

Chapter 7

LITTLETON STORM DRAINAGE ORDINANCE

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7-7-1: SHORT TITLE:

This chapter shall be known and be cited as the *LITTLETON STORM DRAINAGE ORDINANCE*. (Ord. 30, Series of 2005)

7-7-2: DEFINITIONS:

Terms not otherwise defined herein shall have the meanings set forth in sections 1-3-2, 7-5-2 or 7-5-25 of this code.

BEST MANAGEMENT PRACTICES: Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. This includes treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal or drainage from raw

material storage. Used interchangeable with the term control measure, and can include other methods such as the installation, operation and maintenance of structural controls and treatment devices.

CITY: the City of Littleton, Colorado.

CONSTRUCTION ACTIVITY: Refers to ground surface disturbing and associated activities (land disturbance), which include but not limited to, clearing, grading, excavation, demolition, installation of new roads or improved roads, staging areas, stockpiling of materials and borrow areas. Construction does not include routine maintenance to maintain original line and grade, hydraulic capacity or original purpose of the facility. Activities to conduct repairs that are not part of regular maintenance or for replacement are construction activities and are not routine maintenance. Repaving activities where underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation are considered construction activities unless they are an excluded site as defined by WQCD. Construction activity is from initial ground breaking to final stabilization regardless of ownership of construction activities.

CONTROL MEASURE: Any best management practice or other method used to prevent or reduce the discharge of pollutants to waters of the state. Control measures include, but are not limited to best management practices. Control measures can include other methods such as the installation operation and maintenance of structure controls and treatment devices.

DEVELOPMENT: Land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces, and land subdivision for a site that does not meet the definition of redevelopment.

DIRECTOR: The city's director of the department of public works, or an authorized designee.

DISCHARGE: The introduction of additional of a pollutant into state waters. Alternatively, a unit of measurement of flow (volume per segment of time).

FINAL STABILIZATION: When all ground surface disturbing activities at the site have been completed, and uniform vegetative cover has been established with an individual plant density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed.

HAZARDOUS MATERIAL: Any substance, water, 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 human hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous materials are considered a category of illicit discharge.

ILLICIT: Illegal

ILLICIT CONNECTION: Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system.

ILLICIT DISCHARGE: Any discharge to a storm drainage facility that is not composed entirely of stormwater except discharges specifically authorized by a CDPS or NPDES permit and discharges resulting from emergency firefighting activities.

IMPERVIOUS AREA or IMPERVIOUS SURFACE: Developed areas with covering or pavement that prevents the land's natural ability to absorb and infiltrate typical precipitation and irrigation events. Impervious areas include, but are not limited to; roof tops, walkways, patios, driveways, parking lots, impervious storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering.

LAND DISTURBING ACTIVITY: Any activity that results in a change in the existing land surface (both vegetative and non-vegetative). Land disturbing activities include, but are not limited to clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity.

MINIMIZE: For purposes of implementing control measures; reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practices.

MUNICIPAL or MUNICIPALITY: Refers to a city, town, county, district, association, or public body created or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains), that is owned or operated by a municipality, that is designed or used for collecting or conveying stormwater, which is not a combined sewer, and is not part of a publicly owned treatment works.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES): The nationwide program implemented by the Environmental Protection Agency to reduce pollutants in stormwater.

OPERATOR: The person or entity who is responsible for the overall operation of the facility or activity from which the associated discharge originates.

PART OF A LARGER COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules. "Contiguous" means construction activities located in close proximity to each other (within ¼ mile).

PERSON: Any individual, association, organization, partnership, firm, corporation, business or other entity recognized by law.

POLLUTANT: Dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal, or agricultural waste as defined in 5 CCR 1002-61.2(76).

POLLUTION: Man made or man induced, or natural alteration of the physical, chemical, biological and radiological integrity of water. See CCR 1002-61.2 (77).

PREMISE(S): Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking areas.

RECEIVING WATER: Any classified stream segment (including tributaries) in the State of Colorado into which stormwater discharges. This definition includes all water courses, even if they are usually dry, such as borrow ditches, arroyos, and other unnamed waterways.

REDEVELOPMENT: Includes a site that is already substantially developed and has 35% or more of existing hard surface coverage, the creation or addition of hard surfaces, the expansion of a building footprint or addition or replacement of a structure, structural development including construction, installation or expansion of a building or other structure, replacement of hard surface that is not part of a routine maintenance activity, and land disturbing activities.

STATE: For purposes of this chapter and provisions, the State of Colorado.

STORM DRAINAGE FACILITY: A structure, equipment, and use of land with the purpose of containing, controlling, or treating stormwater. This includes features that are made in conjunction with or that are related or incidental to the construction, installation or use of the above. Facilities include without limitation, curbs and gutters, cross pans, pipes, inlets, culverts, conduits, channels, bridges, swales, ditches, channels, detention ponds, emergency overflow facilities, temporary stormwater best management practices, and permanent post-construction storm water quality best management practices.

STORM DRAINAGE SYSTEM: Collectively all storm drainage facilities in the city.

STORM SEWER: A sewer that is intended to carry only storm or surface water runoff and drainage.

STORMWATER: Stormwater runoff, snow melt runoff, and surface runoff and drainage. See 5 CCR 1002-61.2 (103).

WATERCOURSE: Any channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir or lake, including major drainageways in which stormwater and flood water flows, either continuously or intermittently.

WATERS OF THE STATE: Any and all surface waters and subsurface waters which are contained in or flow in or through the state of Colorado, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition can include water courses that are usually dry.

(Renumber existing Section 7-7-3 to 7-7-6 and add in new section 7-7-3)

7-7-3: ABBREVIATIONS:

The following abbreviations shall mean:

BMP	Best Management Practice
CCR	Colorado Code of Regulations
CDPS	Colorado Discharge Permit System
CDPHE	State of Colorado Department of Public Health and Environment
CRS	Colorado Revised Statutes
EPA	Environmental Protection Agency
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and maintenance
SWMP	Stormwater Management Plan
UDFCD	Urban Drainage and Flood Control District
WQCD	Water Quality Control Division of the CDPHE

(Renumber existing Section 7-7-4 to 7-7-7 and add new section 7-7-4)

7-7-4: PURPOSE, OBJECTIVE AND SCOPE:

- (A) Stormwater runoff from land disturbance can have impact upon local and regional water resources, diminishing the quality of public health and safety, quality of public and private property, and natural resources of the city through flooding, pollutant loading, degradation of stream and wetland habitat, and impacts to recreational and water supply uses.
- (B) The intent of this ordinance is to set forth minimum requirements for stormwater management that will diminish threats to public health, safety, public and private

property from stormwater and pollutants, and promote, preserve, and enhance the quality of runoff within the city.

- (C) Non-stormwater discharges to the MS4 are subject to higher levels of pollutants that upon entering receiving waters, may adversely affect the quality of receiving waters. The purpose of this ordinance is to regulate such non-stormwater discharges that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive areas.
- (D) This section is adopted pursuant to the authorization and policies contained in the Colorado Water Quality Control Act¹ and comply with requirements set forth by the CDPHE and the MS4 permit, issued to the city of Littleton through the CDPS.

Footnote 1: CRS 25-8-101 et seq.

7-7-25: APPLICABILITY:

~~This chapter and its provisions shall apply to all applications for subdivisions, subdivision exemptions, planned development districts, planned development overlays and site plans, or manmade construction activities that result in land disturbance of equal to or greater than one acre, or less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one acre, except agricultural activities. (Ord. 30, Series of 2005)~~

- (A) This chapter and its provisions shall apply to all water entering the MS4 generated on any developed or undeveloped lands within the incorporated area of the city.
- (B) This chapter and its provisions shall apply to applications for development, redevelopment, and other construction in the city.
- (C) Proposed activities that result in land disturbance of equal to or greater than one acre, or less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre, except agricultural activities, shall also be subject to a separate permit from the CDPHE.

7-7-36: STANDARDS AND CRITERIA:

- (BA) The most current and amended city's Storm Drainage Design and Technical Criteria Manual (hereinafter in this chapter referred to as the "city's criteria") is hereby adopted by reference ~~shall be as regulations prepared and adopted by the director which shall provide~~

for storm drainage policies, plan review procedures, and shall also be used as the basis for design criteria for storm water runoff ~~transportation~~ conveyance, detention and retention facilities, ~~public information, public involvement, illicit discharge controls, temporary construction erosion control~~ best management practices, permanent structural and nonstructural post-construction storm water quality ~~enhancement~~ best management practices, and good housekeeping practices. Further, the city's criteria shall provide for storm water quality enhancement facilities or measures for all waters. The city's criteria shall be drafted so as to ensure that the public will be afforded reasonable protection from polluted storm waters, floods and other surface waters.

(re ordered subsections to place city criteria first)

(AB) The Urban Drainage and Flood Control District's (UDFCD) current amended edition of the "Urban Storm Drainage Criteria Manual", published by and available through the UDFCD, is hereby adopted by reference as regulations which may be applied by the ~~director of public services or his designee (hereafter "the director")~~ for purposes of design criteria for storm water runoff conveyance ~~transportation~~, detention and retention facilities, and temporary and permanent storm water quality management and erosion control.

(C) When there exists a conflict between the "Urban Storm Drainage Criteria Manual" and the city's criteria, the city's criteria shall control. The "Urban Storm Drainage Criteria Manual" shall ~~only be used when the city's criteria does not address the subject or land area in issue~~ question. The city's criteria shall provide that flow patterns and runoff rates of flow are to be controlled in such a manner so as to minimize the risk of current and future property damage and pollution. Said regulations shall, in addition, be based upon the criteria specified in section ~~7-7-4~~ 7-7-6 of this chapter and may be amended ~~from time to time~~ by the director to best accomplish the goal of reasonable public protection from surface runoff. (Ord. 30, Series of 2005)

7-7-4-7: AUTHORITY OF THE DIRECTOR:

~~The director or his designee shall have the authority to designate which of the above mentioned criteria from the above mentioned manuals shall be met by the property owner for the required amount of surface water on site detention or retention, temporary construction erosion control best management practices, permanent structural and nonstructural postconstruction storm water quality enhancement best management practices. The director's choice of criteria shall depend upon a consideration of all factors which afford downslope, upslope or adjacent structures, land or persons reasonable protection from floods or other surface waters, including, but not limited to:~~

~~(A) The runoff capacity of the specific drainage basin(s) involved;~~

~~(B) The topography of the site and adjacent and downslope properties;~~

~~(C) The distance of the site to any major watercourse or the thalweg of any drainage basin;~~

~~(D) The potential for surface water damage to downslope properties or anticipated future development;~~

~~(E) Whether the cost of compliance will substantially exceed the benefit realized or anticipated;~~

~~(F) The potential erosivity of the site;~~

~~(G) The potential to implement permanent structural or nonstructural postconstruction best management practices to remove pollutants from storm water; and~~

(A) The director and authorized designee shall have the authority to enforce this chapter.

(B) The director and authorized designee shall enforce the protection of surface waters from illicit discharges.

(C) The director and authorized designee shall require a stormwater management plan (SWMP) for construction activity and construction sites. The SWMP shall include temporary and permanent best management practices and control measures for water quality protection and trash removal, from initial disturbance until final stabilization. The Director and authorized designee shall enforce the implementation of the SWMP, which may require changes during construction, the maintenance of best management practices and control measures, or any modifications deemed necessary.

(D) The director and authorized designee shall require and enforce the implementation and maintenance of permanent, post-construction water quality control measures for applicable development and redevelopment sites. During the design phase, the director and authorized designee shall require an Operation and Maintenance (O&M) plan for permanent post-construction control measures to ensure adequate maintenance of such facilities by current and future landowners and property managers into perpetuity.

~~(H-E) Such other requirements and further criteria as may be relevant in achieving the goal of reasonable public protection from flooding and pollution of surface waters. (Ord. 30, Series of 2005)~~

7-7-6: LANDS EXEMPTED FROM PLATTING:

Land within a federally designated 100-year floodplain as specified in section [10-6-2](#) of the Littleton zoning regulations, or land within a city urban drainage and flood control district designated 100-year floodplain as specified by the district's flood hazard area delineation reports or its major drainageway master plans, or land within any other 100-year floodplain shall not be platted for occupancy nor shall a building or remodeling permit for new construction or substantial improvement be issued unless the applicant obtains a special exception permit or, when necessary, a floodplain variance, in conformance with the criteria and procedures as designated in [title 10](#) of this code. For purposes of this section, "100-year floodplain" is hereby defined as an "area of special flood hazard" as same is defined in section [10-6-2](#) of this code. (Ord. 30, Series of 2005)

7-7-7: SITE RUNOFF RATE:

The permitted site runoff rate from multifrequency storms shall be as specified by the director based upon the "Urban Storm Drainage Criteria Manual" or the city's criteria. Historic undeveloped, developed and anticipated runoff rates in the specific drainage basin(s) involved shall be used in determining the criteria as specified in the city's criteria and the facilities that shall be constructed in order to satisfy the requirements of this chapter. The 100-year frequency and either the 5- or 10-year frequency storm, plus the water quality capture volume or release rate, as specified in the "Urban Storm Drainage Criteria Manual", as applicable, shall be the multifrequency storms initially considered by the director for the purpose of design and building construction requirements. Other combinations of storm frequencies not shown on specific drainage basin map(s), which shall be included in the city's criteria may be required to be detained or retained by the director when, in the discretion of the director after considering the criteria referenced in section [7-7-4](#) of this chapter, the detention or retention of greater amounts of storm water runoff is required. When the required amounts of storm water detention or retention cannot be met by on-site detention or retention storage or other devices, suitable channelization and/or outfall storm sewer facilities leading to a suitable discharge point shall be required and shall be provided by the owner. (Ord. 30, Series of 2005)

7-7-8: SEWERS, FACILITIES INSTALLED; LAND GRADED:

All required storm sewers and drainage facilities, including, but not limited to: gutters, cross pans, catch basins, inlets, detention ponds, retention ponds, emergency overflow facilities, bridges, overflows, low flow channels and culverts, temporary construction erosion control best management practices, permanent structural postconstruction storm water quality enhancement best management practices, shall be installed, or [\(see new section 7-7-9 \(C\)\)](#)

7-7-138: ILLICIT DISCHARGES:

(A) For the purposes of this section, "stormwater" shall be defined as rainwater runoff, snowmelt runoff, and surface runoff and drainage. "Illicit discharges" shall be defined as any discharge to a storm drainage facility (as defined in section [7-8-2](#) of this title) that is not composed entirely of stormwater, excluding discharges authorized by a permit issued by the Colorado department of public health and environment or the national pollutant discharge elimination system; and excluding discharges authorized by low risk policy

guidance documents as currently issued by the Colorado department of public health and environment in place of a permit, provided such discharge is in conformance of all requirements of said guidance; and excluding emergency firefighting activities.

(BA) It shall be unlawful for any person to discharge or cause to be discharged or spilled to a storm drainage facility any illicit discharge. Illicit discharges to the city storm drainage system and MS4 are prohibited.

(GB) Unless determined by the city director to be potential sources of polluting materials or cause a hazard to the public, the following categories of non-stormwater may be discharged to storm drainage facilities system:

- (a) landscape irrigation and lawn watering;
- (b) diverted stream flows; irrigation return flow; rising groundwaters; uncontaminated groundwater infiltration; uncontaminated pumped groundwater; springs; flows from riparian habitats and wetlands;
- (c) water line flushing in accordance with the CDPHE Low Risk Policy; discharges from potable water sources in accordance with the CDPHE Low Risk Policy provided the water is not used in any additional process including but not limited to washing, heat exchange, manufacturing, hydrostatic testing of pipelines not associated with treated water distribution systems;
- (d) foundation drains;
- (e) air conditioning condensation;
- (f) uncontaminated water from crawl space pumps;
- (g) footing drains;
- (h) individual residential car washing;
- (i) dechlorinated swimming pool discharges in accordance with the CDPHE Low Risk Policy;
- (j) water incidental to street sweeping operations, including sidewalks and medians, and that is not associated with construction;
- (k) dye testing in accordance with manufacturers recommendations;
- (l) stormwater runoff with incidental pollutants;
- (m) discharges resulting from emergency firefighting activities;
- (n) discharges authorized by another CDPS or NPDES permit;
- (o) discharges in accordance with the CDPHE Low Risk Policy guidance documents or other policy and guidance documents of the State.

(C) If the non-stormwater discharge(s) are determined by the city director to be potential sources of pollutant materials or cause a hazard to the public, the owner must request approval of the director to discharge to a storm drainage facility and may be required to submit engineering plans of facilities or results of laboratory analysis of any proposed non-stormwater material the discharge. Submittals shall include a list of proposed discharges

that meet one of the following criteria to the satisfaction of the director. The proposed discharge(s) are subject to public notice and approval by the State.

- (1) discharges with proper management are not expected to contain pollutants in concentrations that are toxic or in concentrations that would cause or contribute to a violation of defined water quality standard;
- (2) the discharges are not eligible for coverage under a CDPS or NPDES general permit and prohibiting the discharge would result in changes to existing practices for owner or operator that are determined by the director to be impracticable.

(D) Illicit connections to the city storm drainage system are prohibited. No person shall construct, use, maintain, or continue the existence of an illicit connection to the storm drainage system. Illicit connections include, but are not limited to, any conveyances which allow any non-stormwater discharge to enter the storm drainage system, any connections to the storm drainage system from indoor drains and sinks or sewage, regardless of whether said drain or connection has been previously allowed, permitted, or approved, or any drain or conveyance connected from a commercial or industrial land use to the storm drainage system which has not been documented in plans, maps, or equivalent records and permitted by the city.

(E) Potential Illicit Discharges

- (1) No person shall dump or deposit any non-stormwater onto public or private premises when such dumping or deposit has potential to result in an illicit discharge, unless authorized by the director or authorized designee. The director or designee shall have authority to determine what constitutes a potential illicit discharge.
- (2) Watercourses and storm sewers passing through properties shall be kept and maintained by the property owner to be reasonably free of trash, debris, other pollutants or obstacles that could potentially pollute or contaminate the flow of water through the water course or sewer.
- (3) The owner of any paved parking lot, street or drive shall clean the pavement as necessary to minimize the buildup and discharge of pollutants to the MS4. Pavement shall be cleaned by dry sweeping or wet vacuum sweeping, with collection and treatment of the wash water.
- (4) Fuel and chemical residue or other types of potentially hazardous or harmful materials shall be removed and properly disposed.
- (5) Irrigation water runoff shall be minimized to the maximum extent possible.
- (6) Mobile washing operations shall not discharge to the storm drainage system.

- (7) Any leak or spill related to equipment or vehicle maintenance in an outdoor uncovered area must be contained to prevent potential release of pollutants.
- (F) Nothing contained herein shall be construed to relieve any person discharging into storm drainage facilities from any liability for damage caused by the volume or quality of water discharged. (Ord. 28, Series of 2012)
- (G) Notwithstanding other requirements of law, any person who owns, occupies, or is otherwise responsible for a premises, or responsible for emergency response for such premises, where a known or suspected release of an illicit discharge into the storm drainage system has occurred, shall take all necessary steps to ensure the discovery, cessation, containment, and cleanup of such a release.
- (H) In the event of a potential release of hazardous materials, the city police department shall be immediately notified of the occurrence via emergency dispatch services, with additional notification to the department of public works. All other releases of non-hazardous materials must be reported to the department of public works immediately.

7-7-59: COMPLIANCE REQUIRED; ISSUANCE OF PERMIT, CERTIFICATE:

- (A) Neither a building permit permits for new construction activity, redevelopment, grading, nor a or "substantial improvement" (as defined in section 10-6-2 of this code) nor a certificate of occupancy shall be issued by the city until and unless the owner of the site complies with the storm drainage design and construction requirements as specified by the director outlined in 7-7-6. This prohibition against the issuance of building permits and certificates of occupancy may be waived by the director when he receives proper assurances from the property owner;
- (B) Permit issuance which shall include, but not be limited to, a written compliance schedule and the posting of a bond, letter of credit, or cash escrow for one hundred twenty five percent (125%) of the estimated cost of all public improvements, stormwater infrastructure, and temporary best management practices and final vegetation, to ensure that the construction requirements will subsequently be met. (Ord. 30, Series of 2005)
- (C) Permits shall not be terminated or bond released until inspection and approval by the director or authorized designee that final stabilization of the site has been achieved. State permits issued by WQCD for construction stormwater shall also not be terminated until such conditions have been met. Presence of weeds are not included in the determination of the amount of vegetative cover.
- (D) All storm drainage facilities as defined in 7-7-2, shall be installed, or if found to be damaged during construction shall be replaced by the owner and the land graded for adequate drainage as shown on plans submitted by the owner and approved by the director city's engineering/utilities division. Prior to any release by the city of any bond, all such completed facilities shall be approved for compliance with said plans by the engineering/utilities division director after cleaning of storm sewers and receipt of as-built certification from a registered

Colorado professional engineer and professional land surveyor. All costs associated with final approval of any storm sewer or drainage facilities, best management practices or measures shall be borne by the owner. (Ord. 30, Series of 2005) (this subsection moved from existing section 7-7-8)

7-7-9: PERFORMANCE STANDARDS, MAINTENANCE OF FACILITIES; MODIFICATIONS OF FACILITIES:

- (A) It shall be unlawful for the property or facility owner or their designee, or resident, to inadequately repair or maintain all required stormwater drainage facilities and post construction permanent water quality control measures. All stormwater drainage facilities shall be maintained so as to perform the specific functions for which they were designed. (Ord. 30, Series of 2005)
- (B) The director shall require an Operations and Maintenance plan be prepared at the time of design or construction for any permanent storm drainage facility, and require that the terms of the Operations and Maintenance plan are followed.
- (C) In the case of a post-construction water quality control measure to be constructed within the city limits and operated by another governmental entity, or in the case of multiple or overlapping MS4 jurisdictions, an agreement with the city describing maintenance procedures and maintenance responsibility shall be required, to ensure that the facility is designed, constructed and adequately maintained in perpetuity.
- (D) It shall be unlawful for any property or facility owner or their designee, to modify, remove or otherwise change or to cause the modification, removal or changing of any required stormwater drainage facility, best management practice or appurtenance without first having obtained the written approval of the director. The director shall not grant approval of any requested modification, removal or change to any drainage facility, best management practice or appurtenance when said modification, removal or change would thwart not meet this chapter's goal of reasonable public protection from floods or other surface waters, or protection of stormwater from pollutants. The owner may be required to submit engineering plans and specifications for any requested modification, removal, or other change if required by the director when the anticipated impact, magnitude or complexity of the proposed change, in the discretion of the director, warrants detailed evaluation. (Ord. 30, Series of 2005) (subsection moved from existing section 7-7-10)

7-7-10: CHANGE, MOVING OF FACILITY; APPROVAL REQUIRED:

7-7-11: DRAINAGE FACILITY REPORT: INSPECTION; RIGHT OF ENTRY:

Upon the request of the director, the owner shall provide the director with a status report, or allow the director or his/her designee reasonable access to perform an inspection on the present condition of all drainage facilities located on the owner's real property. Whenever it is necessary to make an inspection to enforce any provisions of this chapter, or whenever the director or his/her designee believes that there exists in any premises subject to this chapter any condition or violation with regard to maintenance and operation of required stormwater

drainage facilities, the director or his/her designee may enter such premises to inspect the same provided that he or she shall first present proper credentials and request and be granted entry, or otherwise have grounds for a search warrant as may be authorized by law. If requested entry be refused, the director or his/her designee shall have recourse to every remedy provided by law to secure entry. (Ord. 30, Series of 2005)

- (A) The issuance of a permit constitutes right of entry for the director or its contractor, to enter a construction site for purposes of inspection of the installation and maintenance of temporary best management practices or construction of permanent storm water facilities for compliance with this chapter, or to perform maintenance of either temporary or permanent storm drainage facilities.
- (B) The director has right of entry to property as necessary to inspect the present condition of all permanent storm water facilities for compliance with this chapter, or to perform maintenance of the same. If requested entry be refused, the director or his/her designee shall have recourse to every remedy provided by law to secure entry. Upon request of the director, the owner shall provide the director with a status report of the present condition of all permanent storm water facilities on the property. *(statement copied from existing 7-7-11)*
- (C) For suspected illicit discharges on private property, the director shall enter and inspect properties as often as may be necessary to determine compliance with this chapter.
- (D) If security measures are in force requiring proper identification and clearance before entry onto a premises, the necessary arrangements shall be made to allow access. If any person refuses or restricts entry and free access to any part of a premises, or refuses inspection or other action deemed necessary for compliance with this chapter, the director shall seek from the Municipal Court a search warrant authorizing the director to enter the premises. The Court shall have full power, jurisdiction and authority to enforce all orders issued under the provisions of this chapter. The Court may take judicial notice of this ordinance chapter. The application shall include a sworn or affirmed affidavit stating the factual basis for such warrant, evidence that the owner or responsible party at the premises has received a notice of violation, or that reasonable efforts to serve the notice have been made to no avail, and that owner or responsible party has failed to abate the condition within a reasonable prescribed period and a general description of the location of the premises that is the subject of the warrant.
- (E) The director shall have the right to set up on any property such devices as necessary to conduct monitoring and/or sampling of the discharge from the property. The director has the right to require the discharger to install monitoring equipment as necessary to protect the public health and environment. The 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.

- (F) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the operator at the written or verbal request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.

7-7-12: REMEDIES:

In addition to those penalties specified in section 1-4-1 of this code, the city may institute any appropriate legal action or proceedings for injunctive or other relief to compel compliance with the requirements of this chapter. The imposition of any penalty pursuant to section 1-4-1 of this code shall not preclude any proceeding to require compliance with the provisions of this chapter or with administrative regulations, orders and determinations made hereunder. (Ord. 30, Series of 2005)

7-7-12 : VIOLATIONS; ENFORCEMENT:

- (A) Violation. It is unlawful for any person to violate any provision, or fail to comply with any of the requirements, of this chapter. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor. Notwithstanding the imposition of a criminal penalty such person who violates any provision of this chapter may also be subject to enforcement actions provided in this chapter.

- (B) When a violation of the provisions of this chapter are found, the city will notify the property owner and/or any other responsible person of the violation and required compliance by notice which may be verbal or written, hand delivered, by electronic mail, or first class U.S. Mail or posting upon the property. Or in the case of an emergency abatement, notification may be via telephone. The notice may require any or all of the following items:

- (1) stop work order
- (2) immediate elimination of illicit discharges or connections
- (3) immediate cease and desist of violating discharges, practices or operations
- (4) abatement or remediation of pollution or contamination, and restoration of affected property
- (5) implementation of source control or treatment BMPs, or maintenance thereof,
- (6) implementation of monitoring, analyses, and reporting
- (7) deadline for compliance
- (8) payment of a civil *{comment: and/or criminal, as determined appropriate}* penalty and administrative or remediation fees, if applicable.

- (C) In the event a violator fails to take remedial measures set forth in the notice, or otherwise fails to mitigate the violation within the time frame specified, the city will issue a written second notice. Failure to comply a second time will result in imposition of a civil penalty of

not less than five hundred dollars nor more than two thousand, five hundred dollars or depending on severity of the violation will implement procedures in section 7-7-12 (E), and the city may perform the work needed to remedy the violation and comply with this chapter. A statement for costs incurred by the city will be prepared with the whole costs plus twenty five percent (25%) administrative costs shall be mailed to the property owner with the instructions that said statement will be paid in full plus fifteen percent (15%) incidental costs within thirty (30) days of said mailing date.

(D) In addition to a penalty, the city may institute any appropriate legal action or proceedings for injunctive or other relief to compel compliance with the requirements of this chapter. The imposition of any penalty pursuant to section [1-4-1](#) of this code shall not preclude any proceeding to require compliance with the provisions of this chapter or with administrative regulations, orders and determinations made hereunder. (Ord. 30, Series of 2005)

(E) Should conditions warrant, or an unlawful discharge has occurred or is imminent, and upon failure of the property owner or other responsible party to immediately abate or mitigate the violation of this chapter after first notification, the city may perform the work needed to comply with this chapter, with provisions as stated in 7-7-12(C) above. If not paid within 30 days, the costs shall be a lien against the premises that were the subject of the abatement until paid and shall have priority based upon the lien's date of recording.

(F) In the event of chronic violations or recalcitrant behavior by a property owner or responsible person, the director may escalate enforcement procedures from 7-7-12(A) directly to (D). In determining this action, the director shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to the requirements of this chapter, including repeated violations resulting in second notices within a six (6) month period.

(G) Remedies Not Exclusive. The remedies listed in this chapter are not exclusive of each other or of any other remedies available under any federal, state, or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

7-7-13: APPEALS

Property owners or their representatives, permit applicants, or otherwise responsible parties may appeal to hearing officer appointed by the city council, a decision or action by the director regarding the enforcement of any portion of this chapter. Such appeal must be made in writing to the director of the department of public works within ten (10) calendar days of said decision or action. The appeal shall be forwarded to the hearing officer who shall schedule a hearing to review and decide on the case, within the confines of applicable federal, state, and municipal code.

7-7-14: 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 or

circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this ordinance.