

CHAPTER 16-03. STORM WATER MANAGEMENT AND PERMIT

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16-03-010. City Storm Water Permit Required.

Except as otherwise exempted under Section 16-03-020, any person or entity proposing to disturb one (1) acre or more of ground in connection with any development, land disturbance, or construction activity within the City or any person or entity proposing to disturb less than one (1) acre of ground which is part of a larger common plan of development that disturbs one (1) acre or more of ground shall be required to obtain a Storm Water Permit from the City. Such permit is required to be obtained prior to or in conjunction with the issuance of any demolition, excavation, land disturbance, building, site plan, land use or subdivision permit or approval or any development or construction activity within the City. A Storm Water Permit shall also be required for any building permit for a structure requiring earth moving, unless otherwise waived by the Storm Water Official. In determining whether to grant a waiver, the Storm Water Official shall consider the following with respect to the property and circumstances associated with the same: topography, vegetation, wetlands, steep slopes, sensitive areas, high water table, proximity to water channels, creeks, well or riparian areas.

16-03-020. Exemptions.

A Storm Water Permit is not required for the following activities:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources; or
- (b) Existing nursery and agricultural operations legally conducted as a permitted main or accessory use.

16-03-030. City Storm Water Permit Application.

A completed application for a Storm Water Permit shall be submitted to the Storm Water Official on forms provided by the City. All applications for a Storm Water Permit shall contain the following information and/or documents:

- (a) The name, address and contact information for the owner of the site, the developer of the

site, contractors working at the site, and any consulting firm retained by the applicant;

(b) The proposed starting date and estimated completion date for the proposed work and/or construction activity;

(c) A City Storm Water Pollution Prevention Plan, as more particularly described in Section 16-03-040, for the subject property and the proposed construction activities to be prepared and implemented in accordance with the terms and conditions of this Title;

(d) A copy of the UPDES Permit issued by the State and a copy of the Storm Water Pollution Prevention Plan submitted in conjunction with the UPDES Permit for the subject property and the proposed construction activities, as applicable;

(e) The required storm water pollution prevention review and application fee as set forth in the City's Fee Schedule; and

(f) A bond in the amount deemed sufficient by the City to cover all costs and required performance under the terms and conditions of this Title regarding storm water pollution prevention, including, but not limited to, compliance with the terms and conditions of this Chapter, the Storm Water Pollution Prevention Plan, and any additional conditions required by the Storm Water Official or City Engineer as provided herein. All bonds shall comply with the provisions of Section 16-03-055.

16-03-040. City Storm Water Pollution Prevention Plan.

(a) A City Storm Water Pollution Prevention Plan ("City SWPPP") shall be required with all permit applications and shall include sufficient information (e.g., maps, hydrologic calculations, soil reports, erosion and sediment control plan, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the structural and/or non-structural BMPs proposed for managing storm water generated at the project site. The City SWPPP shall include a landscaping plan in accordance with Section 16-03-160(c). The intent of the City SWPPP is to determine the type of storm water BMPs necessary for the proposed project and to ensure adequate planning for long-term operation, management, and maintenance of storm water run-off from future development. The Storm Water Official may prepare a City SWPPP checklist for assistance in preparing such plans.

(b) For development, redevelopment or construction activities occurring on a previously developed site, an applicant shall be required to include within the City SWPPP BMPs for controlling existing storm water run-off discharges from the site in accordance with the standards of this Title to the maximum extent practicable.

(c) For developments, projects or construction activities involving a residential, commercial or industrial subdivision, the applicant shall be required to include with the City SWPPP individual lot development standards and recommended BMPs for home or building construction activities within the subdivision.

(d) For projects, developments and construction activities requiring a State UPDES Permit and SWPPP, applicants may submit the SWPPP submitted to the State for purposes of the City SWPPP, provided, the City reserves the right to require additional information or conditions in accordance with the provisions of this Title.

(e) For individual lot developments, projects or construction activities within a subdivision previously approved under the terms and conditions of this Title, including issuance of a City Storm Water Permit and City SWPPP, the applicant may submit the City SWPPP submitted for the previously approved subdivision, provided, the City reserves the right to require additional information or conditions in accordance with the provisions of this Title.

(f) The Storm Water Official may waive any City SWPPP requirements set forth herein in conjunction with the issuance of a Storm Water Permit for any building permit or individual lot development or construction activity which is not subject to the Federal EPA requirements to obtain a City Storm Water Permit (i.e. disturbs one (1) acre or more of ground in connection with any development, land disturbance, or construction activity within the City or disturbs less than one (1) acre of ground which is part of a larger common plan of development that disturbs one (1) acre or more of ground). In determining whether to grant a waiver of any of the City SWPPP requirements, the Storm Water Official shall consider the following with respect to the property and circumstances associated with the same: topography, vegetation, wetlands, steep slopes, sensitive areas, high water table, proximity to water channels, creeks, well or riparian areas, and existing construction and infrastructure.

16-03-050. Licensed Professional Engineer.

All proposed storm water facilities and submitted plans shall be calculated, designed and certified by a licensed professional engineer.

16-03-055. Bond.

Prior to issuance of a Storm Water Permit, the applicant and responsible parties shall enter into a bond agreement with the City to insure completion of, compliance with, and performance under the terms and conditions of this Title regarding storm water pollution prevention, including, but not limited to, compliance with the terms and conditions of this Chapter, the Storm Water Pollution Prevention Plan, and any additional conditions required by the Storm Water Official and/or City Engineer as provided herein. The bond agreement shall be in a form and contain such provisions as approved by the City. Such provisions may be included in and combined with any other additional bonds required for the project, development or construction activity, such as the public improvements bond for subdivisions. The bond amount shall be determined by the Storm Water Official and City Engineer on a case by case basis depending upon the property and circumstances, including, but not limited to, the storm water BMPs proposed for the project. The City shall have the right to use the bond proceeds in the event the permit holder fails to comply with the terms and conditions of the bond agreement. The City shall retain a percentage of the bond proceeds to cover administrative costs incurred by the City in obtaining compliance or completion of improvements. If the bond proceeds are inadequate to pay the cost of completion of, compliance with, and performance under the terms and conditions of the bond agreement, the permittee shall be responsible for the deficiency and no further construction or development activities shall be conducted on the project until the deficiency is paid or remedied and a new bond, satisfactory to the City, is executed and delivered to the City.

16-03-060. Permit Review and Approval.

The Storm Water Official and/or City Engineer shall review all Storm Water Permit applications and City SWPPP for compliance with the terms and conditions of this Title. In the event the Storm Water Permit application or City SWPPP as submitted is deemed inadequate or fails to meet the terms and requirements of this Title, the Storm Water Official and/or City Engineer may require additional information or impose additional conditions and requirements on the proposed construction activities to the extent necessary to bring the application and/or plan into compliance with the terms and purposes of this Title. Failure to comply with the terms and conditions of this Title shall be grounds for denial of the Storm Water Permit and/or any development, land use, subdivision or land disturbance permit or approval. No construction activity, land use or land disturbance activity shall occur on the subject property until a Storm Water Permit is approved by the Storm Water Official and/or City Engineer.

16-03-070. Notice of Commencement of Work.

After issuance of a permit, the Storm Water Official shall be notified by the permittee of proposed commencement of the work at least twenty-four (24) hours prior to commencement of work.

16-03-080. Permit Duration and Extensions.

A Storm Water Permit shall be valid for the time period specified in the permit. If the work is not completed during such period, prior to the expiration of the permit, the permittee may apply to the City for a permit extension. A permit extension shall be reviewed and approved by the Storm Water Official and/or City Engineer and shall only be issued upon a showing of good cause. The length of the extension shall not exceed the original term and shall be determined by the Storm Water Official and/or City Engineer. Any extension shall require written review and amendment to the Storm Water Permit, SWPPP, and bonding, as necessary.

16-03-090. Permit Nontransferable or Assignable.

Storm Water Permits shall not be transferable or assignable and work shall not be performed under a permit in any place other than that specified in the permit. Nothing contained herein shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this Title. Subcontractors shall be appropriately licensed, insured and bonded.

16-03-100. Compliance with Other Ordinances.

The issuance of any Storm Water Permit by the City shall be subject to and conditioned upon compliance with all other applicable City Ordinances regarding the proposed land disturbance or construction activity, including, but not limited to, Subdivision Ordinance, Zoning Ordinance, excavation, erosion control and grading permit ordinances, and other land use development requirements.

16-03-110. Permit Kept On-Site.

Any approved Storm Water Permit, SWPPP and all related documents and plans shall be kept on-site at the project.

16-03-120. Inspection.

Field inspections may occur during and post-construction to verify BMPs are built and properly designed and to ensure BMPs are properly maintained. Field inspections for compliance with this Title and any permits issued hereunder shall be conducted by the Storm Water Official, the City Building Inspector, the City Ordinance Enforcement Officer, and/or other designated agent of the City. The Storm Water Official may prepare an inspection checklist to assist in field inspections.

16-03-130. As-Built Plans.

In addition to all other Ordinance requirements, all permittees subject to the terms and conditions of this Chapter are required to submit actual as-built plans for any and all permanent storm water BMPs and facilities after final construction is completed. As-built plans must show the final design specifications for all storm water BMP facilities and must be certified by a licensed professional engineer. A final inspection by the Storm Water Official and/or City Engineer is required before release of any bond can occur.

16-03-140. Notice of Termination (NOT).

(a) Operators. Operators wishing to terminate coverage under the City Storm Water Permit must submit a notice of termination (NOT) to the City. Such NOT shall be submitted to the Storm Water Official.

(b) Permittees. All permittees must submit a NOT within thirty (30) days after completion of their construction activities and final stabilization of their portion of the site, or another operator taking over all

all of their responsibilities at the site. A permittee cannot submit a NOT without final stabilization unless another party has agreed to assume responsibility for final stabilization of the site. Appropriate enforcement action may be taken for permit violations where a permittee submits a NOT but the permittee has not transferred operational control to another permittee or the site has not undergone final stabilization.

16-03-150. Storm Water Management Performance Criteria.

Unless determined by the Storm Water Official and/or City Engineer to be exempt or granted a waiver, the following performance criteria shall be utilized and addressed for storm water BMPs at all sites and proposed land disturbance or construction activities.

(a) All site designs shall establish storm water BMPs to control the peak flow rates of storm water discharge associated with specified design storms (specified by the UPDES Storm Water General Permit for Construction Activities UTR100000) and reduce the generation of storm water. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water run-off from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) No storm water run-off generated from new development shall be discharged directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Storm Water Official and City Engineer. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the Department of Environmental Quality (DEQ) responsible for natural resources.

(c) Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall mimic the annual recharge from pre-development site conditions. This subsection shall not apply to areas with high water tables.

(d) All site designs shall establish storm water BMPs to minimize, to the maximum extent practicable, sediment, debris and all other pollutants from entering the storm drain system during all phases of demolition. The owner, developer, contractor and/or their authorized agents shall be responsible for the removal of all construction debris, dirt, trash, rock, sediment, and sand that may accumulate in the storm drain system and storm water appurtenances as a result of site development.

(e) All site designs shall establish storm water BMPs to minimize, to the maximum extent practicable, soil erosion. Any earth disturbance shall be conducted in such a manner so as to effectively reduce accelerated soil erosion and resulting sedimentation. All earth disturbances shall be designed, constructed, and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest possible period of time. Soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within fourteen (14) calendar days after final grading, or final earth disturbance, has been completed. All temporary soil erosion control measures shall be maintained until permanent soil erosion control measures are implemented

(f) Storm water discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water BMPs.

(g) Storm water discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural BMPs and pollution prevention practices.

(h) Post-construction storm water BMPs, where practicable, shall be installed during the construction process to control pollutants in storm water discharges that will occur after construction

operations have been completed. Post-construction storm water BMPs may include, but are not limited to, storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of run-off on-site; and sequential systems (which combine several practices).

(i) Prior to design, applicants shall consult with the Storm Water Official to determine if the project or activity is subject to additional storm water design requirements.

16-03-160. Storm Water Management Design Criteria.

(a) Site Design. Storm water BMPs for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

- (1) Topography;
- (2) Maximum Drainage Area;
- (3) Depth to Water Table;
- (4) Removal of Suspended Sediment;
- (5) Soils;
- (6) Slopes;
- (7) Terrain;
- (8) Head; and
- (9) Location in relation to environmentally sensitive features.

(b) Conveyance. All storm water BMPs shall be designed to convey storm water to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but is not limited to:

- (1) Maximizing of flowpaths from inflow points to outflow points;
- (2) Protection of inlet and outfall structures;
- (3) Elimination of erosive flow velocities; and
- (4) Providing of underdrain systems, where applicable.

(c) Landscaping. When deemed necessary by the Storm Water Official or City Engineer, all storm water BMPs and City SWPPP shall have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. When required, this plan shall be prepared by a registered landscape architect.

(d) Maintenance. The permittee carrying out all BMPs and control measures under the provisions of this Title, and all subsequent owners or tenants of the property on which such measures have been taken, shall maintain all temporary and permanent BMPs and control measures. Should the permittee, or any subsequent property owner and/or tenants, fail to adequately maintain the temporary and permanent BMPs and control measures, the City reserves the authority to enter the affected property and to take such action as is necessary in accordance with the enforcement and violation provisions of Chapter 16-6.

16-03-170. Waivers.

(a) Every applicant shall provide for storm water management as required by this Title unless a written request to waive such requirement is filed with and approved by the City. Requests to waive the storm water management permit and/or plan requirements shall be submitted to the Storm Water Official and shall be reviewed and approved by the Storm Water Official and the City Engineer. The City is not authorized to grant any waiver of State or Federal requirements and no waiver granted by the City hereunder shall be interpreted to grant such authority. The decision to grant a waiver under this Section shall be within the sole discretion of the City.

(b) The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant and approval by the City, provided that at least one of the following conditions applies:

(1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance;

(2) Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the Storm Water Official and City Engineer and the implementation of the plan is required by City Ordinance;

(3) Provisions are made to manage storm water by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the storm water practice; or

(4) The Storm Water Official and City Engineer find that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

(c) In instances where one of the conditions above applies, the Storm Water Official and City Engineer may grant a waiver from strict compliance with these storm water management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the Storm Water Official and City Engineer that the waiver will not result in the following impacts to downstream waterways:

(1) Deterioration of existing culverts, bridges, dams, and other structures;

(2) Degradation of biological functions or habitat;

(3) Accelerated streambank or streambed erosion or siltation; or

(4) Increased threat of flood damage to public health, life, property.

(d) Where compliance with minimum requirements for storm water management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the jurisdictional storm water authority. Mitigation measures may include, but are not limited to, the following:

(1) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat;

(2) The creation of a storm water management facility or other drainage improvements on previously developed properties, public or private, that currently lack storm water management facilities designed and constructed in accordance with the purposes and standards of this ordinance; or

(3) Monetary contributions (Fee in Lieu) to fund storm water management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of storm water BMPs).

16-03-180. Fee in Lieu.

Where the City waives all or part of the minimum storm water management requirements, or where the waiver is based on the provision of adequate storm water facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount determined by the City in accordance with the provisions of this Section. When an applicant obtains a waiver of the required storm water management, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the storm water authority agree on a greater alternate contribution) established by the City, and based on the cubic feet of storage required for storm water management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any City approval or permit for the development, land disturbance or construction activity.

16-03-190. Dedication of Land.

In lieu of a monetary contribution, an applicant may obtain a waiver of the required storm water management by entering into an agreement with the City for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site storm water management facility. The agreement shall be entered into by the applicant and the City prior to the recording of plats or, if no record plat is required, prior to City approval or permit for the development, land disturbance or construction activity.