CITY OF BURTON

BURTON CITY COUNCIL MEETING

JANUARY 5, 2015

MINUTES

Council Chambers | **Regular Meeting** | **7:00 PM**

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Tom Martinbianco at 7:23 PM.

A. INVOCATION LED BY STEVEN HATFIELD

B. THE PLEDGE OF ALLEGIANCE IS LED BY STEVEN HATFIELD

C. ROLL CALL

Attendee Name	Title	Status	Arrived
Tom Martinbianco	President	Present	
Duane Haskins	Vice-President	Present	
Dennis O'Keefe	Councilman	Present	
Steven Heffner	Councilman	Present	
Ellen Ellenburg	Councilwoman	Present	
Vaughn Smith	Councilman	Present	
Steven Hatfield	Councilman	Present	

D. STAFF PRESENT

Paula Zelenko, Mayor
Doug Bingaman, Treasurer
Several DDA Board members
Rik Hayman, Chief of Staff
Teresa Karsney, Clerk

E. APPROVAL OF MINUTES

1. City Council - Committee of the Whole - Dec 15, 2014 6:00 PM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Ellen Ellenburg, Councilwoman
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

2. City Council - Regular Meeting - Dec 15, 2014 7:00 PM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Ellen Ellenburg, Councilwoman
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

F. ADMINISTRATIVE REPORT

Mayor Zelenko stated that we have been experiencing intermittent internet outages all day at the City. Repair crews have been there this evening and it appears things are working for the moment.

On a good note, you can see that your computer equipment has been delivered and in process of being installed. It should be all up and running at your next meeting.

Rehmann has completed the audit. They have scheduled January 19, 2015 at 6:00 p.m. to give you their report. You have been given the CAFR for your review and preparation of this meeting.

At the December 15th Committee of the Whole meeting, the need to update our financial policies was discussed. The administration is in process of collecting sample policies for you for the February 2, 2015 Council of the Whole meeting.

I would like to request a Legislative Committee meeting to discuss the way we issue burn permits. Chief Epperson would like to discuss separating out recreational permits and brush permits.

Should you have any citizens call you in regards to their property tax payments, please let them know that all the payments that were mailed or dropped off during our shutdown and received today are being processed and credited as paid by December 31, 2014.

On a separate note, in the event you receive call from residents in the Davison School District regarding a property tax notice they received, Mr. Bingaman is here to explain.

Mr. Bingaman stated that the Davison School District winter tax bills went out wrong for 2013. There was a 2.03 Mill debit levy for Davison Schools that was not included in the winter tax bill for 2013. There was a mix up with the L-4029 that we received from Davison Schools. If you don't know what the L-4029 is, that is the document the local governing unit fills out to let us know what levy to put on the tax bills. They sent to us the a corrected L-4029 but it was for Richfield Township instead of the City of Burton. Instead of asking questions, I used it. That L-4029 did not include the 2.03 mills of the debit levy. During the preparation for the winter 2014 tax bills I discovered the error, I notified Mr. Fowler who took it to the December Board of Review. It was certified at the December Board of Review and we forwarded it on to Genesee County Treasurer office who will be issuing out corrected bills for the 2.03 mills that was left off. These bills should be send out by the end of this month. We are meeting with the media tomorrow and will be sending residents letters notifying them of the error.

Mayor Zelenko said she would get each council person a copy of the letter going to residents in case you get calls.

Mayor Zelenko stated tonight's agenda is rather light. It includes the attorney billing, the DDA Visioning Plan, traffic control orders and two items regarding the first reading of the Storm Water Ordinances.

G. COMMITTEE REPORTS

Mr. Heffner said that Public Access met tonight at 6:00 p.m. to give input on the website. Mr. Hatfield is going to work with the administration and keep us updated on the progress.

Mr. Heffner also called a Committee of the Whole meeting on January 19, 2015 at 5:00 p.m. to learn to how to use the computers. He would also like Mr. Udell there.

Mrs. Ellenburg would like to call a Legislative meeting on February 16, 2015 at 6:00 p.m. to discuss the amendment of Section 92.03 Burn Permits.

H. AUDIENCE PARTICIPATION

Mr. Steve Coates from the Downtown Development Board spoke on how the Visioning Plan is just a plan. We need to approve a plan to be able to apply for grants and move forward. The last DDA plan was from the early eighties and we would like to have an updated plan.

I. COUNCIL DISCUSSION

Mr. O'Keefe asked the Mayor to pass a message onto the Police Department on how proud he was that two members of our Police Department went to New York to represent the City of Burton at the funerals of the two slain police officers. Representatives from Genesee County and Lapeer County also went.

Mr. Smith stated that the City needs to move forward. The plan is very comprehensive and is going to require a lot of leadership from the DDA, that he will be supporting the DDA Visioning Plan.

Mr. Heffner said is can't say he is for or against the DDA Visioning Plan but he still feels there needs to be a town hall meeting at Bendle High School. He feels the residents need to hear more about the plan. He feels the residence that live down there should decide. The DDA members do a great job but they don't live there.

Mr. Heffner made a motion to table the DDA Visioning Plan until a town hall meeting could be set up at Bendle High School.

Motion was withdrawn by Mr. Heffner.

Mr. Smith said that we are just voting on the plan. It is just a visioning plan. The plan will not move forward if the finances are not there or if the people in the area don't want the changes. There already has been a public hearing on this matter.

Mr. Hatfield said if they did manage to get funding like a grant this still would have to go thru all the normal processes to move forward.

Mr. Haskins reviewed the plan and it does seem like a good plan. People don't like change but there will always be change. If a grant does come through it still would go before the residents like any other major change.

Mr. Austin stated that this council has authority to approve any development plan or any amendment to the plan in regards to funding the DDA Visioning Plan. This plan does not include any funding and therefore doesn't even need to be approved by the Council. It is my understanding the DDA would like the Council support of their plan and that is why it is on your agenda tonight.

Mrs. Ellenburg stated that this is great plan and she will be supporting it.

1. Motion to table the DDA Visioning Plan until we can hold a Town Hall Meeting.

RESULT:	**FAILED [2 TO 5]**
MOVER:	Steven Heffner, Councilman
SECONDER:	Duane Haskins, Vice-President
AYES:	Martinbianco, Heffner
NAYS:	Haskins, O'Keefe, Ellenburg, Smith, Hatfield

J. COUNCIL ACTION

1. Approve and authorize the Attorney bill (Rick Austin) from 12/10/14 to 12/22/14 in the amount of $5,148.25.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

2. Approve and authorize the Downtown Development Visioning Plan.

RESULT:	**CARRIED [6 TO 1]**
MOVER:	Ellen Ellenburg, Councilwoman
SECONDER:	Steven Hatfield, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Ellenburg, Smith, Hatfield
NAYS:	Heffner

3. Approve and authorize the issuance of a permanent Traffic Control Order that eastbound and westbound Norton Street traffic shall stop at Euston Street.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

4. Approve and authorize the issuance of a permanent Traffic Control Order that eastbound and westbound DeCamp Street traffic shall stop at Euston Street.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

5. Approve and authorize the rescinding of Traffic Control order 89-00049 of December 19, 1989 that eastbound and westbound DeCamp Street traffic shall yield the right-of-way to all Euston Street traffic.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

K. FIRST READING OF ORDINANCE

1. Approve and authorize First Reading of an Ordinance 2015-1-54-SO an Ordinance to amend the Code of Ordinances, for the City of Burton, Michigan, by adding a new Chapter 54 to regulate storm water control; to provide for storm water permits and for payment or reimbursement of costs incurred by the City due to storm water permits; and to provide penalties for violations.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

2. Approve and authorize First Reading of an Ordinance 2015-2-54-SO an Ordinance to amend the Code of Ordinances for the City of Burton, Michigan by the adoption of additional storm water control regulations which provide standards for discharges into the storm water system or watercourses, and to provide penalties for violations.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

Meeting was adjourned at 8:11 PM.

CITY OF BURTON

BURTON CITY COUNCIL MEETING

DECEMBER 15, 2014

MINUTES

Council Chambers | **Committee of the Whole** | **6:00 PM**

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Tom Martinbianco at 6:05 PM.

A. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Tom Martinbianco	President	Present	
Duane Haskins	Vice-President	Absent	
Dennis O'Keefe	Councilman	Present	
Steven Heffner	Councilman	Present	
Ellen Ellenburg	Councilwoman	Present	
Vaughn Smith	Councilman	Present	
Steven Hatfield	Councilman	Present	

B. STAFF PRESENT

Paula, Zelenko, Mayor
Ginger Burke-Miller, Controller
Tom Osterholzer, Police Chief
Chyrstal Simpson, Plante Moran
Rik Hayman, Chief of Staff
Marvin Epperson, Fire Chief
Teresa Karsney, Clerk

C. PRESENTATION

1. Forecast presentation by Plante Moran.

   Mrs. Simpson from Plante Moran went over the four different scenarios of General Fund with regards to putting $500,000, $1,000,000, $1,500,000 or $2,000,000 into the unfunded liability for the MERS. These scenarios are only good if you keep the transfers to other funds the same. This is just a forecasting tool, this is not a budget.

   Mrs. Simpson has now explained how the spreadsheet works to Mrs. Burke-Miller and she will be able to plug in different numbers if you want them.

Minutes Acceptance: Minutes of Dec 15, 2014 6:00 PM (Approval of Minutes)

General Fund

	2013	2014	2015 (est)	2016	2017	2018	2019	2020
Revenue								
Property taxes	$ 2,303,432	$ 2,866,654	$ 2,510,745	2,554,683	2,598,238	2,642,651	2,681,301	2,720,516
Licenses and permits	5,997	6,532	5,200	5,304	5,410	5,518	5,629	5,741
Federal grants	32,357	-	-	-	-	-	-	-
State shared revenue and grants	2,381,159	2,441,511	2,526,000	2,576,520	2,628,050	2,680,611	2,734,224	2,788,908
Charges for service	369,706	283,254	392,100	399,942	407,941	416,100	424,422	432,910
Fines and forfeitures	127,253	100,106	100,000	102,000	104,040	106,121	108,243	110,408
Investment income	-	-	-	-	-	-	-	-
Special assessments	-	-	-	-	-	-	-	-
Sale of capital assets	40,171	9,350	20,000	-	-	-	-	-
Other revenue	420,281	653,317	438,500	447,270	456,215	465,340	474,647	484,139
Transfers in	-	46,084	-	-	-	-	-	-
Total revenue & transfers	5,680,356	6,406,808	5,992,545	6,085,719	6,199,895	6,316,341	6,428,465	6,542,623
Expenditures								
Salaries and wages	647,320	604,811	713,200	729,604	746,385	763,552	781,114	799,080
New Appraiser position for Assessing Dept	-	-	-	40,000	40,920	41,861	42,824	43,809
Health insurance	111,933	120,358	128,783	137,798	147,444	157,765	168,809	180,626
Voluntary Pension Contribution	-	-	500,000	500,000	500,000	500,000	500,000	500,000
Voluntary OPEB Contribution	-	-	-	-	-	-	-	-
All other personnel costs	337,910	251,479	409,917	418,115	426,478	435,007	443,707	452,582
All other operating costs	1,143,195	1,174,208	1,409,600	1,437,764	1,466,520	1,495,850	1,525,767	1,556,282
Blight Elimination cost	-	-	44,800	50,000	55,000	60,000	70,000	80,000
Master Plan	-	-	-	60,000	-	-	-	-
Transfers to Police Fund	2,637,650	3,391,000	350,000	357,000	364,140	371,423	378,851	386,428
Transfers to Fire Fund	662,364	565,000	642,000	654,840	667,937	681,296	694,921	708,820
Transfers to other funds	533,609	362,350	395,500	403,410	411,478	419,708	428,102	436,664
Capital outlay/ construction	3,606	1,200	247,900	965,400	502,500	505,000	500,000	500,000
Debt service	49,108	-	-	-	-	-	-	-
Total expenditures & transfers	6,126,695	6,470,406	4,841,700	5,753,932	5,328,801	5,431,461	5,534,096	5,644,291
(Shortfall) Surplus	(446,339)	(63,598)	1,150,845	331,787	871,093	884,879	894,369	898,332
Fund Balance - Beginning of year	2,680,584	2,234,245	2,170,647	3,321,492	3,653,279	4,524,372	5,409,252	6,303,620
Fund Balance - End of year	$ 2,234,245	$ 2,170,647	$ 3,321,492	$ 3,653,279	$ 4,524,372	$ 5,409,252	$ 6,303,620	$ 7,201,952

Minutes Acceptance: Minutes of Dec 15, 2014 6:00 PM (Approval of Minutes)

General Fund

	2013	2014	2015 (est)	2016	2017	2018	2019	2020
Revenue								
Property taxes	$ 2,303,432	$ 2,866,654	$ 2,510,745	2,554,683	2,598,238	2,642,651	2,681,301	2,720,516
Licenses and permits	5,997	6,532	5,200	5,304	5,410	5,518	5,629	5,741
Federal grants	32,357	-	-	-	-	-	-	-
State shared revenue and grants	2,381,159	2,441,511	2,526,000	2,576,520	2,628,050	2,680,611	2,734,224	2,788,908
Charges for service	369,706	283,254	392,100	399,942	407,941	416,100	424,422	432,910
Fines and forfeitures	127,253	100,106	100,000	102,000	104,040	106,121	108,243	110,408
Investment income	-	-	-	-	-	-	-	-
Special assessments	-	-	-	-	-	-	-	-
Sale of capital assets	40,171	9,350	20,000	-	-	-	-	-
Other revenue	420,281	653,317	438,500	447,270	456,215	465,340	474,647	484,139
Transfers in	-	46,084	-	-	-	-	-	-
Total revenue & transfers	5,680,356	6,406,808	5,992,545	6,085,719	6,199,895	6,316,341	6,428,465	6,542,623
Expenditures								
Salaries and wages	647,320	604,811	713,200	729,604	746,385	763,552	781,114	799,080
New Appraiser position for Assessing Dept	-	-	-	40,000	40,920	41,861	42,824	43,809
Health insurance	111,933	120,358	128,783	137,798	147,444	157,765	168,809	180,626
Voluntary Pension Contribution	-	-	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Voluntary OPEB Contribution	-	-	-	-	-	-	-	-
All other personnel costs	337,910	251,479	409,917	418,115	426,478	435,007	443,707	452,582
All other operating costs	1,143,195	1,174,208	1,409,600	1,437,764	1,466,520	1,495,850	1,525,767	1,556,282
Blight Elimination cost	-	-	44,800	50,000	55,000	60,000	70,000	80,000
Master Plan	-	-	-	60,000	-	-	-	-
Transfers to Police Fund	2,637,650	3,391,000	350,000	357,000	364,140	371,423	378,851	386,428
Transfers to Fire Fund	662,364	565,000	642,000	654,840	667,937	681,296	694,921	708,820
Transfers to other funds	533,609	362,350	395,500	403,410	411,478	419,708	428,102	436,664
Capital outlay/ construction	3,606	1,200	247,900	965,400	502,500	505,000	500,000	500,000
Debt service	49,108	-	-	-	-	-	-	-
Total expenditures & transfers	6,126,695	6,470,406	5,341,700	6,253,932	5,828,801	5,931,461	6,034,096	6,144,291
(Shortfall) Surplus	(446,339)	(63,598)	650,845	(168,213)	371,093	384,879	394,369	398,332
Fund Balance - Beginning of year	2,680,584	2,234,245	2,170,647	2,821,492	2,653,279	3,024,372	3,409,252	3,803,620
Fund Balance - End of year	$ 2,234,245	$ 2,170,647	$ 2,821,492	$ 2,653,279	$ 3,024,372	$ 3,409,252	$ 3,803,620	$ 4,201,952

Minutes Acceptance: Minutes of Dec 15, 2014 6:00 PM (Approval of Minutes)

General Fund

	2013	2014	2015 (est)	2016	2017	2018	2019	2020
Revenue								
Property taxes	$ 2,303,432	$ 2,866,654	$ 2,510,745	2,554,683	2,598,238	2,642,651	2,681,301	2,720,516
Licenses and permits	5,997	6,532	5,200	5,304	5,410	5,518	5,629	5,741
Federal grants	32,357	-	-	-	-	-	-	-
State shared revenue and grants	2,381,159	2,441,511	2,526,000	2,576,520	2,628,050	2,680,611	2,734,224	2,788,908
Charges for service	369,706	283,254	392,100	399,942	407,941	416,100	424,422	432,910
Fines and forfeitures	127,253	100,106	100,000	102,000	104,040	106,121	108,243	110,408
Investment income	-	-	-	-	-	-	-	-
Special assessments	-	-	-	-	-	-	-	-
Sale of capital assets	40,171	9,350	20,000	-	-	-	-	-
Other revenue	420,281	653,317	438,500	447,270	456,215	465,340	474,647	484,139
Transfers in	-	46,084	-	-	-	-	-	-
Total revenue & transfers	5,680,356	6,406,808	5,992,545	6,085,719	6,199,895	6,316,341	6,428,465	6,542,623
Expenditures								
Salaries and wages	647,320	604,811	713,200	729,604	746,385	763,552	781,114	799,080
New Appraiser position for Assessing Dept	-	-	-	40,000	40,920	41,861	42,824	43,809
Health insurance	111,933	120,358	128,783	137,798	147,444	157,765	168,809	180,626
Voluntary Pension Contribution	-	-	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Voluntary OPEB Contribution	-	-	-	-	-	-	-	-
All other personnel costs	337,910	251,479	409,917	418,115	426,478	435,007	443,707	452,582
All other operating costs	1,143,195	1,174,208	1,409,600	1,437,764	1,466,520	1,495,850	1,525,767	1,556,282
Blight Elimination cost	-	-	44,800	50,000	55,000	60,000	70,000	80,000
Master Plan	-	-	-	60,000	-	-	-	-
Transfers to Police Fund	2,637,650	3,391,000	350,000	357,000	364,140	371,423	378,851	386,428
Transfers to Fire Fund	662,364	565,000	642,000	654,840	667,937	681,296	694,921	708,820
Transfers to other funds	533,609	362,350	395,500	403,410	411,478	419,708	428,102	436,664
Capital outlay/ construction	3,606	1,200	247,900	965,400	502,500	505,000	500,000	500,000
Debt service	49,108	-	-	-	-	-	-	-
Total expenditures & transfers	6,126,695	6,470,406	5,841,700	6,753,932	6,328,801	6,431,461	6,534,096	6,644,291
(Shortfall) Surplus	(446,339)	(63,598)	150,845	(668,213)	(128,907)	(115,121)	(105,631)	(101,668)
Fund Balance - Beginning of year	2,680,584	2,234,245	2,170,647	2,321,492	1,653,279	1,524,372	1,409,252	1,303,620
Fund Balance - End of year	$ 2,234,245	$ 2,170,647	$ 2,321,492	$ 1,653,279	$ 1,524,372	$ 1,409,252	$ 1,303,620	$ 1,201,952

Minutes Acceptance: Minutes of Dec 15, 2014 6:00 PM (Approval of Minutes)

General Fund

	2013	2014	2015 (est)	2016	2017	2018	2019	2020
Revenue								
Property taxes	$ 2,303,432	$ 2,866,654	$ 2,510,745	2,554,683	2,598,238	2,642,651	2,681,301	2,720,516
Licenses and permits	5,997	6,532	5,200	5,304	5,410	5,518	5,629	5,741
Federal grants	32,357	-	-	-	-	-	-	-
State shared revenue and grants	2,381,159	2,441,511	2,526,000	2,576,520	2,628,050	2,680,611	2,734,224	2,788,908
Charges for service	369,706	283,254	392,100	399,942	407,941	416,100	424,422	432,910
Fines and forfeitures	127,253	100,106	100,000	102,000	104,040	106,121	108,243	110,408
Investment income	-	-	-	-	-	-	-	-
Special assessments	-	-	-	-	-	-	-	-
Sale of capital assets	40,171	9,350	20,000	-	-	-	-	-
Other revenue	420,281	653,317	438,500	447,270	456,215	465,340	474,647	484,139
Transfers in	-	46,084	-	-	-	-	-	-
Total revenue & transfers	5,680,356	6,406,808	5,992,545	6,085,719	6,199,895	6,316,341	6,428,465	6,542,623
Expenditures								
Salaries and wages	647,320	604,811	713,200	729,604	746,385	763,552	781,114	799,080
New Appraiser position for Assessing Dept	-	-	-	40,000	40,920	41,861	42,824	43,809
Health insurance	111,933	120,358	128,783	137,798	147,444	157,765	168,809	180,626
Voluntary Pension Contribution	-	-	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Voluntary OPEB Contribution	-	-	-	-	-	-	-	-
All other personnel costs	337,910	251,479	409,917	418,115	426,478	435,007	443,707	452,582
All other operating costs	1,143,195	1,174,208	1,409,600	1,437,764	1,466,520	1,495,850	1,525,767	1,556,282
Blight Elimination cost	-	-	44,800	50,000	55,000	60,000	70,000	80,000
Master Plan	-	-	-	60,000	-	-	-	-
Transfers to Police Fund	2,637,650	3,391,000	350,000	357,000	364,140	371,423	378,851	386,428
Transfers to Fire Fund	662,364	565,000	642,000	654,840	667,937	681,296	694,921	708,820
Transfers to other funds	533,609	362,350	395,500	403,410	411,478	419,708	428,102	436,664
Capital outlay/ construction	3,606	1,200	247,900	965,400	502,500	505,000	500,000	500,000
Debt service	49,108	-	-	-	-	-	-	-
Total expenditures & transfers	6,126,695	6,470,406	6,341,700	7,253,932	6,828,801	6,931,461	7,034,096	7,144,291
(Shortfall) Surplus	(446,339)	(63,598)	(349,155)	(1,168,213)	(628,907)	(615,121)	(605,631)	(601,668)
Fund Balance - Beginning of year	2,680,584	2,234,245	2,170,647	1,821,492	653,279	24,372	(590,748)	(1,196,380)
Fund Balance - End of year	$ 2,234,245	$ 2,170,647	$ 1,821,492	$ 653,279	$ 24,372	$ (590,748)	$ (1,196,380)	$ (1,798,048)

D. AUDIENCE PARTICIPATION

None

E. COUNCIL DISCUSSION

Mr. Smith asked about a contribution to the OPEB unfunded liability.

Mrs. Simpson said there is no state law requiring you to fund the OPEB unfunded liability, all you have to do is pay your current premiums. There is state law that the pension has to be funded.

Mr. Smith asked if there would be any benefits to funding OPEB even if it is only 1/2%.

Mrs. Simpson stated that any amount in to the OPEB trust would help but once the money is in the trust you can't take it out and transfer it to another account. It is only for the retiree health care benefits. You can't put money into the account just to make a higher interest rate.

Mr. Martinbianco said that this is a good start for looking at this unfunded liability on a long term basis.

Mr. Hatfield asked about coming up with a Fund Balance policy. So if we have money left over, which is over our fund balance limit, that we pay that percent to the unfunded liability of MERS or OPEB. This way we have a policy to address the long term debt.

Mr. Smith feels this is a good idea.

Minutes Acceptance: Minutes of Dec 15, 2014 6:00 PM (Approval of Minutes)

Mr. O'Keefe is now comfortable with paying a million dollars to the unfunded liability now that we have this 5 year forecast. He thinks we should also consider applying money to the OPEB.

Mrs. Simpson said you should consider both in your planning.

Mr. Hatfield thinks we should get the MERS to a certain level of funding before our returns are cut from 8% to 6% because we are not funded enough. He also said that we could have our own actuarial done to see if it is different then what MERS comes up with.

Mr. Martinbianco asked if our unfunded liability effects our bond rating?

Mrs. Simpson stated it could.

Mr. Smith feels we are now being proactive and not reactive in planning for the future.

Mr. Martinbianco asked Mrs. Simpson how many months of expenses does the state recommend we have on hand.

Mrs. Simpson replied 5 months of expenses. She said she had some same fund balance policies that she would send over.

Mr. O'Keefe thinks it may be a good idea to get our own actuarial done because he has no faith in MERS.

Mrs. Burke-Miller said our OPEB actuarial cost around $20,000.

Mr. Smith recommends we should add this decision to tonight's City Council agenda on the amount we are going to pay to MERS unfunded liability.

Mr. Martinbianco stated that we set aside $1,000,000 in the budget, anything over that amount we would have to do a budget amendment. He recommended having a Committee of the Whole meeting on February 2, 2015 at 6:00 p.m. to discuss a fund balance policy.

Meeting was adjourned at 6:55 PM.

Minutes Acceptance: Minutes of Dec 15, 2014 6:00 PM (Approval of Minutes)

CITY OF BURTON

BURTON CITY COUNCIL MEETING

DECEMBER 15, 2014

MINUTES

Council Chambers | **Regular Meeting** | **7:00 PM**

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Tom Martinbianco at 7:00 PM.

A. INVOCATION LED BY MR. TOM GORANG

B. THE PLEDGE OF ALLEGIANCE IS LED BY ELLEN ELLENBURG

C. ROLL CALL

Attendee Name	Title	Status	Arrived
Tom Martinbianco	President	Present	
Duane Haskins	Vice-President	Present	
Dennis O'Keefe	Councilman	Present	
Steven Heffner	Councilman	Present	
Ellen Ellenburg	Councilwoman	Present	
Vaughn Smith	Councilman	Present	
Steven Hatfield	Councilman	Present	

D. STAFF PRESENT

Paula Zelenko, Mayor
Tom Osterholzer, Police Chief
Ginger Burke-Miller, Controller
Rik Hayman, Chief of Staff
Marvin Epperson, Fire Chief
Teresa Karsney, Clerk

E. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Dec 1, 2014 7:00 PM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

2. City Council - Committee of the Whole - Dec 1, 2014 6:00 PM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

3. City Council - Committee of the Whole - Dec 2, 2014 5:30 PM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

F. ADMINISTRATIVE REPORT

Mayor Zelenko stated the first three items on your agenda are attorney billings. The Keller Thoma bills cover various personnel and policy matters as well as labor grievance with MAFF.

Item # 4 is the annual approval for our portion of payment on the Fenton Watermain project.

Item #5 is the approval of your City Council Meeting schedule for 2015.

Item # 6 is a request for the police department to purchase in-car video systems.

What is not on your agenda is the amount the council wishes to put toward the MERS unfunded liability. We did not place it on the agenda because we were waiting for the five year forecast update from Plante Moran tonight, which hopefully would give you added insight. If you choose to take action, you would need to add it to the agenda.

Thank you to those you attended, participated, or organized the Christmas events last Saturday. Pizza with Santa at Bendle High School and the Christmas Parade were great fun.

The Park and Recreation will be adding Movies in the Park and Mr. Heffner can elaborate more on this in his committee report.

Just a reminder the City will close for the holiday break on December 24, 2014 and return to full operations on Monday, January 5, 2015.

City Council, please join us for the employee holiday luncheon this Wednesday, December 17, 2014 in the Community room at 11:30 a.m. to 2:00 p.m.

Mr. President, tonight we have some special guests here. State Representatives Pam Farris and Representative Charles Smiley. District Court Judge Jennifer Manly wanted to be here but had other commitments. They are here to assist in honoring the service of Judge John Conover as he retires from the District Court bench. At this time, I would like to ask Judge Conover and guest to come forward.

Your Honor, words are difficult to find to express my appreciation for all the support and guidance you have given me personally, politically and professionally. But the greatest thing that sticks out is your commitment to ensure that every person who came before your

Minutes Acceptance: Minutes of Dec 15, 2014 7:00 PM (Approval of Minutes)

court, no matter how severe the crime or violation, was treated with respect, with courtesy and with encouragement. As Mayor, the highest honor I can bestow is the key to the City.

Representative Pam Farris and Representative Charles Smiley also gave Judge Conover resolution for his support and commitment to the 67th District Court.

G. COMMITTEE REPORTS

Mrs. Ellenburg stated that the Legislative Committee met earlier today and has recommended that the two storm water ordinances be send to City Council for approval.

Mr. Heffner stated he would like to have a Public Access Committee meeting on January 5, 2015 at 6:00 p.m., purpose of the meeting is discussion on and recommendation for the City website. He would also like to have the Mayor, Mark Udell and someone from Revise.

Mr. Heffner said Pizza with Santa was a great success. The parade was very nice also. The Movies in the Park Event, will be held at the Eagles Club. Chris Johns has raised all the money for this on this own and the first movie is going to be Frozen, after that it is going to be Monster University.

Mr. O'Keefe stated he is the representative for the Genesee County 911 Consortium. They had their annual meeting and their fund balance is in good shape.

Mrs. Ellenburg stated one of our Friends of the Library is in audience. She has made up these bookmarks with the dates of the book sales at the library which will be January 29-31, 2015, April 23-25, 2015, July 23-25, 2015 and October 29-31, 2015.

H. AUDIENCE PARTICIPATION

Sadonna Myers of Burton, she is with the Friend of the Library. Mrs. Myers is looking forward to having the parking lot done in the spring. On the book sale dates you notice that one is on October 31, 2015. If you bring a child who is in costume you will receive a free book.

I. COUNCIL DISCUSSION

Mr. Smith stated we had a 6:00 p.m. with Plante Moran on how best to leverage the one million dollars that has been set aside in the City Budget for the unfunded liability with MERS. Looking to hear what the Council has to say about the subject. Looking for feedback from the Council on how they feel, should it all go to MERS or maybe some to OPEB.

Mr. Hatfield thinks in this first contribution that it should all go to MERS to help get us more funded. Maybe in future to set up a fund balance policy. With the police mileage we stated that the unfunded liability would be addressed. He thinks the whole million should go to the MERS.

Mrs. Ellenburg would like to see Legislative and Finance Committee have a joint meeting to have discussion and review a fund balance policy.

Attorney Doyle said we would have to post it as a Committee of the Whole to have both committees there.

Mr. Heffner stated that on February 16, 2015 Park and Recreation would like to present a check to DAV from the Veterans Honor Run.

Mr. Haskins thinks the in car video systems are an excellent idea. He also asked when we will be adding the additional three officers. We did budget for it.

Minutes Acceptance: Minutes of Dec 15, 2014 7:00 PM (Approval of Minutes)

Mayor Zelenko said that we were waiting for the financial forecast that was done so we could better estimate where we were before we move forward with that.

1. To add as item #7 to approve and authorize the City Treasurer to pay MERS a lump sum of $1,000,000.00 via wire transfer by 12/31/14 to be applied to the unfunded liablity of the City of Burton.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Vaughn Smith, Councilman
SECONDER:	Steven Hatfield, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

2. To add as item #8 to approve and authorize the transfer of $3,000.00 from General Fund to the Ctiy Council.

   Mayor has the actual quote and will need $3,510.00.

   Motion was withdrawn.

RESULT:	**WITHDRAWN [UNANIMOUS]**
MOVER:	Steven Hatfield, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

3. To add as item #8 to approve and authorize the transfer of $3,600.00 from General Fund to the City Council for computers.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Steven Hatfield, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

J. COUNCIL ACTION

1. Approve and authorize the Attorney bill (Rick Austin) from 11/21/14 to 12/10/14 in the amount of $4,718.50.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Ellen Ellenburg, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

2. Approve and authorize the Attorney bill (Keller Thoma) from 10/07/14 to 10/27/14 in the amount of $208.14.

Minutes Acceptance: Minutes of Dec 15, 2014 7:00 PM (Approval of Minutes)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Ellen Ellenburg, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

3. Approve and authorize the Attorney bill (Keller Thoma) from 11/05/14 in the amount of $330.00.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Steven Heffner, Councilman
SECONDER:	Dennis O'Keefe, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

4. Approve and authorize Resolution 2014- 27 for the 2015 Calendar Year Bond Payment for the City of Burton portion of the Fenton Road Watermain Project , not to exceed $29,990.81.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

5. Approve and authorize the Burton City Council Regular Meeting schedule for 2015.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Ellen Ellenburg, Councilwoman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

6. Approve and authorize the Mayor and Clerk to enter into an agreement with Fleetwood Leasing L.L.C. in the amount of $92,254.30 for the purchase of the L3 Mobile-vision in-car video system for the Police Department.

   Mrs. Ellenburg asked Chief Osterholzer to explain how he would be covering the cost of the system.

   Chief Osterholzer said that we will make an initial payment up front of $18,450.86. I will be covering this payment with funds we have received through a Bureau of Justice JAG equipment grant, and it will not have to come out of our current budget nor General Fund. Over the next four years we will then make one yearly lump sum payment of $18,450.86. This can be budgeted for in advance, but know that I anticipate receiving additional JAG grants each year (we average around $10,000.00 each year) and my intention is to use future JAG grants each year to off-set our yearly payment.

Minutes Acceptance: Minutes of Dec 15, 2014 7:00 PM (Approval of Minutes)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Ellen Ellenburg, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

7. To approve and authorize the City Treasurer to pay MERS a lump sum of $1,000,000.00 via wire transfer by 12/31/14 to be applied to the unfunded liablity of the City of Burton.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Steven Hatfield, Councilman
SECONDER:	Ellen Ellenburg, Councilwoman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

8. To approve and authorize the transfer of $3,600.00 from General Fund to the City Council for computers.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

Meeting was adjourned at 7:50 PM.

Minutes Acceptance: Minutes of Dec 15, 2014 7:00 PM (Approval of Minutes)

Approve and authorize the Attorney bill (Rick Austin) from 12/10/14 to 12/22/14 in the amount of $5,148.25.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

Approve and authorize the Downtown Development Visioning Plan.

RESULT:	**CARRIED [6 TO 1]**
MOVER:	Ellen Ellenburg, Councilwoman
SECONDER:	Steven Hatfield, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Ellenburg, Smith, Hatfield
NAYS:	Steven Heffner

AGENDA ITEM (ID # 1308)

DOC ID: 1308

Approve and authorize the issuance of a permanent Traffic Control Order that eastbound and westbound Norton Street traffic shall stop at Euston Street.

ATTACHMENTS:

- Traffic Control ID 1308 (PDF)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

INTEROFFICE MEMORANDUM

To: Paula Zelenko, Mayor
From: Gregory Kray, DPW Director
Date: December 11, 2014

Re: Memo of Explanation for Agenda ID #1308,
Traffic Control Order, Issue, Euston at Norton

Madam Mayor:

Agenda item wording:
Approve and authorize the issuance of a permanent Traffic Control Order that eastbound and westbound Norton Street traffic shall stop at Euston Street.

Explanation:
This action will help to slow traffic in this area and make the signage in this area consistent.

VR

Attachment: Traffic Control ID 1308 (1308 : Traffic Control Order, Issue, Euston at Norton)

AGENDA ITEM (ID # 1307)

DOC ID: 1307

Approve and authorize the issuance of a permanent Traffic Control Order that eastbound and westbound DeCamp Street traffic shall stop at Euston Street.

ATTACHMENTS:

- Traffic Control ID 1307 (PDF)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

INTEROFFICE MEMORANDUM

To: Paula Zelenko, Mayor
From: Gregory Kray, DPW Director
Date: December 11, 2014

Re: Memo of Explanation for Agenda ID #1307,
Traffic Control Order, Issue, Euston at DeCamp

Madam Mayor:

Agenda item wording:
Approve and authorize the issuance of a permanent Traffic Control Order that eastbound and westbound DeCamp Street traffic shall stop at Euston Street.

Explanation:
This action will help to slow traffic in this area and make the signage in this area consistent.

VR

Attachment: Traffic Control ID 1307 (1307 : Traffic Control Order, Issue, Euston at DeCamp)

AGENDA ITEM (ID # 1306)

DOC ID: 1306

Approve and authorize the rescinding of Traffic Control order 89-00049 of December 19, 1989 that eastbound and westbound DeCamp Street traffic shall yield the right-of-way to all Euston Street traffic.

ATTACHMENTS:

- Traffic Control ID 1306 (PDF)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

INTEROFFICE MEMORANDUM

To: Paula Zelenko, Mayor
From: Gregory Kray, DPW Director
Date: December 11, 2014

Re: Memo of Explanation for Agenda ID #1306,
Traffic Control Order, Rescind, Euston at DeCamp

Madam Mayor:

Agenda item wording:
Approve and authorize the rescinding of Traffic Control order 89-00049 of December 19, 1989 that eastbound and westbound DeCamp Street traffic shall yield the right-of-way to all Euston Street traffic.

Explanation:
This item is necessary to prevent a conflict with the TCO proposed by Agenda ID #1307.

VR

Attachment: Traffic Control ID 1306 (1306 : Traffic Control Order, Rescind, Euston at DeCamp)

Approve and authorize First Reading of an Ordinance 2015-1-54-SO an Ordinance to amend the Code of Ordinances, for the City of Burton, Michigan, by adding a new Chapter 54 to regulate storm water control; to provide for storm water permits and for payment or reimbursement of costs incurred by the City due to storm water permits; and to provide penalties for violations.

ATTACHMENTS:

- Storm Water Ord 2015-1-54-SO (DOC)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 2015-1-54-SO

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, FOR THE CITY OF BURTON, MICHIGAN, BY ADDING A NEW CHAPTER 54 TO REGULATE STORM WATER CONTROL; TO PROVIDE FOR STORM WATER PERMITS AND FOR PAYMENT OR REIMBURSEMENT OF COSTS INCURRED BY THE CITY DUE TO STORM WATER PERMITS; AND TO PROVIDE PENALTIES FOR VIOLATIONS.

THE CITY OF BURTON ORDAINS:

Chapter 54 of the Code of Ordinances of the City of Burton, Michigan is added to read as follows:

SECTION I

SECTION 54.01 Storm Water

(A) TITLE

This ordinance shall be known as the City of Burton Stormwater Management Ordinance" and may be so cited.

(B) FINDINGS

The City of Burton finds that:

(1) Water bodies, roadways, structures, and other property within, and downstream of the City of Burton are at times subjected to flooding;

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(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 of Burton and the region;

(3) Land development alters the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;

(4) Storm water runoff produced by land development contributes to increased quantities of water-borne pollutants;

(5) Increases of storm water 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 of Burton and downstream municipalities;

(6) Storm water runoff, soil erosion, and non-point source pollution, due to land development within the City of Burton, have resulted in a deterioration of the water resources of the City of Burton and downstream municipalities;

(7) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future development projects within the City of Burton will, absent reasonable regulation and control, adversely affect the City of Burton's water bodies and water resources, and those of downstream municipalities;

(8) Storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

by the regulation of storm water runoff from development;

(9) Adopting the standards, criteria and procedures contained in this ordinance and implementing the same will address many of the deleterious effects of storm water runoff;

(10) Adopting these standards is necessary for the preservation of the public health, safety and welfare.

(C) PURPOSE

It is the purpose of this ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

(1) To reduce artificially induced flood damage;

(2) To minimize increased storm water runoff rates and volumes from identified new land development;

(3) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures;

(4) To encourage water recharge into the ground where geologically favorable conditions exist;

(5) To prevent an increase in non-point source pollution;

(6) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;

(7) To minimize the impact of development upon stream bank and streambed stability;

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(8) To reduce erosion from development or construction projects;

(9) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution; and,

(10) To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands that were developed without storm water management controls meeting the purposes and standards of this ordinance.

(11) To reduce the adverse impact of changing land use on water bodies and, to that end, this ordinance establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are insufficient storm water management controls.

(D) APPLICABILITY, EXEMPTIONS AND GENERAL PROVISIONS.

(1) To prevent an increase in non-point source pollution; this ordinance shall apply to any earth-disturbing activities greater than or equal to 1-acre (≥1 ac.) for new development or redevelopment projects or earth disturbing activities less than 1-acre on parcels with greater than or equal to 50% (≥ 50%) impervious surface which will alter storm water 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 ordinance shall not apply to the following:

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(a) Development on one single-family lot, parcel, or condominium unit where the City of Burton Department of Public Works 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 storm water flow from the property in terms of rate and/or volume.

(b) 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.

(c) Ongoing farm operations such as tilling or plowing. Earth disturbances that are not directly related to farming are not exempt from this ordinance.

(d) Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of this ordinance, where such approvals remain in effect.

(E) DEFINITIONS

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this Section unless the context in which they are used specifically indicates otherwise:

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(1) Best Management Practices (BMPs) - A practice, or combination of practices and design criteria that comply with the Michigan 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 ordinance (including, but not limited to minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the City Engineer, and, where appropriate, the standards of the Genesee County Drain Commissioner.

(2) Building Opening - Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.

(3) Construction Site Storm Water Runoff - Storm water runoff from a development site following an earth change.

(4) Detention - A system which is designed to capture storm water and release it over a given period of time through an outlet structure at a controlled rate.

(5) Developed or Development - The installation or construction of impervious surfaces on a development site that require, 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

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

II only, developed or development shall not include the actual construction of, or an addition, extension or modification to, an individual single-family or a 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 storm water runoff. In making his written finding, the City Manager may consult with the Zoning Administrator, planning committee, the code enforcement official and/or the City engineer.

(6) Developer - Any person proposing or implementing the development of land. Developer can also be interpreted to include their designated design representative (e.g. architects and engineers).

(7) Development Site - Any land that is being or has been developed, or that a developer proposes for development.

(8) Discharger - Any person or entity who directly or indirectly discharges storm water from any property. 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 ordinance.

(9) Drain - Any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, et. seq., other than an established county or intercounty drain.

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(10) Drainage - The collection, conveyance, or discharge of ground water and/or surface water.

(11) Drainageway - The area within which surface water or ground water is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.

(12) Earth Change - 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. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.

(13) EPA - The United States Environmental Protection Agency.

(14) Erosion - The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

(15) Exempted Discharges - Discharges other than storm water as specified in Section 54.01(D) and 54.01(B) of this ordinance.

(16) Flood or Flooding - 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.

(17) Floodplain - Any land area subject to periodic flooding (≥ 2 square miles

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(18) Flood Protection Elevation (FPE) - The Base Flood Elevation plus one (1) foot at any given location.

(19) Grading - Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.

(20) 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 1500 substances. Some industrial libraries maintain files of material safety data sheets (MSDS) for more than 100,000 substances.

(21) Illicit Connection - Any method or means for conveying an illicit discharge into water bodies or the City's storm water system.

(22) Illicit Discharge - Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this ordinance.

(23) Impervious Surface - Surface that does not allow storm water runoff to slowly percolate into the ground.

(24) Improvements - Means those features and actions associated with a project that are considered

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

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.

(25) MS4 – Municipal Separate Storm Water Sewer System

(26) MDNRE - Michigan Department of Natural Resources and Environment.

(27) Municipality – County, Municipality, Village, or Township or their designated representative.

(28) NPDES - National Pollution Discharge Elimination System.

(29) Person - An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.

(30) Planning board/commission - Means a county planning commission created under the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 et. seq.

(31) Pollutant - 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, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials,

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

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.

(32) Property Owner - Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.

(33) Retention - A system which is designed to capture storm water and contain it until it infiltrates the soil or evaporates.

(34) 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.

(35) Sensitive Areas – Inland lakes, watercourses and wetlands (≥ 5 ac as specified by MDNRE unless a stricter local requirement is specified)

(36) 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 insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

(37) Soil Erosion - 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.

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(38) State of Michigan Water Quality Standards - 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 Protrection Act, 1994 PA 451, as amended.

(39) Storm Drain - A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, ground water and drainage.

(40) Storm Water Permit - A permit issued pursuant to this ordinance.

(41) Storm Water Plan - Written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these which contain information pursuant to this ordinance.

(42) Storm Water Runoff Facility - The method, structure, area, system, or other equipment or measures which are designed to receive, control, store, or convey storm water as well as treat it for pollutants.

(43) Stream - 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.

(44) Surface waters of the state: Are defined consistent with the Part 4 Rules (Rules 323.1041 through 323.1117 of the Michigan Administrative Code) to mean all of the following, but not including drainage ways and ponds (detention and

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

retention ponds or lagoons) used solely for wastewater conveyance, treatment, or control:

- The Great Lakes and their connecting waters
- All inland lakes
- Rivers
- Streams
- Impoundments
- Open drains
- Other surface bodies of water within the confines of the state

(45) Waterbody - A river, lake, stream, creek or other watercourse or wetlands.

(46) Watercourse – One that has not been altered artificially.

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

SECTION 54.02 STORM WATER PERMITS

(A) STORM WATER STANDARDS

Developments subject to this ordinance shall require a storm water permit and a storm water plan, and shall be designed, constructed, and maintained to prevent flooding, minimize stream channel impacts, protect water quality, and achieve the purposes of this Ordinance, as stated above. City of Burton has adopted the Genesee County Storm Water and Flood Control Design Standard Requirements to meet the objectives of managing the quantity and quality of storm water runoff from a site as its City engineering standards.

(B) STORM WATER PERMIT REVIEW PROCEDURES

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

The City of Burton shall grant a storm water permit, which may impose terms and conditions in accordance with Section 54.02(H), 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 ordinance. 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 & 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

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

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 Storm Water 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 storm water plan for post-construction management of storm water to the City 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 City.

(2) The developer has submitted a storm water plan complying with Section 54.02(C).

(3) The storm water plans contain adequate storm water BMPs to address the requirements laid out in the Genesee County Storm Water Standards & Requirements (GCSWS&R). At a minimum the

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

developer will have to satisfy one of the following conditions:

(a) A permanent on-site storm water system that includes on-site detention of storm water runoff (see Genesee County Storm Water and Flood Control Design Standard Requirements for requirements) and

(b) A direct connection for all storm water runoff that will be discharged from and through the development site (see GCSWS&R /BMP Requirement Manual for requirements); or

(c) The developer provides a permanent on-site storm water system with a restricted outlet designed to result in no net increase in storm water runoff volume or rate onto any adjacent property. (see GCSWS&R /BMP Requirement Manual for requirements)

(4) The developer has paid or deposited the storm water permit review fee pursuant to Section 54.02(D).

(5) The developer has paid or posted the applicable financial guarantee pursuant to Section 54.02(E).

(6) The developer provides all easements necessary to implement the approved storm water plan and to otherwise comply with this Ordinance including, but not limited to, Section 54.07(B). All easements shall be acceptable to the City in form and substance and shall be recorded with the Genesee County Register of Deeds.

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(7) The storm water plan is designed in conformity with the City's design and performance standards for drains and storm water management systems, as set forth in Article VIII.

(8) All storm water 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 storm water runoff facilities and in compliance with the approved storm water plan and this Ordinance. The maintenance agreement shall be acceptable to the City of Burton in form and substance and at minimum contain the requirements outlined in Article VII.

(C) STORM WATER PLAN

The Storm Water Management Plan must be designed to meet the Genesee County Storm Water Standards as set out in the companion document to the Low Impact Development Manual for Michigan. The County is authorized to establish minimum design standards for storm water 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 water 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 storm water plan shall identify and contain all of the following:

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(1) The location of the development site and water bodies that will receive storm water 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 (2) foot (using USGS datum). The information shall be superimposed on the pertinent Genesee County soil map.

(3) The development drainage area to each point of discharge from the development.

(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 storm water runoff facilities with existing and final grades, as well as storm water 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 storm water runoff facilities

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

necessary to the overall storm water plan, including a schedule of the estimated dates of completing construction of the storm water runoff facilities shown on the plan and an identification of the proposed inspection procedures to ensure that the storm water runoff facilities are constructed in accordance with the approved storm water plan.

(9) Drawings, profiles, and specifications for the construction of the storm water runoff facilities (BMP) reasonably necessary to ensure that storm water runoff will be drained, stored, or otherwise controlled in accordance with this ordinance.

(10) A maintenance agreement, in form and substance acceptable to the City, for ensuring maintenance of any privately-owned storm water 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 storm water plan, the agreement shall authorize the City to maintain any on-site storm water runoff facility as reasonably necessary, at the Developer's expense.

(11) The name of the engineering firm and the registered professional engineer that designed the storm water plan and that will inspect final construction of the storm water runoff facilities.

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(12) All design information must be compatible for conversion to standard GIS shape files.

(13) Any other information necessary for the City to verify that the storm water plan complies with the City's design and performance standards for drains and storm water management systems.

(D) STORM WATER PERMIT REVIEW FEES

(1) (a) All expenses and costs incurred by the City directly associated with processing, reviewing and approving or denying a storm water 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). 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:

(i) Services of the City Attorney directly related to the application.

(ii) Services of the Department of Public Works ("D.P.W.") directly related to the application including inspections fees.

(iii) Services of other independent contractors working for the City

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

which are directly related to the application.

(iv) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.

(2) At the time a Developer applies for a storm water 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 the 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.

(E) **FINANCIAL GUARANTEE**

(1) The D.P.W. shall not approve a storm water permit until the Developer submits to the City, in a

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

form and amount satisfactory to the City, a letter of credit or other financial guarantee for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved storm water plan. Upon certification by a registered professional engineer that the storm water runoff facilities have been completed in accordance with the approved storm water plan including, but not limited to, the provisions contained in Section 54.02(C)(8), the City may release the letter of credit, or other financial guarantee subject to final City acceptance and approval.

(2) The letter of credit or other financial guarantee may be accessed when:

(a) violation of this ordinance has occurred as determined by the City,

(b) three notifications to the developer detailing the infraction have been issued,

(c) no corrective action has being taken by the developer within 30 days of final notification.

(3) Except as provided in subsection (5), 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

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

City shall consider the size and type of the development, the size and type of the on-site storm water system, and the nature of the off-site storm water runoff facilities the development will utilize.

(4) The letter of credit or other financial guarantee will not be permitted to expire until any necessary maintenance agreements for storm water facilities established by the developer has been signed.

(5) 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 storm water plan.

(6) The D.P.W. Director 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 (10%).

(7) This ordinance shall not be construed or interpreted as relieving a developer of its obligation to pay all costs associated with on-site private storm water runoff facilities as well as those costs arising from the need to make other storm water improvements in order to reduce a development's impact on a drain consistent with adopted design standards.

(F) CERTIFICATE OF OCCUPANCY

No certificate of occupancy shall be issued until storm water runoff facilities have been completed in accordance with the approved storm water plan;

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

provided, however, the City may issue a certificate of occupancy if an acceptable letter of credit or other financial guarantee has been submitted to the City, for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved storm water plan.

(G) NO CHANGE IN APPROVED FACILITIES

(1) Storm water runoff facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved storm water plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved storm water plan, or in accordance with approved amendments or revisions in the plan.

(2) The City has the right to take corrective action if alterations to approved storm water facilities occur and to seek compensation from the responsible party for all costs associated with the corrective action.

(H) TERMS AND CONDITIONS OF PERMITS

In granting a storm water permit, the City may impose such terms and conditions as are reasonably necessary to implement the purposes of this ordinance. A Developer shall comply with such terms and conditions.

SECTION 54.03 STORM WATER SYSTEM, FLOODPLAIN AND OTHER STANDARDS, SOIL EROSION CONTROL

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(A) MANAGEMENT OF AND RESPONSIBILITY FOR STORM WATER SYSTEM

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

(B) STORM WATER SYSTEM

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

(C) FLOODPLAIN AND SENSITIVE AREAS STANDARDS

(1) All new buildings and substantial improvements to existing buildings 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 storm water plan.

(2) A storm water 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.

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(3) Within any required buffer zone, no earth change shall take place except in accordance with the approved storm water 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.

(4) Where appropriate, permanent setbacks based on site slopes and soils will be established in accordance with the specifications outlined in the Genesee County Requirement Manual.

(D) BUILDING OPENINGS

(1) No building openings, including basement walkouts, shall be constructed below the following elevations:

(a) One foot above the 100-year floodplain.

(b) The building opening established at the time of plat or development approval and on file in the City Engineering Department.

(c) Three feet above the top of any downstream culvert.

(d) Four feet above the bottom of any permanent and defined drain.

(e) One foot above an adjacent detention basin design high water.

(2) A waiver from elevations stated in Section 54.03(C)(1) may be granted by the City Engineer following receipt of a certification from a registered professional engineer demonstrating

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

that the proposed elevation does not pose a risk of flooding.

(3) 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 ordinance. This certificate shall attest that the building opening elevation complies with the standards of this ordinance. The permittee for the building permit shall submit the certificate to the City Building Inspector 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 required elevation, 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 ordinance prior to the commencement of framing and or structural steel placement.

(E) SUMP PUMP DISCHARGE

(1) When a sump pump is employed to discharge a buildings footing drains a check valve will be installed between the pump and the storm system. A gravity discharge to an enclosed system is not permitted unless it can be shown that the discharge point is above the overflow elevation for the storm water system.

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

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(F) PUBLIC HEALTH, SAFETY OR WELFARE

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

SECTION 54.04 Prohibitions and Exemptions

(A) ILLICIT DISCHARGES

(1) No person shall discharge to a water body, directly or indirectly (i.e. via an illicit connection), any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with best management practices.

(2) 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 storm water drainage system or surface waters of the state. Discharges to storm drains and waters of the state other than storm water and the exempted discharges listed in Section 54.04(B) is strictly prohibited.

(B) EXEMPTED DISCHARGES

The following non-storm water discharges shall be permissible, provided that they do not result in a violation of State of Michigan water quality standards:

(1) Water supply line flushing

(2) Landscape irrigation

(3) Diverted stream flows

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(4) Rising ground water

(5) Uncontaminated ground water infiltration to storm drains

(6) Uncontaminated pumped ground water

(7) Discharges from potable water sources

(8) Foundation drains

(9) Air conditioning condensate

(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 fire fighting activities

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

(C) 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 drainage way without first submitting a storm water plan to the City and all appropriate agencies City, State, Genesee County Drain Commissioner's office) and receiving approval of that plan. Any deviation from the approved plan is a violation of this ordinance. 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.

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(D) 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.

section 54.05 Inspection,Monitoring,Reporting,and Recordkeeping

(A) INVESTIGATE, INSPECT, AND MONITOR SUSPECTED ILLICIT DISCHARGES

To investigate potential illicit discharges or connections and to assure compliance with the standards set forth in this ordinance, the City may investigate, inspect and/or obtain monitor any discharge. Upon request, the discharger 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.

(B) STORM WATER MONITORING FACILITIES

The City may require, in writing, that a discharger of storm water runoff provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water 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

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

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.

(C) ACCIDENTAL DISCHARGES

(1) Any discharger who accidentally discharges into a MS4 or water of the state any substance other than storm water or an expempted discharge shall inform the Municpality 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 (5) days. The written report shall specify:

(a) The composition of the discharge and the cause thereof.

(b) The exact date, time, and estimated volume of the discharge.

(c) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.

(d) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.

(2) A properly-reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this ordinance against a

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

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 the requirements of Section 54.05(C)(1)(a).

(D) Record Keeping Requirement.

Any person subject to this ordinance shall retain and preserve for no less than three (3) 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 storm water runoff from any property.

SECTION II

SECTION 54.06 enforcement

(A) SANCTIONS FOR VIOLATION

(1) Any person violating any provision of this ordinance shall be responsible for a municipal civil infraction 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 and other applicable laws, including, without limitation, equitable relief; provided, however, that the violation stated in Section 54.06(A)(1) shall be a misdemeanor. Each

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

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 ordinance.

For purposes of this section, "subsequent offense" means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible.

The Zoning Administrator, code enforcement official, -building inspector and police officers of the City are authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this ordinance.

(2) Any person who neglects or fails to comply with a stop work order issued under Section 54.06(B) shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $500 per violation per day or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.

(3) Any person who aids or abets a person in a violation of this ordinance shall be subject to the sanctions provided in this section.

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

(B) STOP WORK ORDER

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this ordinance, 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 ordinance 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.

(C) FAILURE TO COMPLY; COMPLETION

In addition to any other remedies, should any owner fail to comply with the provisions of this ordinance, 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.

(D) 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

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

necessary as a result of a violation of this ordinance, and shall promptly reimburse the City for all of such costs.

(E) COST RECOVERY FOR DAMAGE TO STORM DRAIN SYSTEM

A discharger shall be liable for all costs incurred by the City as the 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 ordinance. Costs include, but are not limited to, those penalties levied by the Environmental Protection Agency or MDNRE for violation of an National Pollutant Discharge Elimination System permit, attorney fees, and other costs and expenses.

(F) COLLECTION OF COSTS; LIEN

Costs incurred by the City pursuant to Sections 54.06(B), 54.06(C), 54.06(D), and 54.06(E) shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six (6) 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 Act No. 94 of the Public Acts of 1933, as amended, and any other remedies available under applicable law.

(G) APPEALS

Any person as to whom any provision of this ordinance has been applied may appeal in writing, not later than 30

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

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 ordinance 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 ordinance 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 the ordinance; and

(2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this ordinance, nor result in less effective management of storm water runoff.

section 54.07 Storm Water Easements and Maintenance Agreements

(A) APPLICABILITY OF REQUIREMENTS

The requirements of this Article concerning storm water easements and maintenance agreements shall apply to all

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

persons required to submit a storm water and/or storm water plan to the City for review and approval.

(B) Storm Water Management Easements

The Developer shall provide all storm water management easements necessary to implement the approved storm water plan and to otherwise comply with this ordinance 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 storm water runoff facilities and shall provide adequate emergency overland flow-ways.

(C) MAINTENANCE AGREEMENTS

(1) PURPOSE OF MAINTENANCE AGREEMENT

The purpose of the maintenance agreement is to provide the means and assurance that maintenance of stormwater BMPs shall be undertaken.

(2) MAINTENANCE AGREEMENT REQUIRED

(a) A maintenance agreement shall be submitted to the City of Burton, for review by the City Attorney and his/her designee and City of Burton Attorney, for all development, and shall be subject to approval in accordance with Stormwater Plan. A formal maintenance plan shall be included in the maintenance agreement.

(b) Maintenance agreements shall be approved by the Burton City Council prior to final subdivision plat or condominium approval, as applicable,

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

and prior to construction approval in other cases.

(c) A maintenance agreement is not required to be submitted to the City of Burton for Chapter 18 Drains that will be maintained by the Genesee County Drain Commission.

(3) MAINTENANCE AGREEMENT PROVISIONS

(A) 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 of Burton at least 14 days in advance of commencing work.

(b) 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 Genesee County Register of Deeds prior to the effectiveness of the approval of the Burton City Council.

(c) If it has been found by the Burton City Council, following notice and an

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

opportunity to be heard by the property owner, that there has been a material failure or refusal to undertake maintenance as required under this ordinance and/or as required in the approved maintenance agreement as required hereunder, the city of Burton 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 of Burton for all costs and expenses associated with such monitoring and maintenance, together with a reasonable administrative fee. The maintenance agreement required under this Ordinance 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.

(D) ESTABLISHMENT OF COUNTY DRAINS

Prior to final approval, all storm water management facilities for platted subdivisions shall be established as county drains, as authorized in Section 433, Chapter 18 of the Michigan Drain Code (P.A. 40 of 1956, as amended) for long-term maintenance.

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

SECTION 54.08 Performance and Design Standards

(A) REFERENCE TO REQUIREMENT MANUAL

The City or its designate shall use the policy, criteria, and information, including technical specifications and standards, in the Genesee County Requirement Manual as the basis for decisions about storm water permits and about the design, implementation and performance of structural and non-structural storm water BMPs.

The State LID Manual includes a list of storm water treatment practices, including the specific design criteria for each them. Storm water 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 Genesee County Storm Water and Flood Control Design Standard Requirements and the federal Phase II Storm Water 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 storm water treatment practices in accordance with these standards may subject the violator to a civil penalty as described in Section 6 of this ordinance.

(B) Relationship of Genesee County Storm Water and Flood Control Design Standard Requirements (Requirements Manual) to Other Laws and Regulations.

If the specifications or guidelines of the Genesee County Storm Water and Flood Control Design Standard Requirements are more restrictive or apply a higher standard than other laws or regulations, that fact shall

not prevent application of the specifications or guidelines in the Requirement Manual.

(C) Changes to Standards and Specifications

Standards, specifications, guidelines, policies, criteria, or other information in the Requirement Manual in affect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

(D) Amendments to Requirement Manual

The Requirement Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience. Prior to amending or updating the Requirement Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

(E) Conflict of Laws

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

(F) Private Agreements

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall the County or City be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

(G) Violations Continue

Any violation of the provisions of this ordinance existing as of the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement unless the use, development, construction, or other activity complies with the provisions of this ordinance.

SECTION 54.09 Other Matters

(A) INTERPRETATION

Words and phrases in this ordinance shall be construed according to their common and accepted meanings, except that words and phrases defined in Section 54.01(E) shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this ordinance but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

(B) CATCH-LINE HEADINGS

The catch-line headings of the articles and sections of this ordinance are intended for convenience only, and

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.

(C) SEVERABILITY

The provisions of this ordinance are hereby declared to be severable, and if any part or provision of this ordinance should be declared invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect any other part or provision of the ordinance.

(D) OTHER ORDINANCES

This ordinance shall be in addition to other ordinances of the City and shall not be deemed to repeal or replace other ordinances or parts thereof except to the extent that such repeal is specifically provided for in this Article.

SECTION III

PUBLICATION AND EFFECTIVE DATE

After adoption, a synopsis of this Ordinance shall be published in a newspaper of general circulation within the City of Burton, Genesee County, Michigan, and shall become effective on the 31st day following publication.

SECTION IV

INSPECTION

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

A copy of this ordinance may be inspected at the City of Burton Clerk's office at the City Hall, 4303 S. Center Rd., Burton, MI during regular business hours.

_____

By: PAULA ZELENKO, MAYOR

_____

By: TERESA KARNSEY, CLERK

Ordinance introduced on: January 5, 2015

Second Reading:

Publication date:

Effective date:

Attachment: Storm Water Ord 2015-1-54-SO (1319 : Storm Water Ordinance 2015-1-54-SO)

Approve and authorize First Reading of an Ordinance 2015-2-54-SO an Ordinance to amend the Code of Ordinances for the City of Burton, Michigan by the adoption of additional storm water control regulations which provide standards for discharges into the storm water system or watercourses, and to provide penalties for violations.

ATTACHMENTS:

- Storm Water Ord 2015-2-54-SO (DOCX)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steven Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith, Hatfield

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 2015-2-54-SO

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF BURTON, MICHIGAN BY THE ADOPTION OF ADDITIONAL STORM WATER CONTROL REGULATIONS WHICH PROVIDE STANDARDS FOR DISCHARGES INTO THE STORM WATER SYSTEM OR WATERCOURSES, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

THE CITY OF BURTON ORDAINS:

SECTION I

SECTION 54.10. PURPOSE/INTENT.

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

(A) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user

(B) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system

(C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

SECTION 54.11. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

(A) Authorized Enforcement Agency: employees or designees of the director of the municipal agency designated to enforce this ordinance.

(B) Best Management Practices (BMPs): 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.

(C) Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(D) Construction Activity. Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 5 acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(E) Hazardous Materials. 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.

(F) Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section X of this ordinance.

(G) Illicit Connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

the storm drain system including but not limited to any conveyances which allow any non-storm water 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,
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.

(H) Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14)

(I) 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.

(J) Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

(K) 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.

(L) Pollutant. 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.

(M) Premises. Any building, lot, parcel of land, or

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(N) Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(O) Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(P) Stormwater Pollution Prevention Plan. 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.

(Q) Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

SECTION 54.12. APPLICABILITY.

This ordinance 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.

SECTION 54.13. RESPONSIBILITY FOR ADMINISTRATION.

The City of Burton shall administer, implement, and enforce the provisions of this ordinance. 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.

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

SECTION 54.14(A). DISCHARGE 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 storm water.
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 ordinance: 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 non-commercial washing of vehicles; street wash water; dechlorinated swimming pool water from single, two, or three family residences; firefighting activities; and any other water source not containing Pollutants.

(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-storm water 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.

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

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

SECTION 54.15. SUSPENSION OF MS4 ACCESS.

(A) Suspension due to Illicit Discharges in Emergency Situations

(1) The City of Burton Department of Public Works 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

(1) Any person discharging to the MS4 in violation of this ordinance 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.

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

(2) 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.

SECTION 54.16. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water 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 of Burton Department of Public Works prior to the allowing of discharges to the MS4.

SECTION 54.17. MONITORING OF DISCHARGES.

(A) Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(B) Access to Facilities.

(1) The City of Burton Department of Public Works shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. 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 of Burton Department of Public Works 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 storm water, and the performance of any additional duties as defined by state and federal law.

(3) The City of Burton Department of Public Works 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

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The City of Burton Department of Public Works 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 of Burton Department of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the City of Burton Department of Public Works access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water 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 ordinance.

(7) If the City of Burton Department of Public Works 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 ordinance, 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 ordinance 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.

SECTION 54.18. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

The City of Burton Department of Public Works may adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, 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 premise, 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 storm water 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.

SECTION 54.19. 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.

SECTION 54.20. 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 storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

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 of Burton Department of Public Works 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.

SECTION 54.21. ENFORCEMENT.

Notice of Violation.

(A) Whenever the City of Burton Department of Public Works finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, 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 storm water pollution or contamination hazards and the restoration of any affected property; and

(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,

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

SECTION 54.22. 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 by the City Clerk within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the City Council shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the City Council shall be final.

SECTION 54.23. 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 five (5) days of the decision of the City Council upholding the decision of the authorized enforcement agency, then representatives or agents or contractors of the City Council 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 Council or its designated contractor to enter upon the premises for the purposes set forth above.

SECTION 54.24. COST OF ABATEMENT OF THE VIOLATION.

Within five (5) 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 days. If the amount due is not paid within a timely manner as determined by the decision of the City 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. The liability shall be paid in not more than 12 equal payments.

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

Interest at the rate of four (4%) percent per annum shall be assessed on the balance beginning on the 31st day following discovery of the violation.

SECTION 54.25. INJUNCTIVE RELIEF.

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

SECTION 54.26. COMPENSATORY ACTION.

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

SECTION II

SEVERABILITY

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

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

SECTION III

ULTIMATE RESPONSIBILITY

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

SECTION IV

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 Ordinance 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.

SECTION V

CRIMINAL PROSECUTION.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of Five Hundred ($500.00) dollars per violation per day and/or imprisonment for a period of time not to exceed 90 days or both.

The City of Burton agency may recover all attorney’s fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)

SECTION VI

REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

SECTION VII

This Ordinance shall be published in a newspaper of general circulation within the City of Burton, Genesee County, Michigan, and shall become effective on the thirty-first(31st) day following publication.

SECTION VIII

A copy of this Ordinance may be inspected at the City of Burton Clerk's Office at the City Hall, 4303 S. Center Road, Burton, Michigan, during regular business hours.

_____
By: PAULA ZELENKO, MAYOR

_____
By: TERESA KARNSEY, CLERK

Ordinance introduced on: January 15, 2015

Second Reading:

Publication date:

Effective date:

Attachment: Storm Water Ord 2015-2-54-SO (1320 : Discharge and Connection Stormater Ordinance 2015-2-54-SO)