6. “Signpost” shall mean a post, permanently affixed in the ground, used solely for display of an address number or an address sign.

(Am. Ord. 2008-02, passed 3-17-08)

1040.03 Uniform Addressing System.

1040.03.1. Each primary structure located inside the corporate limits of the City shall be assigned an address number.

1040.03.2. The owner of each primary structure shall purchase a signpost and address number for such primary structure from the city. The price of an address number and signpost, which shall include a reasonable charge for installing the signpost and address number by the city, shall be set from time to time by resolution of the City Council of the city. No building permit may be obtained for a primary structure unless the applicant for such building permit purchases a signpost and an address number for such primary structure from the City. All

owners of the primary structures shall cause the address number assigned to his, her or their primary structure to continuously be displayed in conformity with the following standards:

1040.03.2.1. All owners of primary structures which are 50 feet or more from the nearest road shall display the address number assigned to his, her or their primary structure on a signpost. The signpost shall conform with the following standards:

1040.03.2.1.1. The signpost shall be located within ten feet of the driveway, at a location which shall be clearly visible year round from the road. The signpost shall be placed in a location which is at least ten feet from the edge of the surface of the road and not farther from the road than the outward edge of the right-of-way.

1040.03.2.1.2. An address sign with the address number assigned to the primary structure shall be placed on the signpost. The address sign shall be placed perpendicular to the road. The bottom of the address sign shall be placed at a height which shall be no less than four feet above the level of the surface of the road.

1040.03.2.2. All owners of primary structures which are located less than 50 feet from the nearest road and which are clearly visible year round from the road or which are located on a driveway containing two or more primary structures may install and maintain the address number assigned to the primary structure on an outside wall of the primary structure or they may display the address number assigned to the primary structure on a signpost. If the address number is installed on an outside wall of the primary structure, the address number shall be located on an outside wall of the primary structure that faces the nearest driveway. If the primary structure is located on a driveway containing two or more primary structures, the address number assigned to the primary structure shall be located on an outside wall of the primary structure that faces the nearest driveway. Any address number located on the outside wall of a primary structure pursuant to this provision shall be no smaller than four inches tall and shall be coated with reflection materials. The address number assigned to the primary structure shall present a strong contrast with the background color.

1040.03.2.3. If the address number assigned to the primary structure which is located less than 50 feet from the nearest road is displayed on a signpost, the address number and signpost shall be established and displayed as provided below.

1040.03.2.4. The owner of the primary structure shall be responsible for keeping the address number assigned to the primary structure clear of snow, dirt, debris or other obstruction.

1040.03.2.5. If two or more houses are located on a private drive, identification signs will be required on the public roadway entrance and on individual premises where the major structure is located.

(Am. Ord. 2003-01, passed 2-3-03) (Am. Ord. 2008-02, passed 3-17-08)

1040.05 Variances; Interpretations.

1040.05.1. A variance from the provisions of this section may be initiated by the owner or occupant of any primary structure by making application in writing to the City Clerk on the forms as the City Clerk may provide for such purposes. The application shall contain such information as may be required by the Board of Appeals and Adjustments of the City to properly consider the application. The application shall be accompanied by the fee specified from time to time by resolution of the City Council.

1040.05.2. The Board of Appeals and Adjustments shall hold a public hearing on the application for a variance within 30 days after the application is received by the City Clerk.

1040.05.3. Notice of the time, place and purpose of the public hearing shall be published in the official newspaper at least ten days prior to the day of the hearing. Notice shall also be mailed at least ten days before the day of the hearing to each owner of the affected property. For purposes of giving mailed notice, owners shall be those as shown to be such on the records of the St. Louis County Auditor. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this notice provision shall have been made.

1040.05.4. The Board of Appeals and Adjustments shall have the exclusive power to order the issuance of variances from the terms of this section including restrictions or conditions placed on nonconformity. Variances shall only be permitted when they shall be in harmony with the general purposes and intent of this section which shall be to provide a ready means of identifying each primary structure within the City, in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of this section, and when the terms of the variance are consistent with the purposes of this section.

1040.05.5. The Board of Appeals and Adjustments shall make its decision on an application for a variance as soon as possible following the public hearing held by it. Action on any application shall be by majority vote of the members of the Board present and voting. The decision of the Board shall be in writing with the factual basis and reasons supporting the decision set forth. The Board may impose appropriate safeguards, conditions and restrictions, including time limitations on the grant of any variance to insure that the spirit and intent of this section shall be met. Violations of the conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this section.

1040.05.6. All decisions by the Board of Appeals and Adjustments in granting variances shall be subject to the right of any aggrieved person or persons to appeal, pursuant to 1040.05.8.

1040.05.7. The City Council, upon its own motion, may review any action of the Board under this section. The review shall be initiated within ten days of the date of the decision of the Board by the majority vote of those Council members present and voting on the matter. Upon a review of any such action of the Board, the City Council shall proceed in accordance with the procedures set forth in 1040.05.8.

1040.05.8. All decisions of the Board of Appeals and Adjustments shall be subject to appeal to the City Council as follows:

1040.05.8.1. Within ten days after the Board has made its decision, the City Clerk, or his or her designee, shall notify the applicant of the decision of the Board and of the applicant's right to appeal. Within ten days thereafter, the applicant, or any person aggrieved by the decision, may file with the City Clerk a written request that the decision be appealed to the City Council.

1040.05.8.2. The City Clerk shall refer the matter to the City Council for its initial consideration at its next regular or special meeting.

1040.05.8.3. The City Council may, but shall not be required to, hold a public hearing on the appeal. It may hold as many public meetings with the appellant as it may deem necessary to properly evaluate the appeal. Any public hearing held by the City Council shall be preceded by notice of the hearing as provided in this section.

1040.05.8.4. The City Council shall make its decision on any appeal by resolution adopted by majority vote of all of the members voting thereon. The resolution shall contain a written statement of the factual basis and reasons supporting the decision of the Council and a positive finding that the decision shall be consistent with the spirit and intent of this section.

1040.05.8.5. The City Council shall endeavor to make its decision on the appeal as soon as reasonably possible following the filing of the notice of appeal.

1040.05.9. Appeals to the Board concerning the interpretation or administration of this section by any agent of the City may be taken by any person aggrieved by any decision. The appeal shall be taken within ten days after the decision from which an appeal is taken by filing a notice of the appeal on forms provided by the City Clerk. The notice of appeal shall be filed with the City Clerk along with such fee as shall from time to time be prescribed by resolution of the City Council. No action shall be taken on the appeal until the required fee shall be paid. The notice of appeal shall contain a complete statement of the matter in controversy. Upon receipt of the notice of appeal the Board shall fix a date for a public hearing on the appeal within 30 days after the application shall be received by the City Clerk. Notice of the public hearing shall be mailed at least ten days before the date of the hearing to each affected property owner. A notice of the public hearing shall also be published in the official newspaper at least ten days before the day of the hearing. For purposes of giving mailed notice, owners shall be those shown to be such on the records of the St. Louis County Auditor. The failure to give mailed notice to the owner, or defects in the notice, shall not invalidate the proceedings provided a bona fide attempt to comply with the notice provisions set forth in this section has been made. At the hearing, any party may appear in person, by authorized agent or by an attorney. The Board shall make its decision on any matters properly presented to it by resolution adopted by majority vote of all of the members voting thereon. The resolution shall contain a written statement of the factual basis and reasons supporting the decision of the Board and a positive finding that the decision of the Board shall be consistent with the spirit and intent of this section.

1040.05.10. A certified copy of any final decision issued by the Board of Appeals and Adjustments granting a variance upon a request for a variance, or a certified copy of a final decision contained in a resolution adopted by the City Council of the City, granting a variance in a case appealed from the denial of variance by the Board of Appeals and Adjustments shall be

filed with the County Recorder or Registrar of Titles for record. The order issued by the Board of Appeals and Adjustments or the resolution adopted by the City Council of the City shall include the legal description of the property involved.

Section 1050 - Uniform Street Designation System

1050.01 Purpose. It is the purpose of this section to create a uniform street designation system to aid emergency personnel in determining the type of roadway, so that they can determine the appropriate access. The purpose is also to create standards so that there is uniformity within the City concerning the roadway names. Therefore, the City finds that it is necessary to standardize the designations of roadways within the City. This section shall not be applicable to existing roadways. This section applies only to the type of roadway used in a name, not to the actual name.

(Am. Ord. 2004-16, passed 12-6-04)

1050.02 Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1050.02.1. "Avenue" shall mean a roadway that extends in a general north and south direction.

1050.02.2. "Bend" shall mean a southwest- or northeast-winding, irregular roadway that does not lend itself to any other direction.

1050.02.3. "Boulevard" shall mean a roadway that extends in a general southeast or northwest diagonal direction. It must connect at least two U.S. Government Survey sections and act as a collector.

1050.02.4. "Circle" shall mean a short roadway that extends in a general north or south circular direction and returns to itself.

1050.02.5. "Court" shall mean a short roadway that terminates in an east or west cul-de-sac.

1050.02.6. "Drive" shall mean a roadway that extends in a general southwest or northeast diagonal direction. It must connect at least two U.S. Government Survey sections and act as a collector.

1050.02.7. "Lane" shall mean a short roadway that terminates in a north or south dead end.

1050.02.8. "Loop" shall mean a short roadway that extends in a general east or west circular direction and returns to itself.

1050.02.9. "Place" shall mean a short roadway that terminates in a north or south cul-de-sac.

1050.02.10. "Roadway" shall mean a public thoroughfare, which affords principal means of access to abutting property.

1050.02.11. "Street" shall mean a roadway that extends in a general east and west direction.

1050.02.12. "Trail" shall mean a southeast- or northwest-winding, irregular roadway that does not lend itself to any other direction.

1050.02.13. "Way" shall mean a short roadway that terminates in an east or west dead end.

(Am. Ord. 2004-16, passed 12-6-04)

1050.03. Roadway-Naming Criteria.

1050.03.1. A roadway name may not be duplicated with that of any other roadway name presently represented in the City, or in any surrounding township or community. Exceptions may be made if the proposed road is in general alignment with a roadway, which in all probability will connect, or is a continuation of an existing roadway.

1050.03.2. Names with similar spellings, pronunciations or meanings may be construed as being duplications.

1050.03.3. Names should be pleasant sounding, appropriate, easy to read (so that the public, and children in particular, can handle the name in an emergency situation), and should add to pride of home ownership.

1050.03.4. Unacceptable village street names include: numerical names (1st, 2nd, etc.); alphabetical letters (A, B, C, etc.); surnames of living persons (pioneer families, etc., excluded); frivolous, complicated, or undesirable names; unconventional spellings; compound names (use sparingly and not on short streets).

1050.03.5. Roadways shall be named and indicated on the Hermantown City Map, if the roadway services more than two residential or commercial structures.

1050.03.6. Roadway names shall not exceed 16 characters.

(Am. Ord. 2004-16, passed 12-6-04)

1050.04. Application.

1050.04.1. No roadway shall be named within the City until an application has been approved by the City.

1050.04.2. A roadway name application shall be made to the Planning and Zoning Commission. The roadway name application shall contain the following information: the location of the proposed roadway, a map, and the name of the proposed roadway. The Planning

and Zoning Director may prescribe such suitable regulations, consistent with the provisions of this section, concerning the form and contents of all applications, as he or she may deem necessary or advisable.

1050.04.3. The City Council shall consider all roadway name applications in accordance with the provisions of this section, and determine whether to approve the roadway name application as a part of the final plat.

(Am. Ord. 2004-16, passed 12-6-04)

1050.05. Signage. Upon approval, roadway signs shall be erected at all intersections of public roadways. For new property development, the signage will be required at the expense of the developer.

(Am. Ord. 2004-16, passed 12-6-04)

Section 1060 - Erosion and Sediment Control for Land Disturbance Activities

1060.01 Purpose. The purpose of this section is to establish standards and specifications to achieve a level of erosion and sediment control related to land disturbance activities that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of the City

1060.02 Scope. This section establishes standards for erosion and sediment control associated with land disturbance activities within the City.

1060.03 Definitions. For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meaning stated below:

1060.03.01. "Applicant" is any person who submits an application to the City for a permit pursuant to this Section 1060.

1060.03.02. "Best management practices" or "BMPs" are erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed and other management practices published by state or designated area-wide planning agencies. Examples of BMPs can be found in the current versions of: the Minnesota Pollution Control Agency's Stormwater Manual and the Minnesota Departments of Transportation's "Erosion Control Handbook."

1060.03.03. "Borrow" is earth material used in filling or grading on a site.

1060.03.04. "City" is the City of Hermantown.

1060.03.05. "City Administrator" is the City Administrator designated from time to time by the City Council.

1060.03.06. "City Attorney" is the City Attorney designated from time to time by the City Council.

1060.03.07. "City Clerk" is the City Clerk as designated from time to time by the City Council.

1060.03.08. "City Council" is the City Council of Hermantown.

1060.03.09. "City Engineer" is the City Engineer designated from time to time by the City Council.

1060.03.10. "Community Development Director" is such person as is appointed as the Community Development Director of the City by the City Council from time to time.

1060.03.11. "Clearing and grubbing" is the cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots and other remains in the designated areas.

1060.03.12. "Demolition" is any act or process of wrecking or destroying a building or structure.

1060.03.13. "Erosion" is the wearing away of the ground surface as a result of the movement of wind, water, ice and/or land disturbance activities.

1060.03.14. "Erosion control" is a measure employed to prevent erosion. Erosion control methods include, but are not limited to, stabilizing soil with temporary or permanent vegetation, mulch or erosion control blankets, construction phasing, vegetative buffer strips and limiting the area of impact.

1060.03.15. "Erosion Control & Fill Permit" is a permit by the City governing land disturbance activities. The permit is applied for by completing the Erosion Control & Fill Permit Application including an ESCP.

1060.03.16. "Erosion and sediment control plan" or "ESCP" is a written plan that includes a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a particular site during the period in which pre-construction and construction related land disturbance activities occur and before final improvements are completed, all in accordance with the specific requirements set forth in this section.

1060.03.17. "Erosion Control Inspector" is an employee, consultant, contract agency or individual who has been designated by the City Administrator to perform erosion and sediment control inspections at land disturbance sites in the City of Hermantown.

1060.03.18. "Excavation" is the mechanical removal of earth material.

1060.03.19. "Fill" is a deposit of soil or other materials placed by artificial means.

1060.03.20. "Grading" is any excavating, filling or combination thereof.

1060.03.21. "Issuing Authority" is the employee, consultant, contract agency or individual who has been designated by the City Administrator to issue a permit for a project involving a land disturbance activity.

1060.03.22. "Land" is the parcel(s) of real estate upon which a land disturbance activity is conducted.

1060.03.23. "Land disturbance activity" is any change in land that may result in erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands or rights-of-way within the City of Hermantown, including, but not limited to, building construction or demolition, clearing and grubbing, stripping, grading, excavating, filling of land and soil storage on land.

1060.03.24. "Landowner" is the legal or beneficial owner of the land upon which the land disturbance activity is conducted.

1060.03.25. "Municipal Separate Storm Sewer System (MS4) Statement of Compliance" is a document issued by the City of Hermantown indicating that Erosion Control Plan, SWPPP, Stormwater Management Plan or a combination of the documents for a new development or redevelopment project has been reviewed and approved. The document includes a statement of explaining the City's expectations for the erosion control and post-construction stormwater management that the Applicant, Landowner, Contractor and Applicant's professional engineer will sign.

1060.03.26. "National pollutant discharge elimination system permit" or "NPDES permit" is a permit issued by the U.S. Environmental Protection Agency (or the State of Minnesota under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis. The MPCA issues and governs this permit in Minnesota.

1060.03.27. "One hundred (100) year floodplain" is that area adjoining a watercourse which could be inundated by a flood that has a 1% chance of being equaled or exceeded in any given year and is delineated on the Federal Emergency Management Agency floodway maps for Hermantown.

1060.03.28. "Permit" is any permit issued by the City or Issuing Authority authorizing a land disturbance activity.

1060.03.29. "Permittee" is a person or entity in whose name a permit is duly issued for a land disturbance activity and his or her agents, employees and others acting under his or her direction.

1060.03.30. "Perimeter control" is a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

1060.03.31. "Phasing" is the clearing of land in distinct phases, with the stabilization of each area completed before the clearing of the next.

1060.03.32. "Professional engineer" is an individual who is licensed and registered to practice engineering in the State of Minnesota.

1060.03.33. "Project" is the entire land disturbance activity conducted on a site. A single project may involve multiple, separate and distinct land disturbance activities that take place at different times on different schedules and on more than one parcel of land.

1060.03.34. "Retention basin" is a temporary or permanent structure that provides for the storage of stormwater runoff and settling of sediments and has a permanent pool of water.

1060.03.35. "Runoff" is rainfall, snowmelt or other water flowing over the ground surface.

1060.03.36. "Sediment" is soils or other surficial materials transported by surface water as a product of erosion.

1060.03.37. "Sediment control" is a method employed to prevent eroded sediment from leaving a land disturbance site. Sediment control practices include, but are not limited to, silt fences, sediment logs, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, storm drain inlet protection and temporary or permanent sediment basins.

1060.03.38. "Sedimentation" is the process or action of deposition sediment that is determined to have been caused by erosion.

1060.03.39. "Site" is the land upon which a land disturbance activity is conducted.

1060.03.40. "Site plan" is a plan or set of plans showing the details of any land disturbance activity including, but not limited to, the construction of: structures, open, underground and enclosed drainage facilities, stormwater management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, landscaping and any grading activities.

1060.03.41. "Slope" is the incline of a ground surface expressed as a ratio of vertical distance to horizontal distance.

1060.03.42. "Soil" is naturally occurring surficial deposits overlying bedrock.

1060.03.43. "Soils engineer" or "geotechnical engineer" is a professional engineer experienced and knowledgeable in the practice of soils engineering.

1060.03.44. "Soils engineering" or "geotechnical engineering" is the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and/or testing of the construction thereof.

1060.03.45. "Stabilized" means the disturbed ground surface is fully and uniformly covered by a material that effectively prevents erosion from occurring, with no bare soil exposed. Such materials include, but are not limited to, vegetation, mulch, staked sod, riprap, erosion control blankets, mats, hydromulch and tackifier.

1060.03.46. "Stormwater Management Plan" is a plan that provides sufficient engineering detail to demonstrate that proposed stormwater management facilities are capable of controlling runoff from the site in compliance with Section 1080 of the City code. All plans, specifications and computations included in the final Stormwater Management Plan shall be prepared and certified by a professional engineer who is licensed in the State of Minnesota who maintains professional liability insurance in an amount of \$500,000.00.

1060.03.47. "Stormwater Pollution Prevention Plan" or "SWPPP" is a plan that describes the strategies and steps that will be taken to prevent nonpoint source pollution discharging from a construction site. The SWPPP includes a description of all construction activity, temporary and permanent erosion and sediment control BMPs, permanent post-construction stormwater management, and other pollution prevention techniques to be implemented throughout the life of the construction project. The SWPPP includes a combination of narrative plans and standard detail sheets that address the foreseeable conditions at any stage of construction. The SWPPP needs to be professionally prepared by a certified individual (SWPPP Designer) having completed the "Design of Construction SWPPP" course provided by the Erosion and Stormwater Management Certification Program.

1060.03.48. "Stripping" is any activity that removes or significantly disturbs the vegetative surface cover including clearing, grubbing of stumps and root mat, and topsoil removal.

1060.03.49. "Structure" is anything manufactured, constructed or erected which is normally attached to or positioned on land, including buildings, portable structures, earthen structures, roads, parking lots and paved storage areas.

1060.03.50. "Topsoil" is the top layer of soil where vegetation grows, typically containing a high concentration of organic matter.

1060.03.51. "Utility" is any infrastructure used to produce, store, convey, transmit or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, water (including stormwater), steam, sewage and other similar substances.

1060.03.52. "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries runoff.

1060.03.53. "Wetland" means transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, a "wetland" must: Have a predominance of hydric soils; be inundated or saturated by surface water or groundwater at a frequency and duration to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions and, under normal circumstances, support a prevalence of hydrophytic vegetation.

1060.04 Liability and Relation to other laws. Neither this Section [1060](#) nor any administrative decision made under it exempts the permittee, landowner or any other person from procuring other required permits or complying with the requirements and conditions of such a permit, or limits the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or damages against the permittee or any other person arising from the activity regulated by this Section [1060](#). The permittee and landowner are jointly and severally responsible for safely and legally completing the project. Neither the approval of a plan under the provisions of this Section [1060](#), nor the compliance with the provisions hereto or with any condition imposed by the Issuing Authority, shall relieve any person from responsibility for damage to persons or property resulting therefrom, or as otherwise imposed by law, nor impose any liability upon the City for damages to persons or property.

1060.05 Exemptions The following activities are exempt from the plan approval and permitting provisions of this Section [1060](#):

1060.05.01. Emergency work to protect life, limb or property and emergency repairs. If the land disturbing activity would have required an approved SWPPP or ESCP except for the emergency, then, as soon as possible after the emergency is over, the landowner should proceed in accordance with the requirements of this Section [1060](#) with respect to each land disturbance activity on an "after the fact" basis.

1060.05.02. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

1060.05.03. Construction, installation and maintenance of utility lines (electric, telephone, cable television, water, sewer and gas) or individual service connections to these utilities, unless one acre or more is impacted.

1060.05.04. Installation of septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system.

1060.05.05. Tilling, planting or harvesting of agricultural, horticultural or silviculture crops.

1060.05.06. Land disturbance activities impacting less than 500 square feet that do not require a building permit.

1060.05.07. An individual single one-family residence, two-family residence or accessory building (that is not part of a common plan of development) with less than one acre of disturbed area is exempt from preparation of a SWPPP.

1060.05.08. The City Engineer has authority to modify or waive any and all requirements in Section 1060 in accordance with the City's MS4 Permit if needed to protect life and limb, protect the property of another, protect the safety, use, slope or soil stability of a public road, protect wetland(s) or watercourse(s) or otherwise protect the health, safety and general welfare of the public.

1060.06 Manner of Work. Any land disturbance activity whether subject to this Section [1060](#) or otherwise, shall be undertaken in a manner designed to minimize surface runoff, erosion and sedimentation. Whenever the Erosion Control Inspector determines that any land disturbance activity on any private property has become a hazard to life or limb, or endangers the property of another, or adversely affects the safety, use, slope or soil stability of a public road, publicly controlled wetland or watercourse, then the landowner of the property upon which the land disturbance activity is located, or other person or agent in control of the property, upon receipt of notice in writing, shall within the period specified therein repair or eliminate such conditions. Exempt activities under Section 1060.05 are also subject to the provisions of this section and Section 1060.07.01 and 1060.19.

1060.07 Land Disturbance Activity Threshold and Requirements. A SWPPP or ESCP that identifies the materials, methods and practices to be used to meet the requirements of this Section [1060](#) must be submitted to the Issuing Authority for review and approval before any City permit is issued for a project subject to the provisions of this section. The plans shall be drawn to an appropriate scale and shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources and measures proposed to minimize soil erosion and off-site sedimentation. Table below outlines required development requirements and submittals.

1060.07.01. Land Disturbance Activity Threshold Table

Required Development Standards	Land Disturbance			
	< 500 SF	≥ 500 SF with Bldg. or Garage Permit	≥ 1/2 Acre & < 1 Acre	≥ 1 Acre
Temporary Perimeter Control (Silt Fence, Bio-Rolls, Etc.)	No Erosion Control Measures Required	X	X	X
Erosion & Sediment Control Plan		X	X	
Stormwater Pollution Prevention Plan (SWPPP)			X	X
MPCA NPDES Construction Stormwater Permit				X

MS4 Statement of Compliance		X	X	X
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1060.07.01.01. Temporary Perimeter Control. All land disturbance activities are required to contain and control sediment erosion within the project site/boundary. Temporary Perimeter Control may be necessary to prevent sediment from leaving the site. Temporary Perimeter Controls may include, but are not limited to, BMPs such as silt fence, bioroll, hay bales, inlet sediment protection and a rock construction exit. BMPs must be in place in all down gradient areas adjacent to the land disturbance.

1060.07.01.02. Erosion and Sediment Control Plan (ESCP). See Section 1060.09 for ESCP Requirements.

1060.07.01.03. SWPPP. See Section 1060.10 for SWPPP Document Requirements.

1060.07.01.04. MPCA NPDES Construction Stormwater Permit. To be completed online through the MPCA's website. Application and guidance information can be found at:

<https://www.pca.state.mn.us/water/construction-stormwater>

1060.07.01.05. MS4 Statement of Compliance. The MS4 Statement of Compliance is a document issued by the City of Hermantown indicating that Erosion Control Plan, SWPPP, Stormwater Management Plan or a combination of the documents for a new development or redevelopment project has been reviewed and approved. The document includes a statement of explaining the City's expectations for the erosion control and post-construction stormwater management that the Applicant, Landowner, Contractor and Applicant's professional engineer will sign.

1060.07.01.05.01. The ESCP shall be submitted with the Erosion Control and Fill Permit Application to the City for review. The Application includes the MS4 Statement of Compliance.

1060.07.01.05.02. The SWPPP shall be submitted to the City for review. The City will provide a MS4 Statement of Compliance to the various parties involved in the project for acknowledgement and signature.

1060.07.02. An ESCP, prepared in accordance with Section 1060.09, is required for the construction of new homes, multi-family dwellings, garages, accessory structures and additions of any size IF the projects land disturbance falls within 500 square feet and 1 acre. An ESCP may also be required for smaller structure projects if the Issuing Authority determines it is necessary based on the nature of the project and site conditions.

1060.07.03. A SWPPP or ESCP may be required for any project subject to an Erosion Control and Fill Permit, wetland replacement plan, de minimus exemption, special use or any other City permit or authorization, if the Issuing Authority determines it is necessary based on the nature of the project and site conditions.

1060.08 SWPPP or Erosion and Sediment Control Plan Approval. In accordance with Section 1060.07, a SWPPP or ESCP must be submitted for review and approval before a project is authorized and before any land disturbing activities begin. Prior to plan approval, the Issuing Authority may require an onsite pre-construction meeting with the applicant, landowner, contractor and/or their agents to better assess field conditions and the adequacy of a submitted SWPPP or ESCP. The approval will include a signed MS4 Statement of Compliance.

1060.08.01. Within 15 days of the receipt of the SWPPP or ESCP, the City shall determine whether the application is complete.

1060.08.02. A non-refundable review fee in an amount to be determined from time to time by the City Council shall be submitted at the time of submittal of the SWPPP or ESCP.

1060.08.03. A complete SWPPP or ESCP shall be reviewed by the City and shall be approved or disapproved within 60 days of the receipt.

1060.08.04. If the Issuing Authority determines that a SWPPP or ESCP does not meet the requirements of this Section 1060, he or she shall notify the applicant in writing of the necessary changes. The SWPPP or ESCP must then be revised and resubmitted for review and approval. The City shall have 60 days from the date that the revised SWPPP or ESCP is received to approve or disapprove the SWPPP or ESCP. No permit will be issued for the project until the SWPPP or ESCP is approved. Resubmittals are subject to additional review fees.

1060.09 Erosion and Sediment Control Plan (ESCP). An ESCP is submitted for approval by completing an Erosion Control and Fill Permit Application provided by the City available on the City's website or at City Hall. The City Engineer, Community Development Director and City Building Official are available for assistance on this application. An ESCP may be completed by the applicant or landowner and does not need professional certification. An ESCP must provide the following information:

1060.09.01. The names, addresses and telephone numbers of the applicant and the landowner.

1060.09.02. A description of the project including location, area to be disturbed and the type of project (e.g., new home construction, fill project, etc.)

1060.09.03. Materials and methods to be used for erosion and sediment control (including soil stabilization, perimeter control, entrance stabilization and inlet protection method) and waste control (including solid waste and concrete washout). Additional information may be required if deemed necessary by the Issuing Authority.

1060.09.04. A site plan showing the limits of disturbance, grade, property boundaries, existing and proposed structures, surface waters, locations of all erosion/sediment control devices and final stabilization. This site plan shall be drawn to scale no less than 1" = 100'.

1060.09.05. A completed Erosion Control and Fill Permit Application assuring that the proposed land disturbing activities will be done pursuant to the ESCP. If the applicant is not the landowner, then both the applicant and the landowner must sign the form. The contractor responsible for erosion and sediments controls must also sign the permit.

1060.10 Stormwater Pollution Prevention Plan (SWPPP). A SWPPP must be prepared and certified by a certified SWPPP Designer acceptable to the Issuing Authority. The SWPPP shall incorporate measures sufficient to meet the requirements of Section 1060.12. At a minimum, the information listed below must be included in the SWPPP.

1060.10.01. SWPPP Document. See MPCA Construction Stormwater website below for the SWPPP Checklist to use as a guide when preparing the SWPPP document. Document is also available at City Hall upon request.

<https://www.pca.state.mn.us/water/construction-stormwater>

1060.10.02. Soils Engineering Report. A soils engineering report prepared by a professional soils engineer may be required if the Issuing Authority determines that the conditions of the soils is unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. The report shall be based on adequate and necessary test borings and shall contain data regarding the nature of the soils at the site as well as recommendations for grading procedures and stabilization measures. The Applicant's professional engineer shall incorporate appropriate measures in the project's plans and/or specifications based on the results of the report.

1060.10.03. Signed Statement. The applicant must provide a signed statement that the proposed land disturbing activities will be done pursuant to the SWPPP or ESCP. If the applicant is not the landowner, then both parties must sign the MS4 Statement of Compliance.

1060.10.04. Verification of NPDES Permit Coverage. For any project subject to the NPDES permit, the applicant may also be required to provide copies of documents such as the NPDES permit application and/or the permit modification form to demonstrate that proper NPDES permit coverage has been obtained.

1060.11 Change to Plans. All changes or modifications to an approved SWPPP or ESCP must adhere to the following conditions:

1060.11.01. If site inspections reveal that the BMPs included in an approved SWPPP or ESCP are not effective or are inadequate, then the plan must be amended to include additional or modified BMPs. Such changes must be documented in written form, kept onsite and provided to the Erosion Control Inspector upon request.

1060.11.02. If work is not being done in conformance with an approved SWPPP or ESCP for any reason including delays in obtaining materials, machinery, services or manpower necessary to implement the plan as scheduled, the permittee shall immediately notify the Issuing Authority.

1060.11.03. Requests for major modifications to an approved SWPPP or ESCP required by the Issuing Authority, must be submitted in writing to the Issuing Authority for review and approval within 3 days.

1060.12 Best Management Practices. Best management practices (BMPs) for erosion and sediment control must be implemented for all land disturbance activities throughout construction in accordance with the approved SWPPP or ESCP when they are required. The BMPs identified in the SWPPP or ESCP must be selected, installed and maintained in an appropriate and functional manner that is in accordance with relevant manufacturer specifications, accepted engineering practices and the requirements of this section. The BMPs employed must be adequate to prevent transportation of sediment from the site.

1060.12.01. Erosion Prevention Practices.

1060.12.01.01. The area of disturbance shall be minimized to the extent possible.

1060.12.01.02. The permittee must plan for and implement appropriate construction phasing, vegetative buffer strips, horizontal slope grading and other construction practices that minimize erosion. The location of areas not to be disturbed must be delineated (e.g. with flags, stakes, signs, silt fence, etc.) on the development site before work begins.

1060.12.01.03. All exposed soil areas must be stabilized as soon as possible to limit soil erosion but in no case later than seven days after the construction activity in that portion of the site has temporarily or permanently ceased. Temporary stockpiles without significant silt, clay or organic components (e.g., clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles) and the constructed base components of roads, parking lots and similar surfaces are exempt from this requirement.

1060.12.01.04. Any temporary or permanent drainage ditch or swale that drains water from any portion of the construction site, or diverts water around the site, must be stabilized within 200 lineal feet from the property edge, or from the point of discharge into any surface water. Stabilization must be completed within 24 hours after connecting to a surface water.

1060.12.01.05. Pipe outlets must be stabilized with temporary or permanent measures adequate to prevent erosion and scouring within 24 hours after connection to a surface water.

1060.12.01.06. All exposed soil areas within 200 feet of the edge of a designated Trout Stream as identified by Minn. R. 6264.0050 subp. 4 must be stabilized within 24 hours during fish spawning seasons as specified by the Minnesota Department of Natural Resources. Temporary stockpiles without significant silt, clay, or organic compounds may be exempt from this requirement, subject to the determination of the Erosion Control Inspector.

1060.12.01.07. All stormwater conveyance channels and temporary/permanent drainage ditches and swales shall meet the requirements of the NPDES permit, Part IV.B. whether or not a NPDES permit has been obtained for such work.

1060.12.01.08. Unless infeasible due to lack of pervious or vegetated areas, all discharges from BMPs shall be directed to vegetated areas of the site. Velocity dissipation devices shall be used, if necessary, to prevent erosion.

1060.12.02. Sediment Control Practices.

1060.12.02.01. Sediment control practices must be established on all down gradient perimeters and be located up gradient of any buffer zones before any up-gradient land disturbing activities begin. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed. These practices shall remain in place until final stabilization has been established.

1060.12.02.02. Sediment control practices must minimize sediment from entering adjacent properties and surface waters, including curb and gutter systems and storm sewer inlets.

1060.12.02.02.01. Temporary or permanent drainage ditches and sediment basins that are designed as part of a sediment containment system (e.g., ditches with rock check dams) require sediment control practices only as appropriate for site conditions.

1060.12.02.02.02. If the down gradient treatment system is overloaded, additional up gradient sediment control practices or redundant BMPs must be installed to eliminate the overloading.

1060.12.02.02.03. In order to maintain sheet flow and minimize rills and/or gullies, there shall be no unbroken slope length of greater than 75 feet for slopes with a grade of 1:3 (vertical: horizontal), or steeper.

1060.12.02.02.04. Redundant sediment controls, or a fifty-foot natural and undisturbed vegetative buffer strip shall be required at the base of any disturbed slope and/or stockpile on any portion of a project area that is within fifty feet of a wetland or other surface water.

1060.12.02.02.05. Floating silt curtains placed in a water body shall not qualify as a sediment control BMP to satisfy perimeter control requirements. Use of such devices as a BMP shall be approved only as part of a SWPPP and shall be reviewed for timing and duration.

1060.12.02.03. The timing of the installation of sediment control practices may be adjusted to accommodate short-term activities such as clearing or grubbing, or passage of vehicles. Any short-term activity must be completed as quickly as possible and the sediment control practices must be installed immediately after the activity is completed. However, sediment control practices must be installed before the next precipitation event even if the activity is not complete.

1060.12.02.04. All storm drain inlets must be protected during construction until all sources with potential for discharging to the inlet have been stabilized. Inlet protection may be removed for a particular inlet if a specific safety concern (street flooding/freezing) has been identified and approved by the Erosion Control Inspector.

1060.12.02.05. Temporary soil stockpiles must have silt fence or other effective sediment controls, and cannot be placed in any natural buffers or surface waters, including stormwater conveyances such as curb and gutter systems, or conduits and ditches unless there is a bypass in place for the stormwater. Redundant controls may be required if a stockpile is positioned immediately adjacent to a wetland or other sensitive surface water.

1060.12.02.06. Vehicle tracking of sediment from the construction site (or onto streets within the site) must be minimized by the use of measures such as stone pads, concrete or steel wash racks, or equivalent systems at the designated construction site access road. Street sweeping must be used if such practices are not adequate to prevent sediment from being tracked onto the street. Tracked sediment must be removed from all paved surfaces within 24 hours of discovery by the Permittee or Permittees contractor.

1060.12.02.07. Adequate control measures are required for discharge water that contains suspended solids. All water from dewatering or basin draining activities must be discharged in a manner that does not cause nuisance conditions, erosion in receiving channels or on downslope properties, or adverse impacts to wetlands.

1060.12.02.08. For projects covered by an NPDES permit, temporary sedimentation basins must be installed in accordance with Part III. C of the NPDES permit.

1060.12.03. Non-Sediment Pollutant Controls. No solid or liquid waste, including building materials, shall be discharged from the construction site into stormwater runoff. The permittee must implement appropriate management practices to prevent toxic materials, hazardous materials or other debris from entering streets, storm sewers, ditches, streams, wetlands and other surface waters.

1060.12.03.01. Solid Waste Materials. All solid waste materials, including asphalt, sediment, garbage, plastic, plaster, drywall, fabric, grout, gypsum and any other construction or demolition debris must be managed to prevent flow obstructions and off-site discharges. Disposal shall be in accordance with state regulations.

1060.12.03.02. Concrete Washout. On-site concrete washout materials must be fully contained and limited to a designated area. The washing of concrete material into a street, catch basin or other public facility or natural resource is prohibited. Disposal shall be in accordance with state regulations.

1060.12.03.03. Toxic or Hazardous Waste Materials. Oil, gasoline, paint and any other toxic or hazardous substances shall be stored in a manner to prevent spills, leaks or other discharges. Disposal shall be in compliance with state regulations.

1060.12.04. Minimizing Soil Compaction. Soil compaction must be minimized on the construction site. Unless infeasible, topsoil shall be preserved. Minimizing soil compaction is not required where the function of a specific area of the site dictates that it be compacted.

1060.12.05. Dewatering. Dewatering on a site shall only be permitted when described in an approved SWPPP or ESCP and must be conducted only in compliance with the requirements of the NPDES permit Part IV.D.

1060.12.05.01 Backwash Water. Use of filters with backwash water shall only be permitted consistent with the requirements of NPDES permit Part IV.D whether or not a NPDES permit has been obtained for such work.

1060.12.06. Inspections and Maintenance. The permittee, landowner or his or her agent shall make regular inspections of all erosion and sediment control BMPs to determine their overall effectiveness, the need for maintenance and need for additional control measures. All nonfunctional BMPs must be repaired, replaced or supplemented with functional BMPs at the cost and expense of the permittee or landowner as the case may be.

1060.12.06.01. Documentation. All inspections and maintenance shall be documented in written form, kept on-site and provided to the Erosion Control Inspector upon request. Documentation shall be recorded in writing within 24 hours of any inspection or maintenance and shall include all information as required by Part III.E of the NPDES permit whether or not a NPDES permit has been obtained for such work.

1060.12.06.02. The entire construction site must be routinely inspected at least once every seven days during active construction and within 24 hours after a rainfall event greater than one-half inch in 24 hours. Following an inspection which occurs within 24 hours after a rainfall event, the next inspection must be conducted within seven days after that.

1060.12.06.03. Where construction sites have permanent cover but work remains on other parts of the site, the Permittee may reduce inspections of the areas with permanent cover to once per month.

1060.12.06.04. Where construction sites have permanent cover on all exposed soil areas and no construction activity is occurring anywhere on the site, the site must be inspected during non-frozen ground conditions at least once per month for a period of twelve months. Following the twelfth month of permanent cover and no construction activity, inspections may be terminated until construction activity is once again active unless notified in writing by the City or MPCA.

1060.12.06.05. Inspections may be suspended during frozen ground conditions. Inspections and maintenance must resume within 24 hours after runoff occurs at the site or 24 hours prior to resuming construction, whichever comes first.

1060.12.06.06. Silt fences must be repaired, replaced or supplemented when they become non-functional or the sediment reaches one-third of the height of the fence. Repairs must be made within 24 hours after discovery, or as soon as field conditions allow.

1060.12.06.07. Temporary or permanent sedimentation basins must be drained and sediment removed when the depth of sediment collected in the basin reaches on-half the storage volume.

1060.12.06.08. Surface waters, including drainage ditches and conveyance systems must be inspected for evidence of erosion and sediment deposition during each inspection. Deposited sediments must be removed, and adjacent areas stabilized, within seven days of discovery unless precluded by legal, regulatory, or physical access constraints.

1060.12.06.09. Infiltration areas must be inspected to ensure that no sediment from the construction activity is reaching the infiltration area and that the area is protected from compaction from construction equipment.

1060.12.06.10. If sediment escapes the construction site, off-site accumulations must be removed in a manner and at a frequency sufficient to minimize off-site impacts.

1060.12.06.11. Temporary stabilization measures must be maintained and enhanced as needed to limit soil erosion until final stabilization has been established in accordance with Section 1060.12.07. Uniform coverage must be maintained on all disturbed areas, leaving no bare soil exposed.

1060.12.06.12. After construction is complete, the landowner, permittee or their agent shall continue to regularly inspect the vegetation until adequate turf establishment or other suitable vegetative cover is established.

1060.12.06.13. Building products, pesticides, insecticides, fertilizers, treatment chemicals, and landscape materials that have the potential to leach pollutants must be under cover to prevent the discharge of pollutants or protected by a similarly effective means designed to minimize contact with stormwater.

1060.12.06.14. Portable toilets must be positioned so that they are secure and will not be tipped or knocked over. Sanitary waste must be disposed of properly in accordance with Minn. Rules Chapter 7041.

1060.12.06.15. Fueling and maintenance of equipment and vehicles on construction sites shall be conducted only in accordance with the requirements of the NPDES permit Part IV whether a NPDES permit has been obtained for such work. Spill prevention and spill response measures shall be in place at all times and must remain consistent with all of the requirements of the NPDES Permit Part IV. Reporting and cleanup of any spills shall be consistent with Minnesota Statutes Chapter 115.061.

1060.12.06.16. Vehicle and equipment washing on site shall be conducted only in accordance with the requirements of the NPDES permit Part IV whether a NPDES permit has been obtained for such work. Engine degreasing on site is prohibited.

1060.12.07. Final Stabilization.

1060.12.07.01. To achieve final stabilization after completion of land disturbance activities, all soils must be stabilized by a uniform perennial vegetative cover with a density of 70% over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.

1060.12.07.02. Temporary, synthetic sediment control devices must be removed after vegetation is established.

1060.12.07.03. The permanent post-construction stormwater management system must be fully functional and in conformance with the requirements of Section [1080](#) of the Hermantown City Code and the NPDES permit. Sediments generated from construction shall be removed from retention basins as needed to restore the basins to their original design capacity.

1060.13 Land Disturbances in Wetlands, Shorelands and Floodplain Areas. The exemptions and conditions for obtaining an Erosion Control and Fill Permit and MS4 Statement of Compliance issued under this Section 1060 apply only to upland sites. Any land disturbance activity within a designated wetland, shoreland area or floodplain management area, regardless of the area disturbed or the quantity of fill material placed, must be carried out in accordance with all applicable zoning restrictions and regulations.

1060.15 Permit Duration. Erosion Control & Fill Permits or MS4 Statements of Compliance issued under this Section [1060](#) shall be valid for the period during which the proposed land disturbance activity takes place or is scheduled to take place, whichever is shorter. If construction has not commenced within two years of issuance, the permit shall be voided.

1060.14.01. Permit Renewals/Extensions. The permittee shall fully perform and complete all of the work required in the sequence shown on the SWPPP or ESCP within the time limit specified in the permit. Prior to the expiration of a permit issued under this Section 1060, the permittee may present a written request for an extension to the Issuing Authority. If, in the opinion of the Issuing Authority, an extension is warranted, a one-time no fee extension, not to exceed one year, may be granted. The Issuing Authority may authorize additional extensions for a period to be determined by the Issuing Authority for a fee determined from time to time by the City Council.

1060.15 Conditions of Approval. In granting any permit pursuant to Section [1060](#), the Issuing Authority may impose such conditions as may be reasonably necessary to prevent creation of a nuisance or unreasonable hazard to persons or to a public or private property. Such conditions shall include (even if not specifically written in the permit), but need not be limited to:

1060.15.01. The granting (or securing from others) and the recording in St. Louis County land records of easements for drainage facilities, including the acceptance of their discharge on the property of others, and for the maintenance of slopes or erosion control facilities.

1060.15.02. Adequate control of dust by watering, or other control methods acceptable to the Issuing Authority, and in conformance with applicable air pollution ordinances.

1060.15.03. Improvements of any existing grading, ground surface or drainage condition on the site (not to exceed the area as proposed for work or development in the application) to meet the standards required under Section [1060](#) for new grading, drainage and erosion control.

1060.15.04. Sediment traps and basins located within a densely populated area or in the proximity of an elementary school, playground or other area where small children may congregate without adult supervision may be requested to install additional safety related devices. The permittee's professional engineer shall consider the risk during design of the facility.

1060.16 City Inspections. The City may carry out scheduled and/or random inspections at any land disturbance site throughout the duration of the project and until final stabilization is achieved as deemed necessary to determine compliance with the an approved SWPPP or ESCP and other provisions of Section [1060](#).

1060.16.01. In making application for a permit from the City for any project requiring a SWPPP or ESCP, the landowner performing or allowing such work consents to the Erosion Control Inspector having the right to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan. This does not include consent to enter into any building which is completed and which has been secured, but does include consent to inspect any area of the site where land disturbance activity is occurring or is thought to be planned at the project site.

1060.16.02. When deemed necessary by the Issuing Authority, on-site inspection and approval of installed sediment controls may be required before up gradient land disturbing activities can begin.

1060.16.03. For projects where a security is required, the Erosion Control Inspector shall complete a final inspection with the permittee and/or the permittee's representative to assess whether all requirements for final stabilization have been met, in accordance with Section 1060.12.07. Within seven days of the inspection, the Erosion Control Inspector will issue a written notice to the permittee as to whether all requirements for final stabilization have been met. If all requirements have not been met, the notice will include a detailed description of what needs to be accomplished in order to achieve final stabilization. The security shall be released only when all requirements for final stabilization have been met.

1060.16.04. SWPPP or ESCP Inspections conducted will be subject to the MPCA Construction Stormwater Inspection Checklist. The checklist can be found on the MPCA website shown below or a hard copy can be provided at City Hall.

<https://www.pca.state.mn.us/water/construction-stormwater>

1060.17 Performance Bond/Security. An applicant who is required to submit a SWPPP is also required to file with the City a bond, letter of credit or other surety to insure compliance with the approved plan. The amount of the surety shall be equal to the estimated cost of implementing the

entire SWPPP, from beginning to end (including cost of materials, installation, inspection and maintenance), plus 25%. The form of such surety shall be subject to approval by the City Attorney.

1060.17.01. The contractor responsible for the implementation of the SWPPP shall provide a detailed breakdown of the estimated costs to implement the SWPPP. The City will review the estimated costs and may require adjustments if costs are unrealistic based on knowledge of recent similar construction costs. These costs will be the basis of the Performance Bond/Security.

1060.17.02. No security will be released until a final inspection has been conducted and the Erosion Control Inspector confirms in writing that final stabilization has been achieved, in accordance with Section 1060.16.03.

1060.18 Permittee Responsibility. The permittee, his or her agent, contractors and employees shall carry out the proposed work in accordance with the requirements of Section [1060](#) and the approved SWPPP or ESCP at all times. The design, testing, installation and maintenance of erosion and sediment control operations and facilities shall adhere to the standards and specifications contained in the approved SWPPP or ESCP.

1060.18.01. A copy of the approved SWPPP or ESCP and inspection records shall be on-site and available for inspection during all working hours.

1060.18.02. The permittee shall take action as needed to prevent soils from being deposited onto adjacent properties, rights-of-way, public storm drainage systems, wetlands or watercourses.

1060.18.03. Permittee shall maintain inspection and maintenance activity logs consistent with the requirements of the NPDES permit Part III.E. whether or not an NPDES Permit is issued for such work.

1060.19 Action Upon Noncompliance.

1060.19.01. Notice of Violation. In the event work does not conform to Section [1060](#) or to an approved SWPPP or ESCP or to any instructions of the Erosion Control Inspector, compliance may be ordered by written notice of violation to the violator and/or to the landowner. Failure to address a notice of violation in a timely manner may result in civil, criminal or monetary penalties in accordance with the enforcement measures authorized in this section. In the case of work for which there is a permit, the notice of violation shall be mailed by first class mail, postage pre-paid, to the address listed by the permittee on the permit. In the case of work for which there is no permit, the notice of violation shall be mailed to the person(s) listed as the taxpayer and/or landowner by the records of the St. Louis County Auditor. After a notice of violation is given, the landowner, permittee or his or her contractor shall be required to make the corrections within the time period determined by the Issuing Authority. If an imminent hazard exists, the Erosion Control Inspector may require that the corrective work begin immediately. The notice of violation shall contain:

1060.19.01.01. The name and address of the landowner and/or to the violator;

1060.19.01.02. The address when available or a description of the building, structure or land upon which the violation is occurring;

1060.19.01.03. A statement specifying the nature of the violation;

1060.19.01.04. A description of the remedial measures necessary to achieve compliance with this section and a deadline for the completion of such remedial action;

1060.19.01.05. A statement advising that, should the violation not be remedied or restored within the established deadline, the work may be done by the City or a contractor, and the expense thereof shall be charged to the land, landowner and/or violator; and

1060.19.01.06. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed or against the land upon which the violation is originating or occurring.

1060.19.02. Stop Work Order. The Erosion Control Inspector may issue a stop work order for the entire project or any specified part thereof when an imminent hazard exists and/or for failure to comply with the requirements set forth in a notice of violation. Upon issuance of a stop work order, all work must stop immediately except that work which is required to attain compliance with Section [1060](#). A stop work order shall remain in effect until the Erosion Control Inspector confirms that the land disturbance activity is in compliance and the violation has been satisfactorily addressed.

1060.19.02.01. For the purposes of this section, a stop work order is validly posted by posting a copy of the stop work order on the site of the land disturbance activity in reasonable proximity to a location where the land disturbance activity is taking place. Additionally, a copy of the order, in the case of work for which there is a permit, shall be mailed by first class mail, postage pre-paid, to the address listed by the permittee on the permit. In the case of work for which there is no permit, a copy of the order shall be mailed to the person(s) listed as the taxpayer and/or landowner by the records of the St. Louis County Auditor.

1060.19.03. Enforcement Measures. If a violation has not been corrected pursuant to the requirements set forth in the notice of violation and/or stop work order, then representatives of the City may take any and all measures necessary to abate the violation and/or restore the land. It shall be unlawful for any person, landowner, agent or person in possession of any land to refuse to allow the government agency or designated representative to enter upon the land for the purposes set forth above. The remedies available to the City shall include:

1060.19.03.01. Criminal prosecution;

1060.19.03.02. Injunctive relief pursuant to Section 1060.19.05 of this section;

1060.19.03.03. Collection of administrative and remediation costs, including attorney's fees, court costs, labor, use of equipment, sampling and monitoring costs and other expenses associated with enforcement of this section;

1060.19.03.04. Imposition of costs of abatement pursuant to Section 1060.19.04 of this section;

1060.19.03.05. Immediate revocation of and/or suspension of the processing of any and all City permits for which the landowner or violator has applied, even if the permits are not connected to the land where the violation is occurring;

1060.19.03.06. Suspension of City sewer and water services at the property where the violation is occurring;

1060.19.03.07. Withholding of the certificate of occupancy for the property where the violation is occurring; and

1060.19.03.08. Enforcing the provisions of Section 1060.19.06 of this section.

1060.19.04. Abatement of Violation. If a violation continues for ten days beyond the deadline set forth in the notice of violation and/or stop work order, the Issuing Authority may issue a notice of intent to the landowner and/or violator of the City's intent to perform work necessary to comply with Section [1060](#). The City may go on the site and commence work 14 days after issuing the notice of intent. After abatement of the violation, the landowner and/or violator will be notified of the cost of abatement, including attorney's fees and administrative costs. The landowner and/or violator may file a written protest objecting to the amount of the assessment within ten calendar days with the City Clerk. The costs incurred by the Issuing Authority to perform the abatement work shall be paid by the landowner out of the security referenced in Section 1060.18, to the extent that the amount is covered thereby, with the remainder being directly due and owing to the City by the landowner and/or violator. In the event no permit was issued or no security was posted, the cost, plus interest at the rate authorized by the Issuing Authority, plus a reasonable administrative fee shall be billed to the landowner and/or violator. If in any event the amount due is not paid by the deadline set forth by the decision of the City Council, then the City Clerk shall enter the amount due on the tax roll and collect as a special assessment against the property using the procedures contained in applicable City codes and state law or may collect such amount in whatever manner is allowed or permitted by law.

1060.19.05. Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with a notice of violation, a stop work order or any requirement of this Section [1060](#). If a person has violated or continues to violate the provisions of this section, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

1060.19.06. Violations Deemed a Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's and/or landowner's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

1060.19.07. Criminal Prosecution. Any person, firm, corporation or agency acting as principal, agent, employee or otherwise, who fails to comply with the provisions of Section [1060](#) shall be guilty of a misdemeanor. Each day there is a violation of any part of Section [1060](#) shall constitute a separate offense.

1060.19.08. Remedies Not Exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Hermantown to seek cumulative remedies.

(Am Ord. 2009-05, passed 12-7-09) (Am. Ord. 2015-09, passed 8-17-15) Am. Ord. 2017-03, passed 5-1-17)

Section 1070 - Illicit Discharge and Connection to the Storm Drainage System

1070.01 Purpose. The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the City of Hermantown through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this section are:

1070.01.01. To regulate the contribution or potential contribution of pollutants to the MS4 by any user;

1070.01.02. To prohibit illicit discharges and connections to the MS4; and

1070.01.03. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this section.

(Ord. 2007-06, passed 1-7-08)

1070.02 Definitions. For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meaning stated below:

1070.02.01. "Best Management Practices or (BMPs)" are schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sewage or water disposal or drainage from raw materials storage.

1070.02.02. "Clean Water Act" is the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

1070.02.03. "Construction Activity" is any activity subject to an NPDES Construction Stormwater Permit or any activity subject to a Hermantown land alteration permit.

1070.02.04. "Greywater" is liquid waste from a residence or other establishment produced by bathing, laundry, culinary operations and from floor drains associated with these sources, but specifically excluding toilet waste.

1070.02.05. "Hazardous Material" is 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.

1070.02.06. "Illicit Discharge" is any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 1070.07.02.

1070.02.07. "Illicit Connection" is any of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater and greywater to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain(s) or connection(s) had been previously allowed, permitted, or approved by the City of Hermantown 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 of Hermantown.

1070.02.08. "Industrial Activities" are activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

1070.02.09. "Municipal Separate Stormwater Sewer System (MS4)" includes municipally owned facilities where stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains,

pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

1070.02.10. "National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit" is a permit issued by the U.S. Environmental Protection Agency (or the State of Minnesota under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group, or general area-wide basis.

1070.02.11. "Non-Stormwater Discharge" is any discharge to the MS4 that is not composed entirely of stormwater.

1070.02.12. "Person" is any individual, association, organization, partnership, limited liability company, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

1070.02.13. "Pollutant" is anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, 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; sediment resulting from soil erosion; and noxious or offensive matter of any kind.

1070.02.14. "Premises" is any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking areas.

1070.02.15. "Sewage" is waste and wastewater discharged from residences, business buildings, institutions, and industrial establishments.

1070.02.16. "Stormwater" is any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

1070.02.17. "Stormwater Pollution Prevention Plan or SWPPP" is a document which describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, the MS4, and/or receiving waters to the maximum extent practicable.

1070.02.18. "Wastewater" is any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

1070.02.19. "Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private,

which are contained within, flow through, or border upon the state or any portion thereof, as defined in M.S. Section 115.01, subd. 22.

(Ord. 2007-06, passed 1-7-08)

1070.03 Applicability. This section shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by the City of Hermantown.

(Ord. 2007-06, passed 1-7-08)

1070.04 Responsibility For Administration. The City of Hermantown shall administer, implement, and enforce the provisions of this section. Any powers granted or duties imposed upon the City of Hermantown may be delegated to persons or entities acting in the beneficial interest of or in the employ of the City.

(Ord. 2007-06, passed 1-7-08)

1070.05 Severability. The provisions of this section are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this section.

(Ord. 2007-06, passed 1-7-08)

1070.06 Ultimate Responsibility. 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.

(Ord. 2007-06, passed 1-7-08)

1070.07 Prohibition of Illicit Discharges.

1070.07.01. No person shall discharge or cause to be discharged into the MS4 anything other than stormwater, including but not limited to pollutants or waters containing any pollutants that may impede the natural flow of stormwater or the functionality of the MS4 or that cause or contribute to a violation of applicable water quality standards.

1070.07.02. The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited except as follows:

1070.07.02.01. Discharges related to water line flushing or water from other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat

or wetland flows, swimming pools (if dechlorinated-typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.

1070.07.02.02. Discharges specified in writing by the City of Hermantown as being necessary to protect public health and safety.

1070.07.02.03. Dye testing is an allowable discharge, but requires a verbal notification to the City of Hermantown prior to the time of the test and the dye used must be nonhazardous.

1070.07.02.04. The prohibitions contained in this section shall not apply to any non-stormwater discharge permitted under a City permit or an NPDES permit, specific written waiver, or waste discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency or the Minnesota Pollution Control Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for the discharge to the MS4.

(Ord. 2007-06, passed 1-7-08)

1070.08 Prohibition of Illicit Connections.

1070.08.01. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

1070.08.02. 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.

1070.08.03. A person is considered to be in violation of this section if the person connects a line conveying sewage, process wastewater, or greywater to the MS4, or allows such a connection to continue.

(Ord. 2007-06, passed 1-7-08)

1070.09 Suspension Of MS4 Access.

1070.09.01 Suspension due to Illicit Discharges in Emergency Situations. The City of Hermantown may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the City of Hermantown 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.

1070.09.02 Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this section may have his/her/its access terminated if such termination

would abate or reduce an illicit discharge. The City of Hermantown will notify a violator of the proposed termination of its MS4 access.

A person commits an offense if the person reinstates MS4 access to a premise terminated pursuant to this Section, without the prior approval of the City of Hermantown.

(Ord. 2007-06, passed 1-7-08)

1070.10 Industrial Or Construction Activity Discharges. Any person subject to an industrial or construction activity NPDES stormwater discharge permit or City land alteration permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Hermantown prior to allowing discharges to the MS4.

(Ord. 2007-06, passed 1-7-08)

1070.11 Monitoring Of Discharges.

1070.11.01 Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

1070.11.02 Access to Facilities.

1070.11.02.01. The City of Hermantown shall be permitted to enter and inspect facilities subject to regulation under this section as often as may be necessary to determine compliance with this section. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of Hermantown.

1070.11.02.02. Facility operators shall allow the City of Hermantown 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, City land alteration permit or any permit issued by the City pursuant to this section to discharge stormwater, and the performance of any additional duties as defined by City, state and federal law.

1070.11.02.03. The City of Hermantown shall have the right to set up, on any permitted facility, such devices as are necessary, in the opinion of the City of Hermantown, to conduct monitoring and/or sampling of the facility's stormwater discharge.

1070.11.02.04. The City of Hermantown 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 the discharger's expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

1070.11.02.05. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Hermantown and shall not be replaced. The costs of clearing such access shall be borne by the operator.

1070.11.02.06. Unreasonable delays in allowing the City of Hermantown access to a facility is a violation of a stormwater discharge permit and of this section. A person who is the operator of a facility with a NPDES permit or any City land alteration permit or any permit issued by the City pursuant to this section to discharge stormwater associated with industrial activity commits an offense if the person denies the City of Hermantown reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this section.

1070.11.02.07. If the City of Hermantown has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this section or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Hermantown may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 2007-06, passed 1-7-08)

1070.12 Requirement to Prevent, Control, and Reduce Pollutants in Stormwater by the Use of Best Management Practices ("BMPs"). The owner or operator of a commercial or industrial establishment shall provide, at his/her/its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a SWPP as necessary for compliance with requirements of the NPDES permit.

(Ord. 2007-06, passed 1-7-08)

1070.13 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 MS4, or waters of the state said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of

Hermantown in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Hermantown within three 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 years.

(Ord. 2007-06, passed 1-7-08)

1070.14 Enforcement.

1070.14.01 Notice of Violation. Whenever the City of Hermantown finds that a person has violated a prohibition or failed to meet a requirement of this section, the City of Hermantown may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1070.14.01.01. The performance of monitoring, analyses, and reporting;

1070.14.01.02. The elimination of illicit connections or discharges;

1070.14.01.03. That violating discharges, practices, or operations shall cease and desist;

1070.14.01.04. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

1070.14.04.05. The implementation of source control or treatment BMPs;

1070.14.02. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

1070.14.03 Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then representatives of the City may take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above. The remedies available to the City shall include:

1070.14.03.01. Criminal prosecution;

1070.14.03.02. Injunctive relief pursuant to Section 1070.14.05 of this section;

1070.14.03.03. Collection of administrative and remediation costs, including attorney's fees, court costs, sampling and monitoring costs, and other expenses associated with enforcement of this section;

1070.14.03.04. Imposition of costs of abatement pursuant to Section 1070.14.04 of this section;

1070.14.03.05. Enforcing the provisions of Section 1070.14.07 of this section.

1070.14.04 Cost of Abatement of the Violation. After abatement of the violation, the owner of the property will be notified of the cost of abatement, including attorney's fees and administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten calendar days with the City Clerk of the City. If the amount due is not paid by the deadline set forth by the decision of the City Council, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

1070.14.05 Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this section. If a person has violated or continues to violate the provisions of this section, the City of Hermantown may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

1070.14.06 Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by this section, the City of Hermantown may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

1070.14.07 Violations Deemed A Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

1070.14.08 Remedies Not Exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Hermantown to seek cumulative remedies.

(Ord. 2007-06, passed 1-7-08)

Section 1080 - Control of Post-Construction Stormwater Runoff

1080.01 Purpose. The purpose of this section is to establish minimum post-construction stormwater management requirements and controls to protect and safeguard the general health,

safety, and welfare of the public. This section seeks to meet that purpose through the following objectives:

1080.01.01. To minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels.

1080.01.02. To minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality.

1080.01.03. To minimize the total annual volume of surface water runoff which flows from any specific site during and following development.

1080.01.04. To minimize temperature increases in trout streams caused by stormwater runoff from development.

1080.01.05. To reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and pose no threat to public safety.

1080.02 Applicability. Unless eligible for an exemption under Section 1080.06, the requirements set forth by Section [1080](#) apply to:

1080.02.01. New development projects;

1080.02.02. Redevelopment; and

1080.02.03. Existing Stormwater management facilities constructed prior to the effective date of this section are subject to the inspection, maintenance, and repair requirements set forth in Section 1080.11 and the enforcement and penalties set forth in Section 1080.13.

1080.03 Relationship to Other Laws, Ordinances and Private Agreements.

1080.03.01 Compatibility with Other Laws and Ordinances. This section is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this section should be considered minimum requirements, and where any provision of this section imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions impose higher protective standards for human health, safety or general welfare or the environment shall be considered to take precedence.

1080.03.02 Private Agreements. This section is not intended to revoke, repeal or modify any easement, covenant, or other private agreement. The existence of any private agreement, easement or covenant does not preclude the application of this section.

1080.04 Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this section shall be judged invalid by a court of competent jurisdiction such order or

judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this section.

1080.05 Definitions. For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meaning stated below:

1080.05.01. "Accelerated Erosion" means erosion caused by construction activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

1080.05.02. "Applicant" means a landowner or agent of a landowner who has submitted an MS4 Statement of Compliance Application and Stormwater Management Plan for a new development or redevelopment that requires a MS4 Statement of Compliance.

1080.05.03. "Best management practices" or "BMPs" are erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed and other management practices published by state or designated area-wide planning agencies. Examples of BMPs can be found in the current versions of the Minnesota Pollution Control Agency's Stormwater Manual and the Minnesota Department of Transportation's "Erosion Control Handbook."

1080.05.04. "Building" means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

1080.05.05. "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

1080.05.06. "Detention" means the temporary storage of storm runoff in a Stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

1080.05.07. "Detention Facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

1080.05.08. "Erosion and Sediment Control Plan" or "ESCP" means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

1080.05.09. "Hotspot" means an area where land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater runoff.

1080.05.10. "Impervious Surface" means a constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater

quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

1080.05.11. "Infiltration" means the process of percolating stormwater into the subsoil.

1080.05.12. "Infiltration Facility" means any structure or device designed to infiltrate retained water to the subsurface.

1080.05.13. "Jurisdictional Wetland" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

1080.05.14. "Land Disturbance Activity" means any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the City of Hermantown, including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting soil, filling of land, and soil storage on land.

1080.05.15. "Landowner" means the legal or beneficial owner of land.

1080.05.16. "Minnesota Stormwater Manual" or "Manual" is the most current version of the Minnesota Pollution Control Agency's publication entitled Minnesota Stormwater Manual. The Manual includes a list of acceptable stormwater management facilities, including design criteria and operation and maintenance requirements for each.

1080.05.17. "Municipal Separate Storm Sewer System (MS4) Statement of Compliance" is a document issued by the City of Hermantown indicating that Erosion Control Plan, SWPPP, Stormwater Management Plan or a combination of the documents for a new development or redevelopment project has been reviewed and approved. The document includes a statement of explaining the City's expectations for the erosion control and post-construction stormwater management that the Applicant, Landowner, Contractor and Owner's Engineer will sign.

1080.05.18. "National Pollutant Discharge Elimination System (NPDES) Permit" is a permit issued by the U.S. Environmental Protection Agency (or the State of Minnesota under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis. The MPCA issues and governs this permit in Minnesota.

1080.05.19. "New Development" means any construction activity that creates 5,000 square feet or more of impervious surface on a previously undeveloped property. In addition, smaller construction activities which are part of a larger master or common development plan that will create 5,000 square feet or more of impervious surface regardless of construction timeframe are deemed to be New Construction. Construction activities creating less than 5,000 square feet of impervious surface shall be subject to the requirements of this section when it is deemed

necessary to achieve the objectives set forth in Sections 1080.01.01 through 1080.01.05, as determined by the City through a representative designated by the City Administrator. The Community Development Director will determine if a proposed project is considered Re-Development or New Development at the Stormwater Management Pre-Application Meeting. If there is a major land use change, as determined by the Community Development Director, the site may be considered new development even though the site had previous development.

1080.05.20. "Nonpoint Source Pollution" means pollution from any source other than from any discernible, confined and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

1080.05.21. "Professional Engineer" is an individual who is licensed and registered to practice engineering in the State of Minnesota.

1080.05.22. "Redevelopment" means any land disturbance activity that results in the creation, addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment activity on a site having less than 5,000 square feet of the total new and redeveloped impervious surface shall be subject to the requirements of this section where it is deemed necessary to achieve the objectives set forth in Sections 1080.01.01 through 1080.01.05, as determined by the City's designated representative designated by the City Administrator. The Community Development Director will determine if a proposed project is considered Re-Development or New Development at the Stormwater Management Pre-Application Meeting. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area when replacement is not part of routine maintenance; and land disturbance activities related to structural or impervious surfaces. It does not include: routine exterior maintenance of building structures such as painting, roof replacement, siding replacement; resurfacing an existing blacktop parking lot, nor does it include emergency construction activities required to immediately protect public health and safety.

1080.05.23. "Stop Work Order" means an order issued which requires that all construction activity on a site be stopped.

1080.05.24. "Stormwater Management Facilities" or "Stormwater Management Practices" are structural or non-structural features that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

1080.05.25. "Stormwater Management Plan" is a plan that provides sufficient engineering detail to demonstrate that the proposed post-construction stormwater management facilities are capable of controlling runoff from the site in compliance with this Section 1080. All plans, specifications and computations included in the final Stormwater Management Plan shall be prepared and certified by a professional engineer who is licensed in the State of Minnesota who maintains professional liability insurance in an amount of at least \$500,000.00.

1080.05.26. "Stormwater Pollution Prevention Plan" or "SWPPP" is a plan that describes the strategies and steps that will be taken to prevent nonpoint source pollution discharging from a construction site. The SWPPP includes a description of all construction activity, temporary and permanent erosion and sediment control BMPs, permanent post-construction stormwater management, and other pollution prevention techniques to be implemented throughout the life of the construction project. The SWPPP includes a combination of narrative plans and standard detail sheets that address the foreseeable conditions at any stage of construction. The SWPPP needs to be professionally prepared by a certified individual (SWPPP Designer) having completed the "Design of Construction SWPPP" course provided by the Erosion and Stormwater Management Certification Program.

1080.05.27. "Stormwater Runoff" means flow on the surface of the ground, resulting from precipitation or snowmelt.

1080.05.28. "Water Quality Volume" is the volume of stormwater runoff from a new development or redevelopment site that must be captured and treated by a stormwater management facility.

1080.05.29. "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

1080.06 Exemptions to Stormwater Management Requirements.

1080.06.01. Repairs, replacements and maintenance to any stormwater management facility deemed necessary by the City of Hermantown.

1080.06.02. Construction, repairs, replacements and improvements to public roads, ditches and utilities, and other public improvements by governmental entities.

1060.06.03. Pavement resurfacing and pavement rehabilitation projects that meet all of the following conditions:

- 1) No new impervious surface is created;
- 2) There is no change to the configuration or grade of the site.

1060.06.04. An individual single one-family residence, two-family residence or accessory building (that is not part of a common plan of development) with less than one acre of disturbed area and less than 15,000 square feet of impervious area is exempt from preparation of a Stormwater Management Plan. Exemptions will still be required to provide erosion and sediment controls as outlined in City Code Section 1080.

1060.06.05. The City Engineer has authority to modify or waive any and all requirements in Section 1080 in accordance with the City's MS4 Permit if needed to protect life or limb, protect the property of another, protect the safety, use, slope or soil stability of a public road, protect

wetland(s), shoreland(s) or watercourse(s) or otherwise protect the health, safety and general welfare of the public.

1080.06.05.01. If the project applicant demonstrates post-construction stormwater management to be technically non-feasible to achieve, the City Engineer may require that the project mitigate for the non-compliance by increasing the level treatment or control of one of the other requirements.

1080.06.05.02. If the project site has obtained a previous MS4 Statement of Compliance (previously known as a Stormwater Certificate) and/or has functioning Permanent Post Construction Stormwater Control BMPs, the City Engineer and the Applicant's professional engineer will evaluate the existing BMPs and determine the treatment benefits. The City Engineer may modify the requirements in Section 1080 such that they meet the City's MS4 requirements if existing BMP is functioning as previously designed.

1080.07 Minimum Stormwater Management Requirements.

1080.07.01. Stormwater runoff from new development and redevelopment sites must be treated by one of the methods outlined in Part III of the current NPDES Permit, for example: wet sedimentation basins, infiltration/filtration facilities, regional ponds, a combination of practices, or an alternate approved method.

1080.07.02. All stormwater management facilities shall be designed, constructed, and maintained in accordance with the most current technology and methods available, such as reflected in the most current version of the Minnesota Stormwater Manual, or another source approved by the City of Hermantown.

1080.07.03. Stormwater runoff generated from new development and redevelopment activities shall not be discharged into a jurisdictional wetland or water body without first receiving adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City of Hermantown.

1080.07.04. For new development activities:

Required Design Parameters	<u>Total of New Impervious Area and Redeveloped Impervious Area</u>	
	< 5,000 SF	≥ 5,000 SF
Volume Controls	No Post-Construction Stormwater Control Requirements	X
Water Quality (TSS) Treatment		X
Phosphorus Controls		X
Peak Discharge Requirements		X

1080.07.04.01. A stormwater treatment facility shall be developed and implemented to, at a minimum, cause no net increase in any of the following from the site while also meeting the additional design parameters set forth:

1080.07.04.01.01. Stormwater discharge volume. A lesser volume control than is required by this Section may be permitted for a new development site or a redevelopment site only when infiltration is prohibited related to a restriction of the NPDES Permit Part III.D, and when there is implementation, to the maximum extent possible, of volume reduction techniques, other than infiltration, on the site that reduce stormwater discharge volume, but do not meet the conditions for post-construction stormwater management of the NPDES Permit Part III D. If volume reduction is infeasible, a statement of the limitations shall be included in the Stormwater Management Plan narrative.

1080.07.04.01.02. Stormwater discharges of Total Suspended Solids and Total Phosphorus. City of Hermantown Requirements listed below:

Total Suspended Solids (TSS) and Total Phosphorus (TP) Removal Requirements (Requirements triggered by > 5,000 SF of Total of New and Redeveloped Impervious Area)	
<u>Development Type</u>	<u>TSS & TP Removal Requirements</u>
New Development	Proposed Site shall have <u>No Net Increase in TSS & TP</u> when compared to the Existing Site Conditions
Redevelopment	Redeveloped Site shall have a <u>50% Decrease in TSS & No Net Increase in TP</u> OR a <u>20% Reduction in Impervious Surfaces</u> when compared to the Existing Site Conditions

1080.07.04.01.03. Stormwater Peak Discharge Rates. Design storms shall be SCS TR-20 Type II 24-hour storms and the current rainfall amounts for the 2-year, 10-year and 100-year storms are shown on the Stormwater Management Plan Summary Form. City of Hermantown requirements listed below:

Post-Construction Peak Discharge Rate Requirements (Requirements triggered by $\geq 5,000$ SF of Total of New and Redeveloped Impervious Area)	
Post-Construction Peak Discharge Rates at Each Discharge Point are Required to be Less Than:	
	Pre-Construction 2-Year Storm Discharge Rate
	Pre-Construction 10-Year Storm Discharge Rate
	Pre-Construction 100-Year Storm Discharge Rate

1080.07.04.02. Highest preference shall be given to stormwater treatment facility designs utilizing green infrastructure techniques in accordance with the MPCA's Minnesota Stormwater Manual.

1080.07.04.03. The design of the stormwater BMP facilities shall be completed to prove the system will meet the requirements listed above. Software requirements are listed below.

1080.07.04.03.01. The hydrologic and hydraulic modeling shall be completed using HydroCAD or by software approved by the City Engineer prior to beginning design. A Pre-Construction and a Post-Construction model will be required at the time of the submittal.

1080.07.04.03.02. The total suspended solids (TSS) and total phosphorus (TP) modeling shall be completed using the Minimum Impact Design Standards (MIDS) Calculator, WinSLAMM or by software approved by the City Engineer prior to beginning design. A Pre-Construction and a Post-Construction model will be required at the time of the submittal.

1080.07.04.04. A minimum of 95% of stormwater runoff from newly created impervious surface area at the site shall be treated by a stormwater management BMP.

1080.07.04.05. Impervious surface reduction areas and/or stormwater management facilities shall be positioned to maximize benefits to receiving waters.

1080.07.05. All stormwater management facilities shall be designed to prevent damage to immediately adjacent downtown property or facilities.

1080.07.06. All stormwater management facilities shall include an appropriate form of pretreatment, in accordance with the methods described in the Minnesota Stormwater Manual. Pre-treatment features may include, but are not limited to: forebays, filter strips, vegetated swales, proprietary settling chambers, and rain gardens.

1080.07.07. For all commercial or industrial developments and all other uses where there is significant potential for pollution by oil or grease, or both, exists, the first one inch of runoff must be treated to remove oil and grease. This requirement may be waived by the City's designated representative if it is determined that installation of such practices is not necessary.

1080.07.08. Trout Streams. Any project that discharges within one mile of and flows to a designated trout stream, as listed in Minnesota Rule 6264.0050, subpart 4, must implement infiltration and temperature control measures for the protection of trout streams, in accordance with Appendix A of the MPCA's NPDES Permit. These requirements apply to whatever volume of stormwater requires treatment under Section 1080.07.

1080.07.08.01. Infiltration. Where site conditions allow, at least half of the water quality volume requiring treatment must be infiltrated. To meet the requirements of the NPDES Permit Part III.D.5.a.3.a.2, all such stormwater management facilities using infiltration shall be designed by a Professional Engineer licensed in the State of Minnesota. Plans for such facilities shall be reviewed by the City Engineer during review of any MS4 Statement of Compliance Application. Infiltration shall be prohibited in those locations specified in Part III.D of the NPDES Permit.

1080.07.08.02. Temperature Controls. The stormwater management facility must be designed such that the discharge from the site will minimize any increase in the temperature of trout stream receiving waters resulting from the one, and two-year 24-hour precipitation events. Sites that discharge to trout streams must minimize the impact using one or more of the following measures in order of preference:

1080.07.08.02.01. Minimize new impervious surfaces.

1080.07.08.02.02. Minimize the discharge from connected impervious surfaces by discharging to vegetated areas, or grass swales and through the use of other nonstructural controls.

1080.07.08.02.03. Infiltration or evapotranspiration of runoff in excess of pre-development conditions (up to the two-year 24-hour precipitation event).

1080.07.08.02.04. If ponding is used, the design must include an appropriate combination of measures such as shading, filtered bottom withdrawal, vegetated swale discharges or constructed wetland treatment cells that will limit temperature increases. The pond should be designed to draw down in 24 hours or less.

1080.07.08.02.05. Other methods that will minimize any increase in the temperature of the trout stream.

1080.07.09. Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specialized structural stormwater management facilities and pollution prevention practices.

1080.07.10. Linear projects, including road or trail projects, may qualify for exceptions to the requirements of this Section, subject to the limitations of the provisions of the NPDES Permit.

1080.07.11. Stormwater management facilities as required by this Section shall be constructed on site. If on-site stormwater treatment is not feasible, any proposal for off-site

stormwater treatment shall meet all mitigation and related requirements of the NPDES Permit, Part III.D.

1080.07.12. Fees. Fees related to an MS4 Statement of Compliance Application, recording, and professional services shall be paid to the City in accordance with the adopted Fee Schedule, as may be amended from time to time.

1080.08 Requirements for an MS4 Statement of Compliance Application Submittal.

1080.08.01 MS4 Statement of Compliance Application. A City of Hermantown MS4 Statement of Compliance is required for all new development and redevelopment activities subject to this section. To obtain an MS4 Statement of Compliance, the applicant must submit a completed MS4 Statement of Compliance Application to the City for review and approval in accordance with Section 1080. No land shall be cleared, graded, or altered in any manner until an MS4 Statement of Compliance is issued for the development or redevelopment. The applicant shall obtain the necessary development permit or approvals from the Planning Commission or City Council prior to an MS4 Statement of Compliance Application.

1080.08.01.01. No building permits shall be granted for the development or redevelopment until after an MS4 Statement of Compliance is issued.

1080.08.01.02. The MS4 Statement of Compliance Application is available on the City's website or at City Hall.

1080.08.02 Stormwater Management Plan Pre-Application Meeting Verification Form. The applicant must submit a signed copy of the Stormwater Management Plan Pre-Application Meeting Verification Form. This form will follow the Stormwater Management Plan Pre-Application Meeting, as explained in Section 1080.02.02.01., if appropriate information is received from the applicant. This form shall be signed by the Design Engineer and either the City Engineer or the Community Development Director on a form provided by the City for that purpose.

1080.08.02.01. Stormwater Management Plan Pre-Application Meeting. Applicant must schedule and attend a Stormwater Management Pre-Application Meeting prior to submitting an MS4 Statement of Compliance Application. At this meeting the applicant must provide a Stormwater Management Concept Plan as described in 1080.08.02. The landowner or owner's representative must schedule this meeting with the City to review the project and pertinent requirements. Meeting shall be scheduled by calling 218-729-3600. At this meeting the Community Development Director will discuss the project with the applicant and determine whether the project is considered new development or a redevelopment project.

1080.08.02.01.01. Stormwater Management Concept Plan. The concept plan shall be submitted at the Stormwater Management Pre-Application Meeting and shall provide enough detail to demonstrate that the applicant is sufficiently accounting for management of stormwater runoff from the proposed development. No Stormwater Management Plan Pre-Application Meeting Verification Form shall be supplied for new development or redevelopment

unless a stormwater management concept plan detailing how stormwater runoff from the site will be managed was submitted. The concept plan, at a minimum, shall include the following:

1080.08.02.01.01.01. A description of the type of proposed stormwater management facilities.

1080.08.02.01.01.02. General locations and sizes of all stormwater facilities, including inlets and outlets.

1080.08.02.01.01.03. A description of where runoff discharge from the site will be directed (e.g., ditch, wetland, stream).

1080.08.02.01.01.04. Distance of direct and indirect discharges from the development to designated trout streams.

1080.08.02.01.01.05. If stormwater discharge from the development is within one mile of a trout stream and flows to that trout stream, a description of proposed measures for protecting the trout stream(s) shall be provided.

1080.08.02.01.01.06. If the proposed stormwater facilities are dependent upon specific soil conditions, a detailed description of soils shall be provided.

1080.08.02.01.01.07. Description and locations of proposed drainage/conveyance systems (e.g., sheet flow, open swales, pipes, etc.).

1080.08.02.02. At the conclusion of this meeting the City will determine if the meeting discussion and Stormwater Management Concept Plan provide sufficient information regarding the Stormwater Management Plan. The City shall either request additional information or provide the landowner or applicant with Stormwater Management Plan Pre-Application Meeting Verification Form as mentioned in Section 1080.08.02.

1080.08.03. Liability Insurance Certificate. Applicant shall have Applicant's Engineer provide the City with a Certificate evidencing that Applicant's Engineer has professional liability insurance covering its work on the stormwater management facilities and any Certification required to be provided by Applicant's Engineer pursuant to this section thereof, naming the City as Certificate holder. Such insurance shall provide professional liability limits of at least \$500,000.00. The Certification provided to the City shall indicate that the insurance coverage evidenced by such Certificate shall not be cancelled, materially altered or not renewed without the City receiving 30 days prior written notice of such cancellation, alteration or non-renewal. Applicant shall be in default hereunder if Applicant's Engineer fails to have in effect the insurance coverage required by this Section prior to the completion of the Applicant's Engineer's obligations under this section.

1080.08.04. Final Stormwater Management Plan. The final Stormwater Management Plan shall provide sufficient engineering detail to demonstrate that the proposed stormwater management facilities are capable of controlling runoff from the site in compliance with this

section. All plans, specifications and computations included in the final Stormwater Management Plan shall be prepared and certified by a professional engineer who is licensed in the State of Minnesota who maintains professional liability insurance in a amount of \$500,000.00 and who provides a certificate of such coverage to the City with the final Stormwater Management Plan. Two hard copies and an electronic copy in PDF format of the certified Stormwater Management Plan shall be submitted to the City Engineer for review and approval.

The Final Stormwater Management Plan shall include the following:

1080.08.04.01. All required information in the Stormwater Management Plan Submittal Checklist. The Stormwater Management Plan Submittal Checklist can be found on the City's website or at City Hall shall be completed and submitted as part of the Post-Construction Stormwater Management Plan.

1080.08.04.02. The name, address and telephone number of the applicant and landowner.

1080.08.04.02.01. If the landowner is not the applicant, then the landowner's written consent is also required on the MS4 Statement of Compliance.

1080.08.04.03. Calculations that were made for the design and sizing of all stormwater facilities, including, but not limited to: water quality volume, storage capacity, filtration rate, discharge rate and detention time.

1080.08.04.04. Calculations and any other information used in evaluating the 100-year, 24-hour storm event sufficient to demonstrate that no damage will occur to adjacent downstream properties.

1080.08.04.05. The legal description of the land upon which the new development or redevelopment is proposed to occur and title evidence indicating the landowner of the land.

1080.08.05. Operations, Inspections and Maintenance Plan. The applicant shall submit a detailed plan for the long-term operations, inspections and maintenance of the stormwater management facilities. The plan must identify the parts or components of the post-construction stormwater management facilities that need to be maintained, the equipment and skills or training necessary to perform maintenance, and a schedule for periodic inspections and maintenance. The applicant shall provide the owner with maintenance checklists for each type of BMP that the owner must fill out during periodic inspections. Vegetation management must also be addressed in the maintenance plan, including what measure will be employed to ensure that adequate cover it preserved. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures must also be included.

1080.08.06. Performance Bond/Security. The City shall require the submittal of a performance security or bond prior to issuance of an MS4 Statement of Compliance in order to ensure that the stormwater management facilities are installed by the applicant as required by an

approved Stormwater Management Plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management facilities, plus 25%.

The performance security shall contain forfeiture provisions for failure to complete work specified in the Stormwater Management Plan.

1080.08.06.01. The contractor responsible for the construction of the post construction stormwater BMPs shall provide a detailed breakdown of the estimated costs to construct the post-construction stormwater BMPs. The City will review the estimated costs and may require adjustments if costs are unrealistic based on knowledge of recent similar construction costs. These costs will be the basis of the Performance Bond/Security.

1080.08.06.02. No security will be released until the requirements set forth in Section 1080.11 have been met.

1080.08.07. Stormwater Management Review Fee. A non-refundable review fee in an amount determined from time to time by the City Council shall be submitted at the time of an MS4 Statement of Compliance Application.

1080.09 Review of MS4 Statement of Compliance Application.

1080.09.01. Modification of Plans. Within 15 days of the receipt of MS4 Statement of Compliance Application, the City shall determine whether the submittal is complete.

1080.09.01.01. If a MS4 Statement of Compliance Application is incomplete, the City shall notify the applicant in writing what is required to make the Stormwater Management Plan complete, and a deadline shall be provided. The application shall not be considered complete until the day all required materials are received.

1080.09.02. Complete applications shall be reviewed by the City and shall be approved or disapproved within 60 days of the receipt of the complete MS4 Statement of Compliance Application.

1080.09.02.01. If the MS4 Statement of Compliance Application and accompanying documents are approved, an MS4 Statement of Compliance shall be issued to the applicant. The approved MS4 Statement of Compliance shall be promptly recorded at the expense of the Applicant by the City Clerk with the appropriate land title recording office after it is issued.

1080.09.02.02. If a MS4 Statement of Compliance Application is disapproved, the City shall notify the applicant in writing, stating the reasons why the MS4 Statement of Compliance Application was not approved.

1080.09.02.03. If an MS4 Statement of Compliance Application is disapproved, the applicant may submit the revised documents for review and approval. The City shall have 60

days from the date that the revised documents are received to approve or disapprove the MS4 Statement of Compliance Application.

1080.10 Modification of Plans. An approved MS4 Statement of Compliance Application may be modified upon submission of a written request for modification to the City, and after written approval by the City. In reviewing the modification request, the City may require additional reports and data. The modified plan should include all of the information listed in Section 1080.08.

1080.11 Certification and Record Drawing Plans. Written certification by the applicant's professional engineer shall be submitted to the City after the stormwater management facilities have been installed, affirming that construction has been completed in accordance with the approved plans and other applicable provisions of this section. Certification must include a set of record drawings with final design specifications for all stormwater management facilities.

1080.11.01. Performance securities or bonds shall not be released until the certified record drawing plans are received and a final inspection by the City of Hermantown, or its representative, is conducted. The Applicant shall schedule the final inspection with the City. The City can be reached at 218-729-3600.

1080.11.02. Certificates of Occupancy shall not be granted until the certified record drawing plans are received and a final inspection by the City of Hermantown or its representative, is conducted.

1080.12 Inspection, Maintenance, and Repair of Stormwater Management Facilities.

1080.12.01. Inspection and Maintenance Requirements. It is the responsibility of the landowner, his/her/its successors and assigns, including any homeowner's association, to provide for the ongoing operations, inspection and maintenance of any on-site and/or off-site stormwater facilities that serve the new development or redevelopment project, in perpetuity. Section 1080.08.05 details a document to guide the landowner in long term operations, inspection and maintenance of the stormwater facilities. These requirements apply to the entire stormwater management facility, including, but not limited to, wet sedimentation basins, infiltration/filtration facilities, catch basins, inlet and outlet structures, forebays and other pre-treatment systems, berms, underground structures, drainage swales, pipes, conveyance channels, pumps, filters, and access roads.

1080.12.01.01. The landowner, his/her/its successors and assigns shall routinely inspect the stormwater management facilities to assure safe and proper functioning. The results of the inspection shall be documented in a maintenance log, and any observed deficiencies shall be corrected in a timely manner.

1080.12.01.02. The landowner, his/her/its successors and assigns, shall perform whatever routine and/or extraordinary maintenance and repair work is necessary to keep the stormwater facilities in good working condition so that the facilities continually perform their original design functions.

1080.12.01.03. Required maintenance and repair may include, but is not limited to: mowing, debris and sediment removal, vegetation replacement, bank stabilization, filter replacement, and major structural repairs.

1080.12.01.04. In the event a maintenance schedule for the stormwater management facilities is outlined on the approved plans, the landowner, his/her/its successors and assigns, shall follow the schedule.

1080.12.01.05. The landowner, his/her/its successors and assigns, shall keep a maintenance log of all inspections, maintenance and repairs of the stormwater facilities, and shall retain the maintenance for at least six years. This documentation shall be made available to the City, its authorized agents and employees, in a reasonable time upon request.

1080.12.02. City Inspection of Stormwater Management Facilities. City inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the conditions of drainage control facilities and other stormwater management facilities.

1080.12.03. Right-of-Entry for Inspection. When any stormwater management facility is installed on private property, or when any new connection is made between private property and a public drainage control system, the landowner shall grant to the City of Hermantown the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this section is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this section.

1080.12.03.01. Search Warrant. If the City has been refused access to a stormwater management facility on private property, and is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this section or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

1080.12.04. Failure to Maintain. If a landowner fails or refuses to comply with Section 1080.11, the city may pursue enforcement and penalties, in accordance with Section 1080.13.

1080.13 Enforcement and Penalties.

1080.13.01. Notice of Violation. Whenever the City of Hermantown finds that a person has violated a prohibition or failed to meet a requirement of this Section, it may order compliance by written notice of violation to such person (“violator”) and/or to the landowner. The notice of violation shall contain:

1080.13.01.01. The name and address of the landowner and/or to the violator;

1080.13.01.02. The address when available or a description of the building, structure or land upon which the violation is occurring;

1080.13.01.03. A statement specifying the nature of the violation;

1080.13.01.04. A description of the remedial measures necessary to achieve compliance with this section and a time schedule for the completion of such remedial action; and

1080.13.01.05. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed or against the land upon which the violation is originating or occurring.

1080.13.02. Abatement and Restoration. If abatement of a violation and/or restoration of affected land is required, the notice of violation shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violation not be remedied or restored within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the land, landowner and/or violator.

1080.13.03. Stop Work Orders. Persons receiving a notice of violation may be required to halt all construction activities. This “stop work order” will be in effect until the City confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this section.

1080.13.04. Enforcement Measures. If a violation has not been corrected pursuant to the requirements set forth in the notice of violation, then representatives of the City may take any and all measures necessary to abate the violation and/or restore the land. It shall be unlawful for any person, owner, agent or person in possession of any land to refuse to allow the government agency or designated representative to enter upon the land for the purposes set forth above. The remedies available to the City, shall include:

1080.13.04.01. Criminal prosecution;

1080.13.04.02. Injunctive relief pursuant to Section 1080.13.06 of this section;

1080.13.04.03. Collection of administrative and remediation costs, including attorney’s fees, court costs, labor, use of equipment, sampling and monitoring costs, and other expenses associated with enforcement of this section;

1080.13.04.04. Imposition of costs of abatement pursuant to Section 1080.13.05 of this section;

1080.13.04.05. Immediate suspension of the processing of any and all City permits for which the landowner or violator has applied, even if said permits are not connected to the land where the violation is occurring; and

1080.13.04.06. Enforcing the provisions of Section 1080.13.07 of this section.

1080.13.05. Cost of Abatement of the Violation. After abatement of the violation, the landowner and/or violator will be notified of the cost of abatement, including attorney's fee and administrative costs. The landowner and/or violator may file a written protest objecting to the amount of the assessment within ten calendar days with the City Clerk of the City. If the amount due is not paid by the deadline set forth by the decision of the City Council, the charges shall become a special assessment against the land and shall constitute a lien on the land for the amount of the assessment pursuant to Minnesota Rule 429.021.

1080.13.06. Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this section. If a person has violated or continues to violate the provisions of this section, the City of Hermantown may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

1080.13.07. Violations Deemed A Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's and/or landowner's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

1080.13.08 Remedies Not Exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Hermantown to seek cumulative remedies.

(Ord. 2008-06, passed 6-16-08) (Am. Ord. 2008-07, passed 7-21-08) (Am. Ord. 2015-09, passed 8-17-15) (Am Ord. 2017-06, passed 6-19-17)