



Risk Management Considerations for Storm Water Ponds

It is quite common for new communities to have a municipal storm water management pond to alleviate flooding from storms and the spring thaw. It is important to remember that storm ponds are a municipal utility, not a playground. Access should be restricted in the same manner as wastewater and water treatment plants.

Under the *Occupiers' Liability Act*, the occupier (municipality) owes a duty to everyone entering onto their premise to do what is reasonable to see that each person is reasonably safe while on the premises.

The definition of “occupier” under this act includes:

- A person who is in physical possession of the premises, or
- A person who has responsibility for and control over the condition of the premises or the activities there carried on, or control over persons allowed to enter the premises.

The courts tend to place an even higher level of care on occupiers: (a) who solicit business from the public; and (b) who have an allurements on their premises, which by its very nature attracts children.

Risk Management Considerations

Fencing

- Where is the pond?
- Is it located next to playground equipment or other allurements?
- How long will water remain in the pond?
- What is the slope of the banks?

It is recommended that banks be no steeper than a four to one ratio. A three to one ratio should be avoided, unless fenced.

If you choose to fence the pond, the fence must be properly maintained and inspected as a part of your routine maintenance program because it creates another risk.

According to the Ministry of Environment's Storm Water Management Planning and Design Manual 2003, they recommend that:

“Thickets or thorn bearing shrubs and trees, and twining vines can be combined to create an impenetrable barrier to deter the public from accessing pond areas, steep slopes and other areas which are deemed potentially hazardous.”

Signage

Signs should be posted in conjunction with barriers or in their absence, warning the public of the dangers associated with these ponds and to prohibit specific activities (swimming, skating, etc.). Consider noting that this is a restricted area, that they shouldn't enter and that water contains toxins.

Recreational Activities

Storm water ponds look like natural ponds, however, they do not function the same. A storm water pond is usually shallow and water constantly moves under it. Even when frozen, there is a greater chance of the ice breaking. It is important to warn the public from using the pond as a swimming pool or skating pond.

Some storm water management pond designs are beginning to incorporate park-like features like benches. While these are a nice addition, they encourage recreational activities. Balance aesthetics with risk management.

Maintenance

- Trash should be removed from the pond including the inlet and outlet screens on a regular basis to reduce water contamination.
- Grass cutting should not be done especially at the pond perimeter. Long grass discourages geese. If grass is cut, the clippings should not be thrown into the pond since that creates organic loading issues.
- Weed control should be done manually. Use of herbicides and insecticides create water quality problems. Weed control by-laws should be consulted.
- A maintenance route should be established and maintained to allow access for maintenance vehicles.
- Record of regular inspections to be documented.
- Have a spill response procedure for environmental compliance.

Life Saving Equipment/Medical Aid

- If the water is polluted, then medical aid must be administered in addition to any life saving maneuvers.
- Medical aid and life saving equipment must be stored in a location that is well marked and readily accessible in an emergency.
- Having life saving equipment around the storm water management pond exposes additional risks. It assumes that the equipment will be regularly inspected. Because of its location, the equipment is prone to vandalism and theft.
- Having life saving equipment around the pond also "gives permission" to swim. Its absence says more about not allowing swimming.
- Consider having staff bring life saving equipment with them when they're working around the storm water management pond. This ensures their safety and sends the right message to the public.