

ARTICLE V. REGULATION OF STORMWATER RUNOFF

DIVISION 1. GENERALLY

Sec. 86-341. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Accelerated erosion means erosion caused by development 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.

Applicant means a property owner or agent of a property owner who has filed an application for a stormwater management permit.

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

Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good house keeping 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.

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.

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

Clean Water Act (CWA) means The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972 (33 USC 1251 et seq.), and any subsequent amendments thereto.

Clearing means any activity which removes the vegetative surface cover.

Commencement of construction means the initial disturbance of soils associated with clearing, grading, excavating activities, or other similar activities.

Construction activity means activities subject to TPDES construction permits. These include 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.

Construction site operator means the MS4 operator associated with a construction project that meets all of the following criteria:

- (1) The operator has operational control over construction plans and specifications to the extent necessary to meet the requirements and conditions of this general permit; and
- (2) The operator has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the Storm Water Pollution Prevention Plan or comply with other permit conditions).

Detention means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention facility means a detention basin or alternative structure designed for the purpose of temporary storage of streamflow or surface runoff and gradual release of stored water at controlled rates.

Drainage easement means a legal right granted by a landowner to a grantee allowing the use of private land for

stormwater management purposes.

Drainageway means any channel that conveys surface runoff throughout the site.

Erosion control means measures that prevent erosion.

Erosion and sediment control plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Facility or activity means any TPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the TPDES program.

Grading means excavation or fill of material, including the resulting conditions thereof.

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.

Hydrologic soil group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from a soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Illicit connection means either of the following:

(1) Any drain or conveyance connecting an illicit discharge directly to the stormwater system, whether on the surface or subsurface, which allows an illegal discharge to enter the stormwater 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.

Illicit discharge means any direct or indirect non-stormwater discharge to the stormwater system, except as exempted in section 86-365.

Impervious cover means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

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

Industrial stormwater permit means a Texas Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration means the process of percolating stormwater into the subsoil.

Infiltration facility means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

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.

Land disturbance activity or land disturbing activity means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating

of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.

Municipal separate storm sewer system (MS4) means a separate storm sewer system owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization.

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, construction, subsurface disposal and urban runoff sources.

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

NPDES means the National Pollutant Discharge Elimination System.

Off-site facility means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

On-site facility means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

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; nonhazardous 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.

Redevelopment means any construction, alteration or improvement exceeding one acre in areas where existing land use is high density commercial, industrial, institutional or multifamily residential.

Sediment control means measures that prevent eroded sediment from leaving the site.

Site means a parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site development permit means a permit issued by the city for which the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

Stabilization means the use of practices that prevent exposed soil from eroding.

Stop work order means an order issued which requires that all construction activity on a site be stopped.

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

Stormwater management means the use of structural or nonstructural practices 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.

Storm Water Pollution Prevention Plan (SWPPP or SWP 3) 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.

Stormwater retrofit means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff means flow on the surface of the ground, resulting from precipitation.

Stormwater system means the system or network of stormwater and surface water management facilities managed and maintained by the city including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities and other components as well as all natural waterways.

Stormwater Treatment Practices (STPs) means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

TPDES means the Texas Pollutant Discharge Elimination System.

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

Watercourse means any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water which are delineated by the city.

Waterway means a channel that directs surface runoff to a watercourse, or to the public storm drain system.

(Code 1994, § 78-227; Ord. No. 2005-01, § 2, 12-6-2004)

Cross references: Definitions generally, § 1-2.

Sec. 86-342--86-360. Reserved.

DIVISION 2. ILLICIT DISCHARGE AND CONNECTION

Sec. 86-361. Purpose/Intent.

The purpose of this division 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 stormwater system to the maximum extent practicable as required by federal and state law. This division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. The objectives of this division are:

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

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-362. Applicability.

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

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-363. Responsibility for administration.

The city manager or his/her designee shall administer, implement, and enforce the provisions of this division. Any

powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the city manager to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-364. Ultimate responsibility.

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

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-365. Discharge prohibitions.

(a) *Prohibition of illicit discharges* . It shall be unlawful for any person to discharge or cause to be discharged into the municipal stormwater 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.

(1) The commencement, conduct or continuance of any illicit discharge to the storm water system is prohibited except as described as follows:

- a. The following discharges are exempt from discharge prohibitions established by this division:
 - 1. Flushing of waterlines or other potable water sources;
 - 2. Landscape irrigation or lawn watering, diverted streamflows;
 - 3. Rising groundwater and springs;
 - 4. Uncontaminated groundwater infiltration;
 - 5. Uncontaminated pumped groundwater;
 - 6. Foundation or footing drains (not including active groundwater dewatering systems);
 - 7. Crawl space pumps, air conditioning condensate;
 - 8. Individual residential vehicle washing;
 - 9. Vehicle washing fundraising events by not-for-profit organizations;
 - 10. Natural riparian habitat or wetland flows;
 - 11. Pavement and exterior building wash water conducted without the use of detergents or other chemicals; and
 - 12. Swimming pools (if dechlorinated - typically less than one parts per million (PPM) chlorine), firefighting activities, and any other water source not containing pollutants.
- b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- c. Dye testing, as long as a verbal notification is provided to the authorized enforcement agency prior to the time of the test.
- d. Any non-stormwater discharge permitted under an NPDES or TPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA) or the Texas Commission on Environmental Quality (TCEQ), 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 further written approval has been granted for any discharge to the stormwater system.

(b) *Prohibition of illicit connections .*

(1) It shall be unlawful to construct, use, maintain or continue the existence of illicit connections to the city's storm drain system.

(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 division if the person connects a line conveying sanitary sewage to the MS4, or allows such a connection to continue.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-366. Suspension of MS4 access.

(a) *Suspension due to illicit discharges in emergency situations.* The city manager or his/her designee 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, the health or welfare of persons, 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 into the MS4 in violation of this division 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) *Reinstatement without permission.* 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.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-367. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES or TPDES 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 manager or his/her designee prior to allowing discharges to the MS4.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-368. Submission of notice of intent to city.

(a) The operator of a facility, including construction sites, required to have a NPDES or TPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the notice of intent (NOI) to the city manager or his/her designee at the same time the operator submits the original notice of intent to the EPA or the TCEQ as applicable. The copy of the notice of intent may be delivered to the city manager or his/her designee either in person or by mail.

(b) A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial activity without having submitted a copy of the notice of intent to do so to the city manager or his/her designee.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-369. 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 manager or his/her designee shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance with this division. If a facility 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 manager or his/her designee 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 a NPDES or TPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The city manager or his/her designee 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 manager or his/her designee has the right to require the facility 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 manager or his/her designee and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the city manager or his/her designee access to a permitted facility is a violation of a stormwater discharge permit and of this division. A person who is the operator of a facility with a NPDES or TPDES 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 division.

(7) If the city manager or his/her designee has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this division, 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 division 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.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-370. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The city will adopt policies identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the stormwater system, or waters of the United States. 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 nonstructural 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 nonstructural 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 or TPDES 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 storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES and/or TPDES permit.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-371. Watercourse protection.

Every landowner who owns property, or is responsible for maintaining an easement through which a watercourse passes, 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 landowner 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.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-372. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or other person 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 illicit discharges or pollutants discharging into stormwater, the stormwater system, or waters of the U.S., 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 nonhazardous materials said person shall notify the authorized enforcement agency 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 manager or his/her designee 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. No. 2005-01, § 2, 12-6-2004)

Sec. 86-373. Enforcement.

(a) *Notice of violation.* Whenever the city manager or his/her designee finds that a person has violated a prohibition or failed to meet a requirement of this article, 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;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.

(b) *Notice for remediation and deadline.* If abatement of a violation and/or restoration of affected property are 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.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-374. Appeal of notice of violation.

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

receipt of the notice of appeal. The decision of the city manager or their designee shall be final.
(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-375. Enforcement measures after appeal.

If any violation of which a person has received notice as required by section 86-373 has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within ten days of the decision of the city manager or his/her designee upholding the decision, then representatives of the authorized enforcement agency shall enter upon the subject private property and 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 authorized enforcement agency or its designated contractor to enter upon the premises for the purposes set forth above.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-376. Cost of abatement of the violation.

In the event of action by the authorized enforcement agency as described in section 86-374 above, the owner of the property will be notified of the cost of abatement, including administrative costs, within 30 days after the abatement of the violation. 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 his/her designee 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. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

(Ord. No. 2005-01, § 2, 12-6-2004)

Secs. 86-377--86-390. Reserved.

DIVISION 3. EROSION AND SEDIMENT CONTROL

Sec. 86-391. Introduction/purpose.

(a) During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causes the silting of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of waterways. In addition, clearing grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, and to provide a healthy living environment for citizens of the city.

(b) The purpose of this division is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the city.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-392. Permits.

It shall be unlawful for any person to conduct any land disturbing activity without a permit issued by the city manager or his/her designee.

(1) No person shall be granted a permit for land disturbing activity which would require the uncovering of one acre or more, without the approval of an erosion and sediment control plan by the city manager or his/her designee.

(2) An erosion and sediment control plan is not required for the following activities:

a. Any emergency activity immediately necessary for the protection of life, property or natural resources; or

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

(3) Each application for a permit to allow land disturbing activities shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the erosion and sediment control plan, and that a site operator shall be on site on all days where construction or grading activity takes place.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-393. Review and approval.

The city manager or his/her designee will review each erosion and sediment control plan to determine its conformance with the provisions of this local regulation. The city manager or his/her designee shall, in writing:

(1) Approve the plan;

(2) Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the approval subject to these conditions; or

(3) Disapprove the plan, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-394. Design requirements.

Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the city's design criteria manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the city manager or his/her designee.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-395. Modifications to the plan.

Major amendments of the erosion and sediment control plan shall be submitted to the city manager or his/her designee and shall be processed and approved, or disapproved, in the same manner as the original plans. Field modifications of a minor nature may be authorized by the city manager or his/her designee by written authorization to the permittee.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-396. Clearing and grading.

Clearing and grading activities shall not be permitted, except when in compliance all other chapters of this Code. Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in the stormwater design manual, shall be used to the satisfaction of the city manager or his/her designee.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-397. Inspection.

(a) The city manager or his/her designee shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee that the work fails to comply with the erosion and sediment control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the city manager or his/her designee shall be maintained at the site during the progress of the work.

(b) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plans. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to the city manager or his/her designee at the time interval specified in the approved permit.

(c) The city manager or his/her designee shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under the above mentioned section.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-398. Stop work order; revocation of permit.

In the event that any person holding a site development permit pursuant to this division violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city manager or his/her designee may suspend or revoke the site development permit, in addition to any other penalty provisions contained in this division.

(Ord. No. 2005-01, § 2, 12-6-2004)

Secs. 86-399--86-410. Reserved.

DIVISION 4. POST CONSTRUCTION STORMWATER RUNOFF

Sec. 86-411. General provisions.

(a) *Findings of fact.* It is hereby determined that:

- (1) Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants; and
- (3) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the city establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

(b) *Purpose.* The purpose of this division is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This division seeks to meet that purpose through the following objectives:

- (1) Minimize increases in stormwater runoff from any development in order to reduce flooding, silting, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
- (2) Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality;
- (3) Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the predevelopment hydrologic regime to the maximum extent practicable; and
- (4) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever

possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

(c) *Applicability.* This division shall be applicable to all subdivision or site plan applications, unless eligible for an exemption by the city manager or his/her designee under the specifications of this division. The division also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

(1) To prevent the adverse impacts of stormwater runoff, the city has developed a set of performance standards that must be met at new development sites. These standards apply to any construction activity disturbing one or more acres of land. The following activities may be exempt from these storm water performance criteria:

- a. Additions or modifications to existing single family structures;
- b. Developments that do not disturb more than one acre of land, provided they are not part of a larger common development plan; or
- c. Repairs to any stormwater treatment practice deemed necessary by the city manager or his/her designee.

(2) When a site development plan is submitted that qualifies as a redevelopment project as defined in this division, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current stormwater design manual. This criterion is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the city manager or his/her designee.

(d) *Design criteria manual.* The design criteria manual includes a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the city, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria shall meet the minimum water quality performance standards.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-412. Permit procedures and requirements.

(a) *Permit required.* No landowner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this division prior to commencing the proposed activity.

(b) *Application requirements.* Unless specifically excluded by this division, any landowner or land operator desiring a permit for a land disturbance activity shall submit to the city manager or his/her designee a permit application on a form provided for that purpose.

(Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-413. Exemptions to stormwater management requirements.

Exemptions for providing stormwater management are as follows:

(1) Every applicant shall provide for stormwater management as required by this division, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the city manager or his/her designee for approval.

(2) The minimum requirements for stormwater management may be waived in whole or in part upon written

request of the applicant, provided that at least one of the following conditions applies:

- a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this division;
- b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the city manager or his/her designee and the implementation of the plan is required by local ordinance;
- c. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for longterm operation and maintenance of the stormwater practice; or
- d. Nonstructural practices will be used on the site to reduce: a) the generation of stormwater from the site, b) the size and cost of stormwater storage and c) the pollutants generated at the site. These nonstructural practices will be explained in detail in the stormwater design manual and the amount of credit available for using such practices shall be determined by the city manager or his designee.

(3) In instances where one of the conditions above applies, the city manager or his/her designee may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the city manager or his/her designee that the variance will not result in the following impacts to downstream waterways:

- a. Deterioration of existing culverts, bridges, and other structures;
- b. Degradation of biological functions or habitat;
- c. Accelerated stream bank or streambed erosion or silting; or
- d. Increased threat of flood damage to public health, life, property.

(Ord. No. 2005-01, § 2, 12-6-2004)