

**ORDINANCE NO. 2-2012
CITY OF PASCAGOULA, MISSISSIPPI**

**AN ORDINANCE TO ESTABLISH A STORM WATER MANAGEMENT PROGRAM;
TO PROVIDE POLICIES, PROCEDURES AND PERMITTING PROCESSES; TO
ESTABLISH ENFORCEMENT PROVISIONS; TO ESTABLISH AN EFFECTIVE
DATE; AND FOR RELATED PURPOSES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
PASCAGOULA, MISSISSIPPI:**

**ARTICLE 1.0 STATEMENTS OF PURPOSE AND OBJECTIVES. CITATION TO
ORDINANCE**

SECTION A. PURPOSE

- A. The purpose of this ordinance is to protect the environment, public health, safety, property and general welfare of the citizens of the City, through the regulation of Storm Water and Illicit Discharges into the City Drainage System or any separate storm sewer 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 City Drainage System in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
- B. This ordinance is not intended to modify or repeal any other City ordinance, rule or regulation. The requirements of this ordinance are in addition to the requirements of any other City ordinance, rule or regulation, and where any provision of this ordinance imposes restrictions different from those imposed by any other City ordinance, rule or regulation, whichever provision is more restrictive or imposes higher protective standards shall control.

SECTION B. OBJECTIVES

- A. The objectives of this ordinance are:
 - (1) to regulate or restrict the introduction of pollutants that may potentially enter the City Drainage System;
 - (2) to prohibit Illegal Connections and Illicit Discharges to any separate storm sewer system;
 - (3) to identify, define, and regulate erosion, sediment and detention controls related to Storm Water;
 - (4) to prevent discharges that may occur as a result of spills, inappropriate dumping or disposal, or improper connections to the City Drainage System, whether from residential, industrial, commercial or institutional establishments;
 - (5) to provide the City with the means to effectively manage Storm Water, non-conformance, and Illicit Discharges, and to establish enforcement actions for

- those persons or entities found to be in noncompliance, or that refuse to allow access to their Facilities;
- (6) to maintain after development, as nearly as possible, predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding; and
 - (7) to establish means to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this ordinance.

SECTION C. CITATION

This ordinance may be cited as the Pascagoula Storm Water Ordinance.

ARTICLE 2.0 DEFINITIONS

Accidental Discharge: A discharge prohibited by this ordinance, which occurs by chance, and without planning or thought prior to occurrence.

Authorized Enforcement Agency: The City.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices designed to prevent or reduce the discharge of pollutants directly or indirectly to Storm Water, receiving waters, or Storm Water 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.

Best Management Practices (BMPs) – Non-Structural: A policy, practice or preventive action that involves operational planning and source controls designed to provide a reasonable approach to Storm Water management.

Best Management Practices (BMPs) – Structural: A physical device designed and constructed or manufactured to trap or filter Pollutants from runoff, to reduce runoff velocities, or to minimize or prevent the effects of soil erosion caused by Storm Water.

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. These include construction projects resulting in land disturbances. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

City: City of Pascagoula, Mississippi.

City Council: The governing body of the City.

City Drainage System (CDS): Any City maintained or designated roadway, ditch, culvert, channel, or conduit intended to direct water flows.

City Manager: The City Manager or person designated to act for the City Manager.

Facility: A structure, installation, or system that is designed to serve a particular purpose, service, or function.

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 Connections: Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the City Drainage System including, but not limited to, any conveyances which allow any non-Storm Water discharge, including sewage, process wastewater, wash water, or any other such discharge, to enter the City Drainage System and any connections to the City Drainage System from any source, regardless of whether such pipe, open channel, drain, connection, or source had been previously allowed, permitted, or approved by the City.

Illicit Discharge: Any direct or indirect discharge into the City Drainage System that is not composed entirely of Storm Water.

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

Larger Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are occurring under one plan. The plan in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design) or physical demarcation (including boundary signs, lot stakes, survey markings), indicating that construction activities may occur on a specific plot.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by EPA (or by the 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 City Drainage System that is not composed entirely of Storm Water.

Person: Any individual, association, organization, partnership, firm, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision

of the State, any interstate body or other legal entity, joint venture, public or private corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant: Any substance which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, petroleum hydrocarbons, automotive fluids, cooking grease, detergents (biodegradable or otherwise), degreasers, cleaning chemicals, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, discarded or abandoned objects, munitions, accumulations that may cause or contribute to pollution, any floatables, pesticides, herbicides, 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, including concrete or cement (this includes water from washing out cement trucks) and noxious or offensive matter of any kind or any other substance which has been or may be determined to be a Pollutant.

Pollution: The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any substance or condition, including, but not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or waters as will or are likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Premises: Any parcel of land whether improved or unimproved.

State Waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State, which are not entirely confined and retained completely upon the property of a single person.

Storm Drainage System: Any one or more of various devices used in the collection, treatment or disposition of storm, flood or surface drainage waters, including, but not limited to, any roads with drainage systems, natural and human-made or altered drainage channels, reservoirs, manmade structures and natural watercourses and or floodplains for the conveyance of runoff, such as detention or retention areas, berms, swales, improved gutters, pumping stations, pipes, ditches, siphons, catch basins, inlets, and other equipment and appurtenances and all extensions, improvements, remodeling, additions and alterations thereof; and all rights or interests in such Storm Water Facilities.

Storm Water: Any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation, which is not absorbed, transpired, evaporated or left in surface depressions, and which then flows controlled or uncontrolled into a Watercourse or body of water.

Storm Water Pollution Prevention Plan (SWPPP): A document which describes the Best Management Practices (BMPs) 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 Storm Water, Storm Water conveyance systems or receiving waters to the maximum extent practicable.

Structural Storm Water Control: A structural Storm Water management facility or device that controls Storm Water and changes the characteristics of that runoff, including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

Wastewater: Any water or other liquid, other than uncontaminated Storm Water, discharged from a Facility.

Watercourse: Any stream, river, drainage channel or drainage easement in the City.

ARTICLE 3.0 APPLICABILITY

This ordinance shall apply to any and all water entering the City Drainage System generated on any developed or undeveloped lands throughout the City unless explicitly exempted by the City. The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of Pollutants.

ARTICLE 4.0 RESPONSIBILITY FOR ADMINISTRATION

The City Manager shall enforce the provisions of this ordinance.

ARTICLE 5.0 SEVERABILITY

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

ARTICLE 6.0 POLICY

No owner of any parcel of land or property, whether with or without a structure thereupon, shall permit the erosion or escape of soil, sand, gravel, or similar material from the parcel onto any adjoining property, public street or into any drainage channel that receives Storm Water from the parcel in such quantities as to harm the adjoining property, public street, drainage channel or City Drainage System. In the development or use of any site, the owners or occupants shall not construct any structure or conduct any activity so as to cause the discharge of Storm Water in such a manner as to cause erosion or to increase blockage of a channel or the City Drainage System. This includes both pre-construction and post-construction.

SECTION A. PERMITTING

Storm Water permits and Storm Water Pollution Prevention Plans (SWPPP) are required as follows:

- 0-9 Acre of land disturbed: No permit or SWPPP required unless the disturbance is part of a Larger Common Plan of Development or Sale, in which case a SWPPP may be requested or required if there are complaints or nuisance conditions.
- 1-5 Acres of land disturbed: Permit required from the City and from MDEQ.
- Above 5 Acres: Permit required from the City and from Mississippi Department of Environmental Quality (MDEQ) with an SWPPP submitted to the City and a Large Construction NOI and SWPPP submitted to MDEQ.

ARTICLE 7.0 CONSTRUCTION OR INDUSTRIAL ACTIVITY

Any person subject to an industrial or construction activity National Pollution Discharge Elimination System (NPDES) Storm Water Discharge Permit shall comply with all provisions of such permit. Proof of compliance with the permit may be required in a form acceptable to the City prior to the allowing of discharges to the City Drainage System. Dumping excess cement and washing out cement trucks are included in this article.

SECTION A. STANDARDS AND REQUIREMENTS FOR EROSION OR SEDIMENT CONTROL

- (a) Prior to the final approval of the plat of any subdivision, or prior to commencement of construction upon any lot or parcel of land for which a drainage report and construction plan for the installation of Storm Water Facilities has not been prepared and approved, the owner of the property being subdivided or upon which construction is being commenced shall, at such owner's cost, prepare a detailed drainage report and construction plans for the installation of all Storm Water Facilities required for such subdivision or lot, including any off-site Facilities required to convey Storm Water to existing drains, channels, streams, detention ponds or to other points, all in conformity with the SWPPP on file.
- (b) No final subdivision plat, subdivision construction plan, site plan or building permit shall be approved by the City unless the plans for the proposed development include temporary and permanent erosion and sedimentation control measures such that siltation of drainage ways are minimized.
- (c) The above requirement shall be accomplished through a combination of the following practices:
 1. installation of structural BMPs before and during construction in order to reduce on-site soil erosion and provide temporary capture of sediment;
 2. temporary and permanent revegetation of bare ground in order to stabilize disturbed soil at the earliest practicable date;
 3. construction of on-site Storm Water detention facilities by the landowner or developer in a manner such that detention ponds function as temporary sedimentation basins until permanent revegetation of the subject tract is accomplished; and
 4. other measures which may be necessary to control erosion and sedimentation on a site-by-site basis.
- (d) BMP design standards are found in "Erosion Control, Sediment Control and Storm Water Management on Construction Sites and Urban Areas (Three Volumes)" prepared by the Mississippi Department of Environmental Quality, the Mississippi

Soil and Water Conservation Commission and the USDA Soil Conservation Services, which identifies BMPs acceptable to the City and related standards for the prevention, treatment and control of nonpoint sources.

SECTION B. STANDARDS AND REQUIREMENTS FOR STORM WATER DETENTION

- (a) It is prohibited to place fill material or construct impervious cover or construct or place any other structure on a person's property or perform any excavation or grading in a manner that alters the flow of surface water across the property in a manner that damages any adjacent property.
 - 1. No final subdivision plat, subdivision construction plan, site plan or building permit shall be approved by the City unless it can be demonstrated by the owner or developer of such property that the proposed development will not result in damage to any adjacent or downstream property. This will be certified by a professional engineer's submittal of sufficient data and calculations based upon the 2-year, 5-year, 10-year, 25-year and 50-year 24-hour storm events.
- (b) The above requirement shall be accomplished through one of the following means:
 - 1. Design and construction of an on-site Storm Water detention Facility, or Facilities, by the owner or developer that limits the peak flood flow from the proposed development to the existing peak flood flow from the subject tract.
 - 2. Construction of, or participation in the construction of, off-site drainage improvements, such as storm inlets, storm sewers, culverts, channel modifications, land filling, or other drainage facilities such that the peak flood flow for fully-developed watershed conditions from the watershed area in which the proposed development is located will be sufficiently and safely passed without flooding of adjacent and downstream property and roadways.
 - 3. Design and construction of the development utilizing engineering data and calculations, using limited impervious cover, infiltration of runoff from impervious cover via flow through pervious areas, or grass-lined swales or channels such that these measures result in a minimal increase in peak flow from the development.
 - 4. All on-site Storm Water detention facilities shall be designed to adequately and safely pass all Storm Water inflow, including flow and runoff from upstream and adjacent properties that have natural or existing overland flow toward and onto the subject tract. The on-site Storm Water detention facilities shall not impound Storm Water onto or cause backwater to inundate any upstream or adjacent properties in excess of existing conditions.

SECTION C. ILLICIT DISCHARGES

- (a) It shall be unlawful for any person to allow discharges to the City Drainage System that are not composed entirely of Storm Water, or to contribute to increased nonpoint source pollution and degradation of receiving waters.

- (b) It shall be unlawful for any person to throw, deposit, empty, drain, discharge, or to permit to be thrown, deposited, emptied, drained or discharged into any creek, or upon its margins, slopes, banks, or Storm Water drainage system within the City any garbage, rubbish, refuse, hair, ashes, cinders, fruit, vegetables, paper, rags, any animal carcass or waste, sewage, excrement, urine, liquid, or semi-liquid waste from any source, or any noxious solid or liquid.
- (c) No Person shall, or allow others under his control, throw, drain, or otherwise discharge or cause to be discharged into the City Drainage System any Pollutants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than Storm Water. The commencement, conduct or continuance of any Illicit Discharge to the City Drainage System is prohibited except as follows:
 - 1. discharges specified in writing by the City as being necessary to protect public health and safety;
 - 2. water line flushing performed by the City;
 - 3. landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants; and
 - 4. dye testing is an allowable discharge, but requires notification to the City prior to the time of the test.
- (d) This prohibition shall not apply to any non-Storm Water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the City Drainage System.

SECTION D. ILLEGAL CONNECTIONS

The construction, connection, use, maintenance or continued existence of any Illegal Connection to the City Drainage System is prohibited. This prohibition expressly includes, without limitation, Illegal Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. The construction, use, maintenance or continued existence of Illegal Connections to the City Drainage System is prohibited.

- (a) A person is considered to be in violation of this ordinance if the Person connects a line conveying sewage to the City Drainage System, or allows such a connection to continue.
- (b) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewerage system of the City upon approval of the City.

- (c) Any drain or conveyance that has not been documented in plans, maps or equivalent, which may be connected to the City Drainage System, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the City Drainage System, sanitary sewerage system or other discharge point be identified. Results of these investigations are to be documented and provided to the City.

ARTICLE 8.0 MONITORING OF DISCHARGES, ACCESS TO AND INSPECTING PREMISES AND FACILITIES

SECTION A. APPLICABILITY

This section applies to all Premises that create Storm Water discharges associated with the use of the property.

(a) Access to Properties and Facilities:

- (1) The City Manager shall be permitted to enter and inspect Premises and Facilities subject to regulation under this ordinance at reasonable times and 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 by the City Manager.
- (2) Property owners and Facility operators shall allow the City Manager access to all parts of the Premises for the purposes of inspection, sampling, photographing, videotaping, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge Storm Water, and the performance of any additional duties as defined by State and Federal law.
- (3) The City Manager shall have the right to set up on any permitted property such devices as are necessary to conduct monitoring or sampling of the Facility's Storm Water discharge.
- (4) The City Manager has the right to require a discharger to install monitoring equipment as necessary, and perform monitoring and make the monitoring data available to the City. The 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 Storm Water flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction that does not allow safe and easy access to the property to be inspected or sampled shall be promptly removed by the owner at the written or oral request of the City Manager and shall not be replaced. The costs of removing shall be borne by the owner.
- (6) Unreasonable delays in allowing the City Manager access to a permitted property is a violation of a Storm Water discharge permit and of this ordinance. A person who is the owner of property with a NPDES permit to discharge Storm Water

associated with Industrial Activity commits an offense if the person denies the City Manager reasonable access to the permitted property for the purpose of conducting any activity authorized or required by this ordinance.

- (b) If the City Manager has been refused access to any part of the Premises from which Storm Water is discharged, and 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 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, environment, and welfare of the community, then the City Manager may seek issuance of an administrative warrant from the Municipal Court.

**ARTICLE 9.0 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE
STORM WATER POLLUTION BY THE USE OF BEST MANAGEMENT PRACTICES
(BMPs)**

The City Council 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 City Drainage System, or waters of the U.S. The owners or operators of commercial or industrial establishments shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the City Drainage System through the use of structural and non-structural BMPs. Further, any Person responsible for a parcel, which is, or may be, the source of an Illicit Discharge, may be required to implement, at the Person's expense, additional Structural and Non-structural BMP's to prevent the further discharge of Pollutants to the City Drainage System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Storm Water associated with Industrial Activity shall be deemed compliance with the provisions of this section. These BMP's shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

ARTICLE 10.0 WATERCOURSE OR EASEMENT PROTECTION

Any 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.

ARTICLE 11.0 NOTIFICATION OF SPILLS

In the event of a release of Hazardous Materials, emergency response agencies or other appropriate agencies shall be immediately notified. Notwithstanding other requirements of law, as soon as any Person responsible for a Facility, activity, or operation, or responsible for emergency response for a Facility, activity, or operation, has information of any known or suspected release of Pollutants or non-Storm Water materials from that facility, or operations

which are resulting or may result in Illicit Discharges into the City Drainage System, State waters, or waters of the U.S., such person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge .

In the event of recognition of such a release of Hazardous Materials the Person shall immediately notify the City Manager and emergency response agencies of the occurrence, either in person, by phone, or facsimile, no later than 24 hours after discovery of the occurrence. In the event of a release of non-Hazardous Materials, the person shall notify the City Manager in person or by phone or facsimile no later than 5:00 P.M. the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Manager within three business days of the personal or the telephonic notice.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Such Person shall also take immediate steps to ensure no recurrence of the discharge or spill. Failure to provide notification of a release as provided above is a violation of this ordinance.

ARTICLE 12.0 VIOLATIONS

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Anyone who has violated or continues to violate a provision of this ordinance, may be subject to enforcement actions outlined in this section or may be restrained by injunction or otherwise restricted in a manner provided by law. When the City Manager finds a violation of this ordinance has occurred, the City Manager may order compliance by written notice of violation.

SECTION A. NOTICE OF VIOLATION

(a) The notice shall contain:

- (1) the name and address of the alleged violator;
- (2) the address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) a statement specifying the nature of the violation;
- (4) a description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) a statement of the penalty or penalties that may be assessed against the Person to whom the notice of violation is directed; and
- (6) a statement that the determination of violation may be appealed to the City Council by filing a written notice of appeal with the City Clerk within fifteen (15) days of service of notice of violation.

(b) Such notice may require:

- (1) the performance of monitoring, analyses, and reporting;
- (2) the elimination of Illegal Connections or Illicit Discharges;

- (3) that violating discharges, practices, or operations shall cease and desist and, depending on the severity of the violation, offending Person(s) may be given as little as 24 hours to clean up sediments, Pollutants, etc., and an additional 24 hours to put Storm Water controls in place, otherwise, a stop-work order may be issued;
- (4) the abatement or remediation of Storm Water pollution or contamination hazards and the restoration of any affected property;
- (5) payment of any costs to cover remediation or abatement expenses; and
- (6) the implementation of source control, pollution prevention practices, or treatment BMPs.

If abatement of a violation or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by City or a contractor and the expense thereof charged to the violator.

SECTION B. ENFORCEMENT

If a violation constitutes an immediate danger to public health or safety, the City Manager is authorized to enter upon the premises, without giving prior notice, to take any and all measures necessary to abate the violation. After abatement of the violation, the owner of the property shall be notified of the cost of abatement, including administrative costs. The property owner may file an appeal to the City Council within 15 days of the receipt of such notice. If the amount due is not paid in a timely manner as determined by the decision of the City Council or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

ARTICLE 13.0 PENALTIES AND PROSECUTION

SECTION A. CIVIL REMEDIES

If the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the City Manager shall deem appropriate, after the City has taken one or more of the actions described above, the City may seek any legal or equitable remedy available under the law. The City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION B. CRIMINAL PROSECUTION

A violation of this ordinance shall be deemed a misdemeanor. The City may issue a citation to the alleged violator requiring such Person to appear before the Municipal Court to answer charges for such violation. Upon conviction, such Person shall be punished by a fine not to exceed \$1,000 or imprisonment in the City jail for not more than 90 days, or both.

SECTION C. INJUNCTIVE RELIEF

If a Person has violated or continues to violate the provisions of this ordinance, the City may petition for an injunction restraining the Person from activities that would create further violations or compelling the Person to perform abatement or remediation of the violation.

SECTION D. ALTERNATIVE ACTION

In addition to any other remedy, the City may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, or similar action.

SECTION E. 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 City to seek cumulative remedies.

SECTION F. VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided herein, if any condition caused or permitted to exist in violation of this ordinance is a threat to public health, safety, welfare or environment it will be deemed a public nuisance, and may be abated by injunctive or other relief provided by law.

SECTION G. SUSPENSION OF ACCESS TO STORM DRAINAGE SYSTEM(S)

(a) Suspension due to Illicit Discharges in emergency situations

The City may, without prior notice, suspend discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent substantial danger to the environment, to the health or welfare of Persons, or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the City Drainage System or waters of the United States, or to minimize danger to Persons.

(b) Suspension due to the detection of Illicit Discharge

1. A Person discharging to the City Drainage System in violation of this ordinance may have access thereto terminated if such termination would abate or reduce an Illicit Discharge. The City Manager will notify a violator of the proposed termination of its City Drainage System access. The violator may petition the City Manager for a reconsideration and hearing.
2. A Person commits an offense if the Person reinstates access to Premises terminated pursuant to this section, without the prior approval of the City Manager.

ARTICLE 14.0 APPEALS

Any Person receiving a notice of violation may appeal to the City Council within 15 days of receipt of notice. The notice of appeal must be filed with the City Clerk. A hearing on the appeal shall be set by the City Council with at least ten (10) days written notice to the violator.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an unsuccessful appeal, then representatives of the City may enter upon the subject premises and are authorized to take any and all measures necessary to abate the violation. If access is refused the City Manager may request an administrative warrant from the Municipal Court authorizing such access.

ARTICLE 15.0 EFFECTIVE DATE

This ordinance shall become effective one month after passage.

ARTICLE 16.0 CODIFICATON

This ordinance shall not be codified.