



# **CITY OF BURTON**

## **BURTON LEGISLATIVE COMMITTEE MEETING**

**DECEMBER 15, 2014**

### **AGENDA**

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**Council Chambers**

**Special Meeting**

**5:30 PM**

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**4303 S. CENTER ROAD  
BURTON, MI 48519**

**A. CALL TO ORDER**

**B. STAFF PRESENT**

**C. APPROVAL OF MINUTES**

1. Legislative Committee - Special Meeting - Aug 18, 2014 6:00 PM

**D. AUDIENCE PARTICIPATION**

**E. COUNCIL DISCUSSION**

1. Review and recommendation on the Storm Water Ordinance.

**DRAFT**

# BURTON, MICHIGAN

## BURTON LEGISLATIVE COMMITTEE MEETING

AUGUST 18, 2014

### MINUTES

Council Chambers

Special Meeting

6:00 PM

4303 S. CENTER ROAD  
BURTON, MI 48519

This meeting was opened by Chairwoman Ellen Ellenburg at 6:00 PM.

#### A. CALL TO ORDER

| Attendee Name   | Title      | Status  | Arrived |
|-----------------|------------|---------|---------|
| Dennis O'Keefe  | Councilman | Present |         |
| Steve Heffner   | Councilman | Present |         |
| Ellen Ellenburg | Chairwoman | Present |         |

#### B. STAFF PRESENT

T. Karsney, City Clerk  
A. Doyle, City Attorney

R. Austin, City Attorney

#### C. APPROVAL OF MINUTES

- Legislative Committee - Special Meeting - Jul 22, 2014 6:00 PM

**RESULT:**        **ACCEPTED [UNANIMOUS]**  
**MOVER:**        Dennis O'Keefe, Councilman  
**SECONDER:**    Steve Heffner, Councilman  
**AYES:**         O'Keefe, Heffner, Ellenburg

#### D. AUDIENCE PARTICIPATION

Jessica Earns of Burton told council about how the neighbor's dog attacked her dog and that she feels this ordinance is a good idea.

Judith Estes of Burton stated that her neighbor's pit bull came over her fence and now she is paying to put up a taller fence to keep their dog in. She wants to know if she can bungee cord the fence to their chain link fence.

#### E. COUNCIL DISCUSSION ON THE FOLLOWING ITEMS.

- Discussion on Vicious Dog Ordinance 2014-8-133.06

Mr. O'Keefe asked Mr. Austin to let Ms. Estes know if she could bungee cord the fence up.

Mr. Austin stated that he didn't think the City would allow that and that she would have to contact Amber Abbey in the Building Department.

Minutes Acceptance: Minutes of Aug 18, 2014 6:00 PM (Approval of Minutes)

Mr. O'Keefe stated he is a dog person. Dog owners in Burton need to be responsible for their dogs. He passed out the article about the jogger that was killed in Metamora. The City needs to get tuff on the matter. He felt that Mr. Austin did a great job on writing this ordinance.

Mr. Heffner also felt the ordinance was well written and not breed specific. Mr. Heffner would like to remove the words "or code enforcement officer" from paragraph D section 1 and 2. Everyone was in agreement with that amendment.

2. To approve Ordinance 2014-8-133.06 and refer it to City Council for First Reading on the August 18, 2014 meeting as amended.

|                  |                             |
|------------------|-----------------------------|
| <b>RESULT:</b>   | <b>CARRIED [UNANIMOUS]</b>  |
| <b>MOVER:</b>    | Dennis O'Keefe, Councilman  |
| <b>SECONDER:</b> | Steve Heffner, Councilman   |
| <b>AYES:</b>     | O'Keefe, Heffner, Ellenburg |

3. Discussion on Panhandling Ordinance 144.09
4. Motion to table this item until a later date.

|                  |                             |
|------------------|-----------------------------|
| <b>RESULT:</b>   | <b>CARRIED [UNANIMOUS]</b>  |
| <b>MOVER:</b>    | Steve Heffner, Councilman   |
| <b>SECONDER:</b> | Dennis O'Keefe, Councilman  |
| <b>AYES:</b>     | O'Keefe, Heffner, Ellenburg |

5. Discussion on Disorderly Ordinance 144.08

Mr. Austin described why this revision to this ordinance came about. He would like this new ordinance to replace the current one.

Mr. O'Keefe asked if we don't pass a Panhandling ordinance with Flint Township then can we use this Disorderly conduct ordinance if people are blocking traffic or knocking on your car window for money.

Mr. Austin stated yes, you could use this ordinance for the matter.

Mr. Heffner asked Mr. Austin to explain item B section 5. He asked if a person was just out for a late night walk would they be arrested for that. He stated that we don't want to be stepping on people's rights.

Mr. Austin stated no.

Mrs. Ellenburg stated that if someone in the Neighborhood Watch called the police at least the police could come out and check these people out if they were wandering around in the middle of the night.

6. Motion to refer this Disorderly Ordinance 144.08 to City Council for First Reading on September 2, 2014.

**RESULT:** **CARRIED [UNANIMOUS]**  
**MOVER:** Dennis O'Keefe, Councilman  
**SECONDER:** Steve Heffner, Councilman  
**AYES:** O'Keefe, Heffner, Ellenburg



**Burton Legislative Committee**  
4303 S. Center Rd.  
Burton, MI 48519

Meeting: 12/15/14 05:30 PM  
Department: Clerk's Office  
Category: Discussion  
Prepared By: Teresa M. Karsney  
Department Head: Teresa M. Karsney

**E.1**

**SCHEDULED**

**AGENDA ITEM (ID # 1301)**

*DOC ID: 1301*

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## **Review and recommendation on the Storm Water Ordinance.**

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**ATTACHMENTS:**

- Storm Water #1 (PDF)
- Storm Water #2 (PDF)

MUNICIPALITY/TOWNSHIP  
STORM WATER ORDINANCE  
MUNICIPALITY COUNCIL  
MUNICIPALITY/TOWNSHIP  
GENESEE COUNTY, MICHIGAN

*Storm Water Ordinance -  
to enforce storm water  
quantity & quality on  
private development*

ORDINANCE NO. XXX

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Draft

## OPENING STATEMENT

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, FOR <INSERT COMMUNITY NAME>, MICHIGAN, BY **ADDING A NEW ARTICLE (ADD YOUR NUMBER) TO CHAPTER (ADD YOUR NUMBER) TO REGULATE STORM WATER CONTROL; TO PROVIDE FOR STORM WATER PERMITS AND FOR PAYMENT OR REIMBURSEMENT OF COSTS INCURRED BY THE MUNICIPALITY DUE TO STORM WATER PERMITS; AND TO PROVIDE PENALTIES FOR VIOLATIONS.**

## THE MUNICIPALITY/TOWNSHIP ORDAINS:

Section 1. Amendment. Chapter (ADD YOUR NUMBER) of the Code of Ordinances of the Municipality/Township, Michigan is amended by adding Article (ADD YOUR NUMBER) to read as follows:

### Article I. Storm Water

#### Section 1.01 Title

This ordinance shall be known as the "<INSERT COMMUNITY NAME> Stormwater Management Ordinance" and may be so cited.

#### Section 1.02 Findings

The <INSERT COMMUNITY NAME> finds that:

- (a) Water bodies, roadways, structures, and other property within, and downstream of the <INSERT COMMUNITY NAME> are at times subjected to flooding;
- (b) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the <INSERT COMMUNITY NAME> and the region;
- (c) 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;
- (d) Storm water runoff produced by land development contributes to increased quantities of water-borne pollutants;
- (e) 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 <INSERT COMMUNITY NAME> and downstream municipalities;
- (f) Storm water runoff, soil erosion, and non-point source pollution, due to land development within the <INSERT COMMUNITY NAME>, have resulted in a deterioration of the water resources of the <INSERT COMMUNITY NAME> and downstream municipalities;
- (g) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future development projects within the <INSERT COMMUNITY NAME> will, absent

reasonable regulation and control, adversely affect the <INSERT COMMUNITY NAME>'s water bodies and water resources, and those of downstream municipalities;

- (h) Storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from development;
- (i) 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;
- (j) Adopting these standards is necessary for the preservation of the public health, safety and welfare.

### Section 1.03 Purpose

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

- (a) To reduce artificially induced flood damage;
- (b) To minimize increased storm water runoff rates and volumes from identified new land development;
- (c) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures;
- (d) To encourage water recharge into the ground where geologically favorable conditions exist;
- (e) To prevent an increase in non-point source pollution;
- (f) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;
- (g) To minimize the impact of development upon stream bank and streambed stability;
- (h) To reduce erosion from development or construction projects;
- (i) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution; and,
- (j) 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.
- (k) 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.

### Section 1.04 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 ( $\geq 1$  ac.) for new

development or redevelopment projects or earth disturbing activities less than 1-acre on parcels with greater than or equal to 50% ( $\geq 50\%$ ) 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:

- (a) Development on one single-family lot, parcel, or condominium unit where the <INSERT COMMUNITY NAME> 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.

Consider adding:

- (1) *Additions or modifications to any single family or duplex structure disturbing less than 20,000 square feet of land.*
- (2) Landscaping or gardening involving less than 5,000 square feet of land. (optional)
- (3) Construction of a dwelling on a legal lot within a development that itself previously received approval under this article, provided that less than 5,000 square feet of land is cleared or graded for such construction. (optional)

### Section 1.05 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:

- (a) **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 Municipality Engineer, and, where appropriate, the standards of the Genesee County Drain Commissioner.
- (b) **Building Opening** - Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.
- (c) **Construction Site Storm Water Runoff** - Storm water runoff from a development site following an earth change.

- (d) 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.
- (e) Developed or Development - The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the Municipality/Township's approval of a site plan, plat, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures; provided, however, that for purposes of Article II 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 Municipality Manager finds that such construction, addition, extension or modification will not result in adverse storm water runoff. In making his written finding, the Municipality Manager may consult with the Zoning Administrator, planning committee, the code enforcement official and/or the Municipality engineer.
- (f) 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).
- (g) Development Site - Any land that is being or has been developed, or that a developer proposes for development.
- (h) 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.
- (i) 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.
- (j) Drainage - The collection, conveyance, or discharge of ground water and/or surface water.
- (k) 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.
- (l) 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.
- (m) EPA - The United States Environmental Protection Agency.
- (n) Erosion - The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.
- (o) Exempted Discharges - Discharges other than storm water as specified in Section 1.04 and 4.02 of this ordinance.

- (p) 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.
- (q) Floodplain - Any land area subject to periodic flooding ( $\geq 2$  square miles)
- (r) Flood Protection Elevation (FPE) - The Base Flood Elevation plus one (1) foot at any given location.
- (s) Grading - Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.
- (t) 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.
- (u) Illicit Connection - Any method or means for conveying an illicit discharge into water bodies or the Municipality/Township's storm water system.
- (v) 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.
- (w) Impervious Surface - Surface that does not allow storm water runoff to slowly percolate into the ground.
- (x) Improvements - Means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.
- (y) MS4 - Municipal Separate Storm Water Sewer System
- (z) MDNRE - Michigan Department of Natural Resources and Environment.
- (aa) Municipality - County, Municipality, Village, or Township or their designated representative.
- (bb) NPDES - National Pollution Discharge Elimination System.
- (cc) Person - An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.
- (dd) Planning board/commission - Means a county planning commission created under the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 et. seq.
- (ee) 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, 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.

- (ff) Property Owner - Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.
- (gg) Retention - A system which is designed to capture storm water and contain it until it infiltrates the soil or evaporates.
- (hh) 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.
- (ii) Sensitive Areas – Inland lakes, watercourses and wetlands ( $\geq 5$  ac as specified by MDNRE unless a stricter local requirement is specified)
- (jj) 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.
- (kk) 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.
- (ll) 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 Protection Act, 1994 PA 451, as amended.
- (mm) Storm Drain - A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, ground water and drainage.
- (nn) Storm Water Permit - A permit issued pursuant to this ordinance.
- (oo) Storm Water Plan - Written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these which contain information pursuant to this ordinance.
- (pp) 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.
- (qq) 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.
- (rr) 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 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

- (ss) Waterbody - A river, lake, stream, creek or other watercourse or wetlands.
- (tt) Watercourse - One that has not been altered artificially.
- (uu) Wetlands (regulated) - Land characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

## Article II. Storm Water Permits

### Section 2.01 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. *<Insert Community Name> 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 municipality engineering standards.*

### Section 2.02 Storm Water Permit Review Procedures

*<Insert Community Name>* shall grant a storm water permit, which may impose terms and conditions in accordance with Section 2.08, 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 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 Municipality for review and approval. Guidance will be provided to zoning administrators and local planning commission members on the ordinance and design standards and they will be provided with a checklist for reference during site plan review. At this stage all necessary permits should have been obtained from Federal, State, and County agencies. Once all of the above documents have been obtained a building permit will be issued by the municipality.
- (2) The developer has submitted a storm water plan complying with Section 2.03.
  - (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 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 2.04.
  - (5) The developer has paid or posted the applicable financial guarantee pursuant to Section 2.05.
  - (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 7.02. All easements shall be acceptable to the Municipality in form and substance and shall be recorded with the Genesee County Register of Deeds.
  - (7) The storm water plan is designed in conformity with the Municipality'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 <Insert Community Name> in form and substance and at minimum contain the requirements outlined in Article VII.

### Section 2.03 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:

- (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 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 municipality, 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 Municipality to maintain any on-site storm water runoff facility as reasonably necessary, at the Developer's expense (see Article VII).

- (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.
- (12) All design information must be compatible for conversion to standard GIS shape files.
- (13) Any other information necessary for the municipality to verify that the storm water plan complies with the Municipality's design and performance standards for drains and storm water management systems.

#### Section 2.04 Storm Water Permit Review Fees

- (1) (a) All expenses and costs incurred by the Municipality directly associated with processing, reviewing and approving or denying a storm water permit application shall be paid (or reimbursed) to the Municipality from the funds in a separate escrow account established by the Developer, as provided in subsection (b). The Municipality may draw funds from a Developer's escrow account to reimburse the Municipality for out-of-pocket expenses incurred by the Municipality relating to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:
  - (a) Services of the Municipality Attorney directly related to the application.
  - (b) Services of the Municipality Engineer directly related to the application including inspections fees.
  - (c) Services of other independent contractors working for the Municipality which are directly related to the application.
  - (d) 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 Municipality Clerk, as an escrow deposit, an initial amount as determined by resolution of the Municipality Council for such matters and shall provide additional amounts as requested by the Municipality 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 Municipality 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 Municipality'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 Municipality.

### Section 2.05 Financial Guarantee

- (1) The Municipality Engineer shall not approve a storm water permit until the Developer submits to the Municipality, in a form and amount satisfactory to the Municipality, 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 2.03(8), the Municipality may release the letter of credit, or other financial guarantee subject to final Municipality 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 municipality,
  - (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 Municipality Council in a Resolution of Fees for Municipality Services, unless the Municipality 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 Municipality Council is appropriate, the Municipality 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 Municipality Manager may reduce or waive the amount of the financial guarantee for a development that will not increase the percentage of impervious surface of the development site by more than ten percent (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.

### Section 2.06 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; provided, however, the Municipality may issue a certificate of occupancy if an acceptable letter of credit or other financial guarantee has been submitted to the Municipality, for the timely and satisfactory

construction of all storm water runoff facilities and site grading in accordance with the approved storm water plan.

#### **Section 2.07 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 municipality 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.

#### **Section 2.08 Terms and Conditions of Permits**

In granting a storm water permit, the Municipality 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.

### **Article III. Storm Water System, Floodplain and Other Standards, Soil Erosion Control**

#### **Section 3.01 Management of and Responsibility for Storm Water System**

The Municipality 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.

#### **Section 3.02 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.

#### **Section 3.03 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 Municipality, 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.
- (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.

#### **Section 3.04 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 Municipality 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 3.06(1a) may be granted by the Municipality Engineer following receipt of a certification from a registered professional engineer demonstrating 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 Municipality Building Inspections official prior to the commencement of framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified in Section 79.276(a)(2) or (3), that opening must be raised using a method that meets with the approval of the Municipality. 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.

#### **Section 3.05 Sump Pump Discharge (Optional; Note: May need to be modified based on individual community requirements)**

- (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.

#### **Section 3.06 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.

## Article IV. Prohibitions and Exemptions

### Section 4.01 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 Municipality is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the Municipality'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 4.02 is strictly prohibited.

### Section 4.02 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:

- (a) Water supply line flushing
- (b) Landscape irrigation
- (c) Diverted stream flows
- (d) Rising ground water
- (e) Uncontaminated ground water infiltration to storm drains
- (f) Uncontaminated pumped ground water
- (g) Discharges from potable water sources
- (h) Foundation drains
- (i) Air conditioning condensate
- (j) Individual residential car washing
- (k) Dechlorinated swimming pool waters from single, two, or three family residences
- (l) Residual street wash water
- (m) Discharges or flows from emergency fire fighting activities
- (n) Discharges for which a specific federal or state permit has been issued.

### Section 4.03 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 local Municipality and all appropriate agencies (Municipality, 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.

#### **Section 4.04 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.

### **Article V. Inspection, Monitoring, Reporting, and Recordkeeping**

#### **Section 5.01 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 Municipality may investigate, inspect and/or obtain monitor any discharge. Upon request, the discharger shall allow the Municipality'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 Municipality shall provide the discharger reasonable advance notice of such inspection and/or sampling. The Municipality or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling, monitoring or inspection.

#### **Section 5.02 Storm Water Monitoring Facilities**

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

#### **Section 5.03 Accidental Discharges**

- (1) Any discharger who accidentally discharges into a MS4 or water of the state any substance other than storm water or an exempted discharge shall inform the Municipality 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 Municipality 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 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 5.03(a).

#### **Section 5.04 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.

### **Article VI. Enforcement**

#### **Section 6.01 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 6.01(b) shall be a misdemeanor. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this 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 Municipality 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 6.02 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.

#### **Section 6.02 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 Municipality 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 Municipality 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.

### **Section 6.03 Failure to Comply; Completion**

In addition to any other remedies, should any owner fail to comply with the provisions of this ordinance, the Municipality 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 Municipality for all costs of such work.

### **Section 6.04 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 Municipality is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this ordinance, and shall promptly reimburse the Municipality for all of such costs.

### **Section 6.05 Cost Recovery for Damage to Storm Drain System**

A discharger shall be liable for all costs incurred by the Municipality 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.

### **Section 6.06 Collection of Costs; Lien**

Costs incurred by the Municipality pursuant to Sections 6.02, 6.03, 6.04 and 6.05 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 Municipality 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 Municipality 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.

### **Section 6.07 Appeals**

Any person as to whom any provision of this ordinance has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Municipality 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 Municipality 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 Municipality Council may consider the recommendations of the Municipality 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.

## **Article VII. Storm Water Easements and Maintenance Agreements**

### **Section 7.01 Applicability of Requirements**

The requirements of this Article concerning storm water easements and maintenance agreements shall apply to all persons required to submit a storm water and/or storm water plan to the Municipality/Township for review and approval.

### **Section 7.02 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 Municipality and shall record such easements as directed by the Municipality. The easements shall assure access for proper inspection and maintenance of storm water runoff facilities and shall provide adequate emergency overland flow-ways.

### **Section 7.03 Maintenance Agreements**

#### **A. 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.

#### **B. Maintenance Agreement Required**

- (1) A maintenance agreement shall be submitted to the <Insert Community Name>, for review by the <Insert title> and his/her designee and <Insert Community Name> 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.
- (2) Maintenance agreements shall be approved by the <Insert Community Name> Board/Council prior to final subdivision plat or condominium approval, as applicable, and prior to construction approval in other cases.
- (3) A maintenance agreement is not required to be submitted to the <Insert Community Name> for Chapter 18 Drains that will be maintained by the <Insert County> County Drain Commission.

#### **C. Maintenance Agreement Provisions**

- (1) The maintenance agreement shall include a plan for routine, emergency, and long-term maintenance of all stormwater BMPs, with a detailed annual estimated budget for the initial three years, and a clear statement that only future maintenance activities in accordance with the maintenance agreement plan shall be permitted without the necessity of securing new permits. Written notice of the intent to proceed with maintenance shall be provided by the party responsible for maintenance to the <Insert Community Name> at least 14 days in advance of commencing work.
- (2) The maintenance agreement shall be binding on all subsequent owners of land served by the stormwater BMPs and shall be recorded in the office of the <Insert

County> County Register of Deeds prior to the effectiveness of the approval of the <Insert Community Name> Board/Council.

- (3) If it has been found by the <Insert Community Name> Board/Council, following notice and an opportunity to be heard by the property owner, that there has been a material failure or refusal to undertake maintenance as required under this ordinance and/or as required in the approved maintenance agreement as required hereunder, the <Insert Community Name> 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 <Insert Community Name>) 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.

#### **Section 7.04 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.

### **Article VIII. Performance and Design Standards**

#### **Section 8.01 Reference to Requirement Manual**

The municipality 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.

### **Section 8.02 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.

### **Section 8.03 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.

### **Section 8.04 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.

### **Section 8.05 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.

### **Section 8.06 Private Agreements**

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 Municipality be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

### **Section 8.07 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.

## **Article IX. Other Matters**

### **Section 9.01 Sec. 9.01 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 1.05 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.

### **Section 9.02 Catch-Line Headings**

The catch-line headings of the articles and sections of this ordinance are intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.

### **Section 9.03 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.

### **Section 9.04 Other Ordinances**

This ordinance shall be in addition to other ordinances of the Municipality 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 9.05 Effective Date**

This ordinance shall become effective \_\_\_\_\_, following its publication or following the publication of a summary of its provisions in a local newspaper of general circulation.

### **Section 9.06 Repeal [if applicable]**

Ordinance No. \_\_\_\_\_, titled \_\_\_\_\_, is hereby repealed, as of the effective date of this ordinance.

## **CERTIFICATION**

I certify that this Ordinance was adopted by the Municipality Council of the Municipality at a regular meeting of the Municipality Council held on Insert Date, and published in Insert Newspaper, a newspaper of general circulation in the Municipality, on Insert Date.

## Model Illicit Discharge and Connection Stormwater Ordinance

ORDINANCE NO. \_\_\_\_\_

IDEP Ordinance -

[ Gives the city authority  
to prohibit non-storm water  
discharges into your system

### SECTION 1. PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of (\_\_\_\_\_) 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:

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

### SECTION 2. DEFINITIONS.

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

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

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.

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

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.

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.

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

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 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.

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

National Pollutant Discharge Elimination System (NPDES) Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

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

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

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

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

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.

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

Stormwater Pollution Prevention Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

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

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.

#### Prohibition of Illicit Connections.

- (e) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (f) 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.
- (g) 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 8. SUSPENSION OF MS4 ACCESS.**

#### Suspension due to Illicit Discharges in Emergency Situations

The \_\_\_\_\_ [authorized enforcement agency] 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.

#### Suspension due to the Detection of Illicit Discharge

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.

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 9. 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 \_\_\_\_\_ [authorized enforcement agency] prior to the allowing of discharges to the MS4.

### **SECTION 10. 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.

- (a) The \_\_\_\_\_ [authorized enforcement agency] 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.
- (b) Facility operators shall allow the \_\_\_\_\_ [authorized enforcement agency] 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.
- (c) The \_\_\_\_\_ [authorized enforcement agency] shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- (d) The \_\_\_\_\_ [authorized enforcement agency] 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.
- (e) 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 \_\_\_\_\_ [authorized enforcement agency] and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the \_\_\_\_\_ [authorized enforcement agency] 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.
- (g) If the \_\_\_\_\_ [authorized enforcement agency] 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 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

\_\_\_\_\_ [Authorized enforcement agency] will 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 12. 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 13. NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of 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 \_\_\_\_\_ [authorized enforcement agency]



**SECTION 22. 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 23. ADOPTION OF ORDINANCE.**

This ordinance shall be in full force and effect \_\_ days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, by the following vote: