

Chapter 54 STORMWATER MANAGEMENT¹

ARTICLE I. STORMWATER

Sec. 54.01. Findings.

The city finds that:

- (1) Water bodies, roadways, structures and other property within, and downstream of the city are at times subjected to flooding;
- (2) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the city and the region;
- (3) Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion and increased sediment transport and deposition;
- (4) Stormwater runoff produced by land development contributes to increased quantities of water-borne pollutants;
- (5) Increases of stormwater runoff, soil erosion, and non-point source pollution have occurred as a result of land development, and cause deterioration of the water resources of the city and downstream municipalities;
- (6) Stormwater runoff, soil erosion, and non-point source pollution, due to land development within the city have resulted in a deterioration of the water resources of the city and downstream municipalities;
- (7) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the city will, absent reasonable regulation and control, adversely affect the city's water bodies and water resources and those of downstream municipalities;
- (8) Stormwater runoff, soil erosion, and not-point source pollution can be controlled and minimized by the regulation of stormwater runoff from development;
- (9) Adopting the standards, criteria and procedures contained in this chapter and implementing the same will address many of the deleterious effects of stormwater runoff;
- (10) Adopting these standards is necessary for the preservation of the public health, safety and welfare.

(Code 1989, § 54.02; Ord. No. 2015-03, 3-9-2015)

¹State law reference(s)—Ownership and operation of public service facilities by city, Mich. Const. 1963, art. 7, § 24; clean water assistance, MCL 324.5301 et seq.; building and construction in floodplain, MCL 324.3108; soil erosion and sedimentation control, MCL 324.9101 et seq.; soil conservation districts law, MCL 324.9301 et seq.; habitat protection, MCL 324.30101 et seq.; subdivision within or abutting floodplain, plat requirements, MCL 560.138; subdivision within floodplain, conditions for approval, MCL 560.194.

Sec. 54.02. Purpose.

It is the purpose of this chapter to establish minimum stormwater management requirements and controls to accomplish, among other, the following objectives:

- (1) Reduce artificially induced flood damage;
- (2) Minimize increased stormwater runoff rates and volumes from identified new land development;
- (3) Minimize the deterioration of existing watercourse, culverts and bridges and other structures;
- (4) Encourage water recharge into the ground where geologically favorable conditions exist;
- (5) Prevent an increase in non-point source pollution;
- (6) Maintain the integrity of stream channels for their biological functions as well as for drainage and other purposes;
- (7) Minimize the impact of development upon stream bank and streambed stability;
- (8) Reduce erosion from development or construction projects;
- (9) Preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution;
- (10) Reduce stormwater runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands that were developed without stormwater management controls meeting the purposes and standards of this chapter; and
- (11) Reduce the adverse impact of changing land use on water bodies;

and to that end, this chapter establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are sufficient stormwater management controls.

(Code 1989, § 54.03; Ord. No. 2015-03, 3-9-2015)

Sec. 54.03. Applicability, exemptions and general provisions.

To prevent an increase in non-point source pollution, this chapter shall apply to any earth-disturbing activities greater than or equal to one acre for new development or redevelopment projects or earth disturbing activities less than one acre parcels with greater than or equal to 50 percent impervious surface which will alter stormwater drainage characteristics of the development site. Typically, these developments require approval of a plat, a site development plan, building permit and other permits to be obtained. However, this chapter shall not apply to the following:

- (1) Development on one single-family lot, parcel or condominium unit where the city determines that due to the size of the development site or other circumstances, the quantity, quality and/or rate of stormwater flow does not materially alter stormwater flow from the property in terms of rate and/or volume.
- (2) The installation or removal of individual mobile homes within a mobile home park. This exemption shall not be construed to apply to the construction, expansion or modification of a mobile home park.
- (3) Ongoing farm operations such as tilling or plowing. Earth disturbances that are not directly related to farming are not exempt from this chapter.
- (4) Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of this chapter, where such approvals remain in effect.

Sec. 54.04. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best management practices (BMPs) means a practice, or combination of practices and design criteria that comply with the state department of natural resources and environment's Guidebook of BMPs for Michigan Watersheds, the Low Impact Development Manual for Michigan, or equivalent practices and design criteria that accomplish the purposes of this chapter, including, but not limited to, minimizing stormwater runoff and preventing the discharge of pollutants into stormwater, as determined by the municipality engineer, and where appropriate, the standards of the county drain commissioner.

Building opening means any opening of a solid wall such as a window or door, through which floodwaters would penetrate.

Construction site stormwater runoff means stormwater runoff from a development site following an earth change.

Detention means a system which is designed to capture stormwater and release it over a given period of time through an outlet structure at a controlled rate.

Developed or development means the installation or construction of impervious surfaces on a development site that requires, pursuant to state law or local ordinance, the city's approval of a site plan, plat, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures; provided, however, that for purposes of article II of this chapter only, developed or development shall not include the actual construction or, or an addition, extension or modification to, an individual single-family or two-family detached dwelling or appurtenances to the same, if the city manager finds that such construction, addition, extension or modification will not result in adverse stormwater runoff. In making his written finding, the city manager may consult with the zoning administrator, planning commission, the code enforcement official and/or the city engineer.

Developer means any person proposing or implementing the development of land. The term "developer" can also be interpreted to include a designated design representative (e.g., architects and engineers).

Development site means any land that is being or has been developed, or that a developer proposed for development.

Discharger means any person who or entity that directly or indirectly discharges stormwater from any property. The term "discharger" also means any employee, officer, director, partner, contractor or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this chapter.

Drain means any drain as defined in the drain code of 1956, Public Act No. 40 of 1956 (MCL 280.1 et seq.), other than an established county or inter county drain.

Drainage means the collection, conveyance or discharge of groundwater and/or surface water.

Drainageway means the area within which surface water or groundwater is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.

Earth change means any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. The term "earth change" includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.

EPA means the United States Environmental Protection Agency.

Erosion means the process by which the ground surface is worn away by action of wind, water or gravity, or a combination thereof.

Exempted discharge means discharge other than stormwater as specified in sections 54.03 and 54.30.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of water bodies or the unusual and rapid accumulation of surface water runoff from any source.

Flood protection elevation (FPE) means the base flood elevation plus one foot at any given location.

Floodplain means any land area subject to periodic flooding (more than two square miles).

Grading means any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.

Hazardous or toxic material. OSHA defines hazardous and toxic substances as those chemicals which are capable of causing harm. In this definition, the term "chemical" includes dusts, mixtures and common materials such as paints, fuels and solvents. OSHA currently regulates exposure to approximately 400 substances and the OSHA chemical sampling information file contains listings for approximately 1,500 substances. Some industrial libraries maintain files of material safety data sheets (MSDS) for more than 100,000 substances.

Illicit connection means any method or means for conveying an illicit discharge into water bodies or the city's stormwater system.

Illicit discharge means any discharge to water bodies that does not consist entirely of stormwater, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this chapter.

Impervious surface means a surface that does not allow stormwater runoff to slowly percolate into the ground.

Improvements means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project that is the subject of zoning approval.

MDEQ means the Michigan Department of Environmental Quality.

MS4 means the municipal separate stormwater sewer system.

Municipality means the county, city, village or township or its designated representative.

NPDES means National Pollution Discharge Elimination System.

Planning commission means a county planning commission or the city planning commission, as the situation may require, as created under Public Act No. 33 of 2008 (MCL 125.3801 et seq.).

Pollutant means a substance discharged, which includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.

Property owner means any person having legal or equitable title to property or any person having or exercising care, custody or control over any property.

Retention means a system which is designed to capture stormwater and contain it until it infiltrates the soil or evaporates.

Runoff means the water flow that occurs when soil is infiltrated to full capacity and excess water from rain, snowmelt or other sources flows over the land.

Sensitive areas means inland lakes, watercourses and wetlands (more than five acres as specified by MDNRE unless a stricter local requirement is specified).

Site plan means a plat, a site development plan, construction drawings, a building permit and any other permits that need to be obtained before development can occur. These documents and drawings, required by the zoning ordinance, are to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

Soil erosion means the stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, and enabling formation of new sedimentary deposits.

State water quality standards means all applicable state rules, regulations and laws pertaining to water quality, including the provisions of section 3106 of part 31 of the Natural Resources and Environmental Protection Act, Public Act No. 451 of 1994 (MCL 324.3106).

Storm drain means a system of open or enclosed conduits and appurtenant structures intended to convey or manage stormwater runoff, groundwater and drainage.

Stormwater permit means a permit issued pursuant to this chapter.

Stormwater plan means written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these which contain information pursuant to this chapter.

Stormwater runoff facility means the method, structure, area, system or other equipment or measures which are designed to receive, control, store, or convey stormwater as well as treat it for pollutants.

Stream means a river, stream or creek which may or may not be serving as a drain or any other water body that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.

Surface waters of the state are defined consistent with the Part 4 Rules (Mich. Admin. Code R. 323.1041 through 323.1117) to mean all of the following, but not including drainageways and ponds (detention and retention ponds or lagoons) used solely for wastewater conveyance, treatment or control:

- (1) The Great Lakes and their connecting waters.
- (2) All inland lakes.
- (3) Rivers.
- (4) Streams.
- (5) Impoundments.
- (6) Open drains.
- (7) Other surface bodies of water within the confines of the state.

Water body means a river, lake, stream, creek or other watercourse or wetlands.

Watercourse means one that has not been altered artificially.

Wetlands (regulated) means land characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

(Code 1989, § 54.05; Ord. No. 2015-03, 3-9-2015)

ARTICLE II. STORMWATER PERMITS

Sec. 54.10. Stormwater standards.

Developments subject to this chapter shall require a stormwater permit and a stormwater plan, and shall be designed, constructed and maintained to prevent flooding, minimize stream channel impacts, protect water quality and achieve the purposes of this chapter, as stated above. The city has adopted the county stormwater and flood control design standard requirements to meet the objectives of managing the quantity and quality of stormwater runoff from a site as its municipality engineering standards.

(Code 1989, § 54.11; Ord. No. 2015-03, 3-9-2015)

Sec. 54.11. Review procedures.

The city shall grant a stormwater permit, which may impose terms and conditions in accordance with section 54.17, and which shall be granted only upon compliance with each of the following requirements:

- (1) The developer will engage in the following sequence of events:
 - a. Pre-development information gathering. For all applicable projects, developers will contact representatives from each of the following: the county road commission, health department, municipal officials, zoning, planner, engineer, DPW, building official, and drain commissioner's office (water and waste services and surface water). The purpose will be to gather information on design standards, development guidelines and to identify the type of information developers and their representatives must furnish to comply with this chapter. In some instances, it may be expedient to hold one conference with all the involved parties.
 - b. Development and review of conceptual site plan. Review of the conceptual site plan for approval at the county level by the appropriate personnel in water and waste services, soil erosion, surface water, the road commission and the health department. comments are returned to the owner/client and designer. At this time, the design engineer will submit a statement that this site has been reviewed and determined sufficient to accommodate soil erosion and soil conservation measures.
 - c. Coordinated review and approval. Review of the stormwater plan and the proposed BMPs will occur at the same time as the review of the site plan by representatives from the appropriate agencies.
 - d. Municipal review and approval. Developers shall provide a stormwater plan for post-construction management of stormwater to the municipality for review and approval. Guidance will be provided to zoning administrators and local planning commission members on the ordinance and design standards and they will be provided with a checklist for reference during site plan review. At this stage, all necessary permits should have been obtained from federal, state, and county agencies. Once all of the above documents have been obtained, a building permit will be issued by the municipality.
- (2) The developer has submitted a stormwater plan complying with section 54.12.

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- (3) The stormwater plans contain adequate stormwater BMPs to address the requirements laid out in the county stormwater standards and requirement (GCSWS&R). At a minimum, the developer will have to satisfy one of the following conditions:
 - a. A permanent on-site stormwater system that includes on-site detention of stormwater runoff (see county stormwater and flood control design standard requirements for requirements); and
 - b. A direct connection for all stormwater runoff that will be discharged from and through the development site (see GCSWS&R/BMP Requirements Manual for requirements); or
 - c. The developer provides a permanent on-site stormwater system with a restricted outlet designed to result in no net increase in stormwater runoff volume or rate onto any adjacent property. (See GCSWS&R/BMP Requirements Manual for requirements.)
 - (4) The developer has paid or deposited the stormwater permit review fee pursuant to section 54.13.
 - (5) The developer has paid or posted the applicable financial guarantee pursuant to section 54.14.
 - (6) The developer provides all easements necessary to implement the approved stormwater plan and to otherwise comply with this chapter, including, but not limited to, section 54.61. All easements shall be acceptable to the municipality in form and substance and shall be recorded with the county register of deeds.
 - (7) The stormwater plan is designed in conformity with the municipality's design and performance standards for drains and stormwater management systems, as set forth in article VIII of this chapter.
 - (8) All stormwater runoff facilities shall be designed in accordance with the then-current BMPs.
 - (9) The developer provides the required maintenance agreement for routine, emergency and long-term maintenance of all stormwater runoff facilities and in compliance with the approved stormwater plan and this chapter. The maintenance agreement shall be acceptable to the city in form and substance and at minimum contain the requirements outlined in article VII of this chapter.

(Code 1989, § 54.12; Ord. No. 2015-03, 3-9-2015)

Sec. 54.12. Stormwater plan.

The stormwater management plan must be designed to meet the county stormwater standards as set out in the companion document to the low impact development manual for the state. The county is authorized to establish minimum design standards for stormwater discharge release rates and to require dischargers to implement on-site retention, detention or other methods necessary to control the quality, rate and volume of surface water runoff discharged into the storm drainage system and surface waters of the state. The county water quality and quantity standards are to be achieved through the techniques and methodologies outlined in the Low Impact Development Manual for Michigan (chapters 6, 7 and 9). The stormwater plan shall identify and contain all of the following:

- (1) The location of the development site and water bodies that will receive stormwater runoff (National Wetland database). Information to consider and include where appropriate should be the drainage district ID, zoning, aerial imagery, soils and floodplain maps, traffic and utility information.
- (2) The existing and proposed natural feature of the development site, including the vegetation, topography and alignment and boundary of the natural drainage courses, with contours having a maximum interval of two feet (using USGS datum). The information shall be superimposed on the pertinent county soil map.
- (3) The development drainage area to each point of discharge from the development.

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- (4) Calculations for the existing and final peak discharge rates (based on design criteria).
 - (5) Calculations for any facility or structure size and configuration.
 - (6) A drawing showing all proposed stormwater runoff facilities with existing and final grades, as well as stormwater easements.
 - (7) The sizes and locations of upstream and downstream culverts serving the major drainage routes flowing into and out of the development site. Any significant off-site and on-site drainage outlet restrictions other than culverts should be noted on the drainage map.
 - (8) An implementation plan for construction and inspection of all stormwater runoff facilities necessary to the overall stormwater plan, including a schedule of the estimated dates of completing construction of the stormwater runoff facilities shown on the plan and an identification of the proposed inspection procedures to ensure that the stormwater runoff facilities are constructed in accordance with the approved stormwater plan.
 - (9) Drawings, profiles and specifications for the construction of the stormwater runoff facilities (BMP) reasonably necessary to ensure that stormwater runoff will be drained, stored or otherwise controlled in accordance with this chapter.
 - (10) A maintenance agreement, in form and substance acceptable to the municipality, for ensuring maintenance of any privately owned stormwater runoff facilities. The maintenance agreement shall include the developer's written commitment to provide routine, emergency and long-term maintenance of the facilities and, in the event that the facilities are not maintained in accordance with the approved stormwater plan, the agreement shall authorize the municipality to maintain any on-site stormwater runoff facility as reasonably necessary at the developer's expense (see article VII of this chapter).
 - (11) The name of the engineering firm and the registered professional engineer that designed the stormwater plan and that will inspect final construction of the stormwater runoff facilities.
 - (12) All design information must be compatible for conversion to standard GIS shape files.
 - (13) Any other information necessary for the municipality to verify that the stormwater plan complies with the municipality's design and performance standards for drains and stormwater management systems.

(Code 1989, § 54.13; Ord. No. 2015-03, 3-9-2015)

Sec. 54.13. Review fees.

- (a) All expenses and costs incurred by the city directly associated with processing, reviewing and approving or denying a stormwater permit application shall be paid (or reimbursed) to the city from the funds in a separate escrow account established by the developer, as provided in subsection (b) of this section. The city may draw funds from a developer's escrow account to reimburse the city for out-of-pocket expenses incurred by the city relating to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:
 - (1) Services of the city attorney directly related to the application.
 - (2) Services of the city engineer directly related to the application including inspections fees.
 - (3) Services of other independent contractors working for the city which are directly related to the application.
 - (4) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.

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- (b) At the time a developer applies for a stormwater permit, the developer shall deposit with the city clerk, as an escrow deposit, an initial amount as determined by resolution of the city council for such matters and shall provide additional amounts as requested by the city in such increments as are specified in said resolution. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed and the final city denial or approval and acceptance of the development has occurred will be refunded to the developer with no interest to be paid on those funds. At no time prior to the city's final decision on an application shall the balance in escrow account fall below the required initial amount. If the funds in the account are reduced to less than the required initial amount, the developer shall deposit into the account the additional amount needed to restore the account to the required amount before the application review process will be continued. Additional amounts may be required to be placed in the escrow account by the developer at the discretion of the city.

(Code 1989, § 54.14; Ord. No. 2015-03, 3-9-2015)

Sec. 54.14. Financial guarantee.

- (a) The city engineer shall not approve a stormwater permit until the developer submits to the city, in a form and amount satisfactory to the city, a letter of credit or other financial guarantee for the timely and satisfactory construction of all stormwater runoff facilities and site grading in accordance with the approved stormwater plan. Upon certification by a registered professional engineer that the stormwater runoff facilities have been completed in accordance with the approved stormwater plan, including, but not limited to, the provisions contained in section 54.12(8), the city may release the letter of credit or other financial guarantee subject to final city acceptance and approval.
- (b) The letter of credit or other guarantee may be assessed when:
- (1) Violation of this chapter has occurred as determined by the city;
 - (2) Three notifications to the developer detailing the infraction have been issued;
 - (3) No corrective action has been taken by the developer within 30 days of final notification.
- (c) Except as otherwise provided in subsection (e) of this section, the amount of the financial guarantee shall be as determined by the city council in a resolution of fees for city services, unless the city determines that a greater amount is appropriate, in which case the basis for such determination shall be provided to the developer in writing. In determining whether an amount greater than the amount established by resolution of city council is appropriate, the city shall consider the size and type of the development, the size and type of the on-site stormwater system, and the nature of the off-site stormwater runoff facilities the development will utilize.
- (d) The letter of credit or other financial guarantee will not be permitted to expire until any necessary maintenance agreements for stormwater facilities established by the developer has been signed.
- (e) A maintenance bond shall be provided to the appropriate agency. The maintenance bond shall be provided for a period of two years commencing from the date of the final approval of the stormwater plan.
- (f) The city manager may reduce or waive the amount of the financial guarantee for a development that will not increase the percentage of impervious surface of the development site by more than ten percent.
- (g) This chapter shall not be construed or interpreted as relieving a developer of its obligation to pay all costs associated with on-site private stormwater runoff facilities as well as those costs arising from the need to make other stormwater improvements in order to reduce a development's impact on a drain consistent with adopted design standards.

(Code 1989, § 54.15; Ord. No. 2015-03, 3-9-2015)

Sec. 54.15. Certificate of occupancy.

No certificate of occupancy shall be issued until stormwater runoff facilities have been completed in accordance with the approved stormwater plan; provided, however, the city may issue a certificate of occupancy if an acceptable letter of credit or other city financial guarantee has been submitted to the city for the timely and satisfactory construction of all stormwater runoff facilities and site grading in accordance with the approved stormwater plan.

(Code 1989, § 54.16; Ord. No. 2015-03, 3-9-2015)

Sec. 54.16. No change in approved facilities.

- (a) Stormwater runoff facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved stormwater plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved stormwater plan, or in accordance with approved amendments or revisions in the plan.
- (b) The city has the right to take corrective action if alterations to approved stormwater facilities occur and to seek compensation from the responsible party for all costs associated with the corrective action.

(Code 1989, § 54.17; Ord. No. 2015-03, 3-9-2015)

Sec. 54.17. Terms and conditions of permits.

In granting a stormwater permit, the city may impose such terms and conditions as are reasonably necessary to implement the purposes of this chapter. A developer shall comply with such terms and conditions.

(Code 1989, § 54.18; Ord. No. 2015-03, 3-9-2015)

ARTICLE III. STORMWATER SYSTEM, FLOODPLAIN AND OTHER STANDARDS; SOIL EROSION CONTROL**Sec. 54.20. Management of and responsibility for stormwater system.**

The city is not responsible for providing drainage facilities on private property for the management of stormwater on said property. It shall be the responsibility of the property owner to provide for, and maintain, private stormwater runoff facilities serving the property and to prevent or correct the accumulation of debris that interferes with the drainage function of a water body.

(Code 1989, § 54.21; Ord. No. 2015-03, 3-9-2015)

Sec. 54.21. Construction of stormwater system.

All stormwater runoff facilities shall be constructed and maintained in accordance with all applicable federal, state and local ordinances, and rules and regulations.

(Code 1989, § 54.22; Ord. No. 2015-03, 3-9-2015)

Sec. 54.22. Floodplain and sensitive areas standards.

- (a) All new buildings and substantial improvements to existing building shall be protected from flood damage up to the flood protection elevation (FPE) and shall be in accordance with all applicable federal, state and local ordinances, and rules and regulations. Floodway alteration shall be permitted only upon review and approval by the city, in accordance with an approved stormwater plan.
- (b) A stormwater plan providing for the filling or alteration of a floodway may include provisions for maintaining stability of the banks of streams or other water bodies, by means of the establishing of buffer zones and other means of providing protection of the slopes and banks of water bodies.
- (c) Within any required buffer zone, no earth change shall take place except in accordance with the approved stormwater plan. Such a plan may also include provisions for the replacement of flood plain storage volume, where such storage volume is lost or diminished as a result of approved development.
- (d) Where appropriate, permanent setbacks based on site slopes and soils will be established in accordance with the specifications outlined in the county requirement manual.

(Code 1989, § 54.23; Ord. No. 2015-03, 3-9-2015)

Sec. 54.23. Building openings.

- (a) No building openings, including basement walkouts, shall be constructed below the following elevations:
 - (1) One foot above the 100-year floodplain;
 - (2) The building opening established at the time of plat or development approval and on file in the city engineer's office;
 - (3) Three feet above the top of any downstream culvert;
 - (4) Four feet above the bottom of any permanent and defined drain;
 - (5) One foot above an adjacent detention basin design high water.
- (b) A waiver from elevations may be granted by the city engineer following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation does not pose a risk of flooding.
- (c) Upon completion of construction of the structure's foundation and or slab on grade, a registered land surveyor shall certify any minimum building opening elevation specified by this chapter. This certificate shall attest that the building opening elevation complies with the standards of this chapter. The permittee for the building permit shall submit the certificate to the city building inspections official prior to the commencement of framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified that opening must be raised using a method that meets with the approval of the city. After reconstruction, a registered land surveyor or engineer shall re-certify that the minimum building opening elevation complies with the standards of this chapter prior to the commencement of framing and/or structural steel placement.

(Code 1989, § 54.24; Ord. No. 2015-03, 3-9-2015)

Sec. 54.24. Lateral.

A stormwater lateral shall be provided for each parcel at the time of storm sewer construction. Laterals shall have a check valve.

(Code 1989, § 54.25; Ord. No. 2015-03, 3-9-2015)

Sec. 54.25. Public health, safety or welfare.

Protection of the public health, safety or welfare shall be a primary consideration in the design of all stormwater runoff facilities.

(Code 1989, § 54.26; Ord. No. 2015-03, 3-9-2015)

ARTICLE IV. PROHIBITIONS AND EXEMPTIONS

Sec. 54.30. Illicit discharges.

- (a) No person shall discharge to a water body, directly or indirectly (i.e., via an illicit connection), and substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively prevent pollutants from being discharged with the stormwater, except in accordance with best management practices.
- (b) The city is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the city's stormwater drainage system or surface waters of the state. Discharges to storm drains and waters of the state other than stormwater and the exempted discharges listed in section 54.31 are strictly prohibited.

(Code 1989, § 54.31; Ord. No. 2015-03, 3-9-2015)

Sec. 54.31. Exempted discharges.

The following non-stormwater discharges are exempt from discharge prohibitions established by this article, provided that they are not identified as significant contributors to violations of state water quality standards:

- (1) Water supply line flushing.
- (2) Landscape irrigation.
- (3) Diverted stream flows.
- (4) Rising groundwater.
- (5) Uncontaminated groundwater infiltration to storm drains.
- (6) Uncontaminated pumped groundwater.
- (7) Discharges from potable water sources.
- (8) Foundation drains.
- (9) Air conditioning condensation.
- (10) Individual residential car washing.
- (11) Dechlorinated swimming pool waters from single-, two- or three-family residences.
- (12) Residual street wash water.
- (13) Discharges or flows from emergency firefighting activities.

(14) Discharges from which a specific federal or state permit has been issued.

(Code 1989, § 54.32; Ord. No. 2015-03, 3-9-2015)

Sec. 54.32. Interference with natural or artificial drainageway.

It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of or otherwise interfere with any natural or constructed drain or drainageway without first submitting a stormwater plan to the city and all appropriate agencies (city, state, county road commission) and receiving approval of that plan. Any deviation from the approved plan is a violation of this chapter. This section shall not prohibit, however, necessary emergency action so as to prevent or mitigate drainage that would be injurious to the environment, the public health, safety or welfare.

(Code 1989, § 54.33; Ord. No. 2015-03, 3-9-2015)

Sec. 54.33. Storage of hazardous or toxic materials in drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile within a drainageway any hazardous or toxic materials unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a waterway.

(Code 1989, § 54.34; Ord. No. 2015-03, 3-9-2015)

ARTICLE V. INSPECTION, MONITORING, REPORTING, AND RECORDKEEPING

Sec. 54.40. Investigate, inspect, and monitor suspected illicit discharges.

To investigate potential illicit discharges or connections and to ensure compliance with the standards set forth in this chapter, the city may investigate, inspect and/or monitor any discharge. Upon request, the discharges shall allow the city's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The city shall provide the discharger reasonable advance notice of such inspection and/or sampling. The city or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling, monitoring or inspection.

(Code 1989, § 54.41; Ord. No. 2015-03, 3-9-2015)

Sec. 54.41. Stormwater monitoring facilities.

The city may require, in writing, that a discharger of stormwater runoff provide and operate equipment or devices for the monitoring of stormwater runoff, so as to provide for inspection, sampling and flow measurement of each discharge to a water body or a stormwater runoff facility. The city may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances and regulations. All monitoring results will be made available and reported to the city at an agreed upon time.

(Code 1989, § 54.42; Ord. No. 2015-03, 3-9-2015)

Sec. 54.42. Accidental discharges.

- (a) Any discharger who accidentally discharges into a MS4 or water of the state any substance other than stormwater or an exempted discharge shall inform the city within 24 hours of knowledge of the incident. If such information is given orally, a written report concerning the discharge shall be filed with the city within five days. The written report shall specify:
 - (1) The composition of the discharge and the cause thereof.
 - (2) The exact date, time and estimated volume of the discharge.
 - (3) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.
 - (4) The name and telephone number of the person making the report, and the name of any person who may be contacted for additional information on the matter.
- (b) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all of the requirements of subsection (a) of this section.

(Code 1989, § 54.43; Ord. No. 2015-03, 3-9-2015)

Sec. 54.43. Record keeping requirement.

Any person subject to this chapter shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling and chemical analysis of any discharge or stormwater runoff from any property.

(Code 1989, § 54.44; Ord. No. 2015-03, 3-9-2015)

ARTICLE VI. ENFORCEMENT

Sec. 54.50. Sanctions for violation.

- (a) Any person violating any provision of this chapter shall be responsible for a municipal civil infraction unless otherwise provided, and subject to a fine to cover costs, damages, expenses and other sanctions as authorized under chapter 87 of the Revised Judicature Act of 1961, Public Act No. 236 of 1961 (MCL 600.101 et seq.) and other applicable laws, including, without limitation, equitable relief. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.
- (b) For purposes of this section, the term "subsequent offense" means a violation of the provisions of this chapter committed by the same person within 12 months of a previous violation of the same provision of this chapter for which said person admitted responsibility or was adjudicated to be responsible.

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- (c) The zoning administrator, code enforcement official, building inspector and police officers of the city are authorized to issue municipal civil infractions to any person alleged to be violating any provision of this chapter.
 - (d) Any person who neglects or fails to comply with a stop work order issued under section 54.51 shall, upon conviction, be guilty of a misdemeanor.
 - (e) Any person who aids or abets a person in a violation of this chapter shall be subject to the sanctions provided in this section.

(Code 1989, § 54.51; Ord. No. 2015-03, 3-9-2015)

Sec. 54.51. Stop work order.

Where there is work in progress that causes or constitutes in whole or part, a violation of any provision of this chapter, the city is authorized to issue a stop work order so as to prevent further or continuing violations or adverse effects. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order, shall fully and promptly comply therewith. The city may also undertake or cause to be undertaken any necessary or advisable protective measures so as to prevent violations of this chapter or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work, and such cost shall be a lien upon the property.

(Code 1989, § 54.52; Ord. No. 2015-03, 3-9-2015)

Sec. 54.52. Failure to comply; completion.

In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the city may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the city for all costs of such work.

(Code 1989, § 54.53; Ord. No. 2015-03, 3-9-2015)

Sec. 54.53. Emergency measures.

When emergency measures are necessary to moderate a nuisance to protect public safety, health and welfare, and/or to prevent loss of life, injury or damage to property, the city is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this chapter and shall promptly reimburse the city for all of such costs.

(Code 1989, § 54.54; Ord. No. 2015-03, 3-9-2015)

Sec. 54.54. Cost recovery for damage to storm drain system.

A discharger shall be liable for all costs incurred to the city as a result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this chapter. Costs include, but are not limited to, those penalties levied by the Environmental Protection Agency or MDNRE for violation of a National Pollutant Discharge Elimination System permit, attorney fees and other costs and expenses.

(Code 1989, § 54.55; Ord. No. 2015-03, 3-9-2015)

Sec. 54.55. Collection of costs; lien.

Costs incurred by the city pursuant to sections 54.52 through 54.54 shall be a lien on the premises which shall be enforceable in accordance with Public Act No. 94 of 1933 (MCL 141.101 et seq.). Any such charges which are delinquent for six months or more may be certified annually to the city treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the city shall have all remedies authorized by Public Act No. 94 of 1933 (MCL 141.101 et seq.), and any other remedies available under applicable law.

(Code 1989, § 54.56; Ord. No. 2015-03, 3-9-2015)

Sec. 54.56. Appeals.

Any person as to whom any provision of this chapter has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the city council the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The city council shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the city council may consider the recommendations of the city engineer and the comments of other persons having knowledge of the matter. In considering any such appeal, the council may grant a variance from the terms of this chapter so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the chapter provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with this chapter; and
- (2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this chapter, nor result in less effective management of stormwater runoff.

(Code 1989, § 54.57; Ord. No. 2015-03, 3-9-2015)

ARTICLE VII. STORMWATER EASEMENTS AND MAINTENANCE AGREEMENTS

Sec. 54.60. Applicability of requirements.

The requirements of this article concerning stormwater easements and maintenance agreements shall apply to all persons required to submit a stormwater and /or stormwater plan to the city for review and approval.

(Code 1989, § 54.61; Ord. No. 2015-03, 3-9-2015)

Sec. 54.61. Stormwater management easements.

The developer shall provide all stormwater management easements necessary to implement the approved stormwater plan and to otherwise comply with this chapter in form and substance required by the city and shall record such easements as directed by the city. The easements shall assure access for proper inspection and maintenance of stormwater runoff facilities and shall provide adequate emergency overland flow-ways.

(Code 1989, § 54.62; Ord. No. 2015-03, 3-9-2015)

Sec. 54.62. Maintenance agreements.

- (a) *Purpose.* The purpose of the maintenance agreement is to provide the means and assurance that maintenance of stormwater BMPs shall be undertaken.
- (b) *Requirement.*
 - (1) A maintenance agreement shall be submitted to the city for review by the city manager and his designee and city attorney for all development, and shall be subject to approval in accordance with the stormwater plan. A formal maintenance plan shall be included in the maintenance agreement.
 - (2) Maintenance agreements shall be approved by the city council prior to final subdivision plat or condominium approval, as applicable, and prior to construction approval in other cases.
 - (3) A maintenance agreement is not required to be submitted to the city for chapter 18 of the drain code of 1956 (MCL 280.421 et seq.) that will be maintained by the county road commission.
- (c) *Maintenance provisions.*
 - (1) The maintenance agreement shall include a plan for routine, emergency and long-term maintenance of all stormwater BMPs, with a detailed annual estimated budget for the initial three years, and a clear statement that only future maintenance activities in accordance with the maintenance agreement plan shall be permitted without the necessity of securing new permits. Written notice of the intent to proceed with maintenance shall be provided by the party responsible for maintenance to the city at least 14 days in advance of commencing work.
 - (2) The maintenance agreement shall be binding on all subsequent owners of land served by the stormwater BMPs and shall be recorded in the office of the county register of deeds prior to the effectiveness of the approval of the city council.
 - (3) If it has been found by the city council, following notice and an opportunity to be heard by the property owner, that there has been a material failure or refusal to undertake maintenance as required under this chapter and/or as required in the approved maintenance agreement as required hereunder, the city shall then be authorized, but not required, to hire an entity with qualifications and experience in the subject matter to undertake the monitoring and maintenance as so required, in which event the property owner shall be obligated to advance or reimburse payment, as determined by the city, for all costs and expenses associated with such monitoring and maintenance, together with a reasonable administrative fee. The maintenance agreement required under this article shall contain a provision spelling out this requirement, and if the applicant objects in any respect to such provision or the underlying rights and obligations, such objection shall be resolved prior to the commencement of construction of the proposed development on the property.

(Code 1989, § 54.63; Ord. No. 2015-03, 3-9-2015)

Sec. 54.63. Establishment of county drains.

Prior to final approval, all stormwater management facilities for platted subdivisions shall be established as county drains, as authorized in section 433, chapter 18 of the drain code of 1956, Public Act No. 40 of 1956 (MCL 280.433), for long-term maintenance.

(Code 1989, § 54.64; Ord. No. 2015-03, 3-9-2015)

ARTICLE VIII. PERFORMANCE AND DESIGN STANDARDS

Sec. 54.70. Reference to requirement manual.

- (a) The city or its designate shall use the policy, criteria and information, including technical specifications and standards, in the county requirement manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater BMPs.
- (b) The state LID manual includes a list of stormwater treatment practices including the specific design criteria for each item. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria should meet the minimum water quality and channel protection performance standards outlined in the county stormwater and flood control design standard requirements and the federal Phase II Stormwater Rules. Calculations to demonstrate that BMP designs will perform to meet required water quality, channel protection and flood control standards are to be submitted to the appropriate reviewing agency. Failure to construct stormwater treatment practices in accordance with these standards may subject the violator to a civil penalty as described in article VI of this chapter.

(Code 1989, § 54.71; Ord. No. 2015-03, 3-9-2015)

Chapter 55 STORMWATER ILLICIT DISCHARGE AND CONNECTION

Sec. 55.01. Purpose; intent.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter 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 chapter are to:

- (1) Regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (2) Prohibit illicit connections and discharges to the municipal separate storm sewer system;
- (3) Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

(Code 1989, § 55.01; Ord. No. 2015-04, 3-9-2015)

Sec. 55.02. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized enforcement agency means employees or designees of the director of the municipal agency designated to enforce this chapter.

Best management practices (BMPs) means 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, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act means the federal Water Pollution Control Act (33 USC 1251 et seq.), and any subsequent amendments thereto.

Construction activity means activities subject to NPDES construction permits. Currently these include construction projects resulting in land disturbance of five acres or more. Beginning in March 2003, NPDES Stormwater Phase II permits will be required for construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

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

Illegal discharge means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in section 55.06.

Illicit connection means either of the following:

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

Industrial activity means activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

National pollutant discharge elimination system (NPDES) discharge permit means a permit issued by EPA (or by a state 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.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Person means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant means 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, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm drainage system means publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs, and other drainage structures.

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

Stormwater pollution prevention plan means a document which describes the best management practices 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, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(Code 1989, § 55.02; Ord. No. 2015-04, 3-9-2015)

Sec. 55.03. Applicability.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Code 1989, § 55.03; Ord. No. 2015-04, 3-9-2015)

Sec. 55.04. Responsibility for administration.

The city shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Code 1989, § 55.04; Ord. No. 2015-04, 3-9-2015)

Sec. 55.05. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(Code 1989, § 55.06; Ord. No. 2015-04, 3-9-2015)

Sec. 55.06. Discharge and connection prohibitions.

- (a) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any non-authorized discharge to the storm drain system is prohibited except as described as follows:
 - (1) The following discharges are exempt from discharge prohibitions established by this chapter providing they are not identified as significant contributor to violations of water quality standards: water line flushing or other potable water sources; landscape irrigation or lawn watering, and irrigation waters; diverted stream flows and flows from riparian habitats and wetlands; rising ground water and springs; uncontaminated ground water infiltration and seepage; uncontaminated pumped ground water except for groundwater cleanups specifically authorized by NPDES permits; foundation drains, water from crawl space pumps, footing drains and basement sump pumps (not including active groundwater

dewatering systems); air conditioning condensation; waters from noncommercial washing of vehicles; street wash water; dechlorinated swimming pool water from single-, two- or three-family residences; firefighting activities.

- (2) Dye testing done under the authorization of the MDEQ (general Rule 97) is an allowable discharge, but requires a complete notice of intent to the MDEQ prior to the time of the test.
- (3) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) 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.
- (3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Code 1989, § 55.07; Ord. No. 2015-04, 3-9-2015)

Sec. 55.07. Suspension of MS4 access.

- (a) *Suspension due to illicit discharges in emergency situations.* The city DPW may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.
- (b) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
- (c) *Offenses.* A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Code 1989, § 55.08; Ord. No. 2015-04, 3-9-2015)

Sec. 55.08. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to the allowing of discharges to the MS4.

(Code 1989, § 55.09; Ord. No. 2015-04, 3-9-2015)

Sec. 55.09. Monitoring of discharges.

- (a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- (b) *Access to facilities.*
 - (1) The city DPW shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
 - (2) Facility operators shall allow the city DPW ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
 - (3) The city DPW shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (4) The city DPW has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
 - (5) 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 DPW and shall not be replaced. The costs of clearing such access shall be borne by the operator.
 - (6) Unreasonable delays in allowing the city DPW access to a permitted facility is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
 - (7) If the city DPW has been refused access to any part of the premises from which stormwater is discharged, and he is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Code 1989, § 55.10; Ord. No. 2015-04, 3-9-2015)

Sec. 55.10. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The city will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm

drain system or watercourses through the use of these 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 municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Code 1989, § 55.11; Ord. No. 2015-04, 3-9-2015)

Sec. 55.11. Watercourse protection.

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

(Code 1989, § 55.12; Ord. No. 2015-04, 3-9-2015)

Sec. 55.12. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of 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 authorized enforcement agency 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 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.

(Code 1989, § 55.13; Ord. No. 2015-04, 3-9-2015)

Sec. 55.13. Enforcement.

- (a) Notice of violation. Whenever the city DPW finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
- (1) The performance of monitoring, analyses, and reporting;
 - (2) The elimination of illicit connections or discharges;
 - (3) That violating discharges, practices, or operations shall cease and desist;
 - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

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- (5) Payment of a fine to cover administrative and remediation costs; and
 - (6) The implementation of source control or treatment BMPs.
- (b) 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 will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Code 1989, § 55.14; Ord. No. 2015-04, 3-9-2015)

Sec. 55.14. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within ten days from the date of the notice of violation. Hearing on the appeal before the city manager or his designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the city manager or his designee shall be final.

(Code 1989, § 55.15; Ord. No. 2015-04, 3-9-2015)

Sec. 55.15. Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or in the event of an appeal, within 30 days of the decision of the city manager upholding the decision of the city, then representatives of the city shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation 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 city DPW or designated contractor to enter upon the premises for the purposes set forth above.

(Code 1989, § 55.16; Ord. No. 2015-04, 3-9-2015)

Sec. 55.16. Cost of abatement of the violation.

- (a) Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten days. If the amount due is not paid within a timely manner as determined by the decision of the city manager or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
- (b) Any person violating any of the provisions of this chapter shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of five percent per annum shall be assessed on the balance beginning on the 31st day following discovery of the violation.

(Code 1989, § 55.17; Ord. No. 2015-04, 3-9-2015)

Sec. 55.17. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency 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.

(Code 1989, § 55.18; Ord. No. 2015-04, 3-9-2015)

Sec. 55.18. Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the city DPW may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Code 1989, § 55.19; Ord. No. 2015-04, 3-9-2015)

Sec. 55.19. 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 chapter 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.

(Code 1989, § 55.20; Ord. No. 2015-04, 3-9-2015)

Sec. 55.20. Criminal prosecution.

- (a) Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$500.00 per violation per day and/or imprisonment for a period of time not to exceed 90 days.
- (b) The city may recover all attorney fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Code 1989, § 55.21; Ord. No. 2015-04, 3-9-2015)

Sec. 55.21. Remedies not exclusive.

The remedies listed in this chapter 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 to seek cumulative remedies.

(Code 1989, § 55.22; Ord. No. 2015-04, 3-9-2015)