

Chapter 206

Stormwater Management

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§ 206-1. Purpose and Authority

- A. The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased and altered stormwater runoff. Proper management of stormwater runoff will minimize damage to public and private property, reduce the harmful effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.
- B. The application of this chapter and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation on such management practices. The City of Papillion shall be responsible for the coordination and enforcement of the provisions of this chapter.
- C. The provisions of this chapter shall be applicable to all property within the City's zoning jurisdiction.

§ 206-2. Incorporation by Reference

For the purpose of this chapter, the Omaha Regional Stormwater Design Manual, in its most current form, is incorporated by reference.

§ 206-3. Definitions

The following words, phrases and terms as used in this chapter shall have the meanings ascribed to them in this chapter.

- A. **Best Management Practices** (BMP) shall mean pollution control practices designed and carried out to reduce the pollutants contained in discharges, including Low Impact Development techniques.
- B. **Building Drain** means that part of the lowest horizontal piping of a wastewater drainage system that receives the discharge from soil and

waste pipes inside the walls of the building and conveys it to the building sewer, beginning two feet outside the inner face of the building wall.

- C. **City** shall mean City of Papillion.
- D. **Clean Water Act** shall mean the Federal Water Pollution Control Act, which was enacted in 1972 to prohibit the discharge of pollutants to receiving waters of the United States and later amended in 1987, to establish a framework for regulating municipal, industrial, a construction stormwater discharges under the NPDES Program.
- E. **Combined Sewer** shall mean a sewer receiving, by designation of the director, both runoff water and sanitary sewage.
- F. **Commercial Activity** means any public or private activity not defined as an industrial activity in 40 Code of Federal Regulations (CFR) 122.26(b)(14) as of the date of this ordinance, involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or nonprofessional services.
- G. **Construction Activity** means any clearing, grading, or excavation that results in soil disturbance. Construction activity also includes, but is not limited to, construction, repairs, dewatering, remodeling, building, and emergency construction activities required to immediately protect public health and safety.
- H. **Director** means the Director of Public Works Department for the City of Papillion or his/her authorized agent or representative.
- I. **Discharge** means any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid, or solid substance to the municipal storm sewer system.
- J. **Hazardous Substance** means any substance designated under 40 CFR Part 116 pursuant to section 311 of the Clean Water Act.
- K. **Illicit Connection** means any human made conveyance that is directly or indirectly connected to the municipal separate storm sewer system and allows for an illicit discharge.

- L. **Illicit Discharge** means any discharge to the municipal separate storm sewer system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. Illicit discharges include all non-stormwater discharges except discharges pursuant to a NPDES permit or conditionally exempted by ordinance and include those prohibited in Sections Sec. 206-4 and Sec. 206-5 below.
- M. **Illicit Disposal** means any disposal, either intentional or unintentional, of material(s), substance(s), or waste(s) that has the potential to pollute runoff unless otherwise allowed by law.
- N. **Industrial Activity** means any public or private activity which is associated with any other of the 11 categories of activities defined in 40 CFR 122.26(b)(14), as of the date of this ordinance.
- O. **Industrial/Commercial Facility** means any public or private facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, or any facility involved and/or used in providing professional services. This category of facility includes but is not limited to, any facility defined by a Standard Industrial Code (SIC).
- P. **Low Impact Development (LID)** means de-centralized management of precipitation that would otherwise be stormwater runoff, utilizing design techniques that infiltrate, filter, store, evaporate, or temporarily detain stormwater.
- Q. **Maximum Extent Practicable** means a standard for implementation of stormwater management programs to reduce pollutants in stormwater. It is the maximum extent possible taking into account equitable consideration of competing factors, including, but not limited to the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility.

- R. **Municipal Storm Sewer System** means any inlet, pipe, ditch or gully, or system of pipes, ditches, or gullies, that is owned or operated by the City and used for collecting and conveying stormwater.
- S. **New development** means land disturbing activities; structural development, including construction or installation of a building or structure, the creation of impervious surfaces; and land subdivision.
- T. **NPDES** means the National Pollutant Discharge Elimination System and is implemented and enforced by a permit issued by the U.S. Environmental Protection Agency, or the Nebraska Department of Environmental Quality (NDEQ) pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.
- U. **Non-stormwater Runoff** means any discharge to the municipal storm sewer system that is not composed entirely of stormwater.
- V. **Nuisance** means Public Nuisance as provided in §137-1 and also as defined in this section.
- W. **Pollutant** means the same as defined in section 502(6) of the Clean Water Act including, but is not limited to the following, but does not include uncontaminated stormwater, potable water, groundwater, or reclaimed water by a lawfully permitted water treatment facility:
- (1) Materials (including but not limited to fuels, solvents, chemical, detergents, plastic, pellets, hazardous substances, radioactive wastes, fertilizers, pesticides, paints, soot, slag, ash, sludge);
 - (2) Metals and nonmetals both soluble and insoluble (including but not limited to cadmium, lead, zinc, copper, silver, nickel, chromium, chlorine, phosphorous, and arsenic);
 - (3) Petroleum hydrocarbons (including but not limited to fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease);
 - (4) Eroded soils, sediment, and particulate materials in amounts, which may adversely affect the beneficial use of the receiving waters, flora, or fauna of the state;

- (5) Animal wastes (including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, and stables);
 - (6) Substances having acidic or corrosive characteristics, unusual coloration or turbidity;
 - (7) Any domestic or industrial wastewater;
 - (8) Any hazardous substance.
- X. **Private Stormwater Conveyance System** shall mean a stormwater conveyance system that is not owned or maintained by the City including any instrumentality that drains or conveys water from a building or from/through one or more properties to the environment or the City's stormwater system.
- Y. **Public Nuisance** means any discharge in violation of the provisions of this chapter, a wastewater discharge permit, or an order of the City Council.
- Z. **Receiving Waters** means all surface water bodies, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation ditches, gullies or channels, drainage systems, and all other bodies or accumulation of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the extraterritorial jurisdiction of the City of Papillion.
- AA. **Runoff** means any stormwater or non-stormwater discharges from a drainage area that enters the municipal storm sewer system. The term runoff is interchangeable with the term urban runoff.
- BB. **Sanitary Sewage** means liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions.
- CC. **Separate Storm Sewer** means pipe or conduit, which by designation of the Director, carries only stormwater runoff, discharges pursuant to a NPDES permit or discharges conditionally exempted by ordinance.
- DD. **Significant redevelopment** means land-disturbing activity that results in the creation, addition or replacement of at least five thousand (5,000)

square feet of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the following activities that meet the minimum standards set forth in this definition:

- (1) The expansion of a building footprint;
- (2) Addition or replacement of a structure;
- (3) Replacement of impervious surface that that is not part of a routine maintenance activity; and
- (4) Land disturbing activities related to structural or impervious surfaces.

Redevelopment does not include activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.

- EE. **Standard Industrial Classification (SIC)** means a classification pursuant to the current edition of the Standard Industrial Classification Manual issued by the Executive Office of the President of the United States, Office of Management and Budget.
- FF. **Stormwater Pollution Prevention Plan (SWPPP)** means a plan required by the State of Nebraska under either the General Permit for Stormwater Discharges or an individual NPDES permit, which includes requirements for stormwater discharges associated with either industrial or construction activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of stormwater discharges from a site and to describe and ensure the implementation of practices to reduce pollutants in stormwater discharges.
- GG. **Stormwater Runoff** means that part of natural precipitation (rainfall or snowmelt, including that of any frozen precipitation), which travels via flow across any surface to the municipal storm sewer system.
- HH. **Street Wash Water** means the water and the associated debris resulting from the washing of streets and/or sidewalks.
- II. **Urban Runoff** means any stormwater and non-stormwater runoff from developed land in, or adjacent to, any municipality.
- JJ. **U.S. EPA** means the United States Environmental Protection Agency.

§ 206-4. Illicit Discharges Prohibited

A. No person shall cause the discharge of non-stormwater runoff to enter the municipal separate storm sewer system unless the discharge is one of the following:

- (1) Authorized by a NPDES permit issued by EPA, or NDEQ,
- (2) Caused by or resulting from one of the following:
 - (a) Fire Fighting Activities, where such discharges or flows contain no significant sources of pollutants
 - (b) Landscape Irrigation
 - (c) Diverted stream flows
 - (d) Rising ground waters
 - (e) Uncontaminated ground water infiltration, as defined at 40 CFR 35.2005(20)
 - (f) Uncontaminated pumped ground water
 - (g) Discharges from potable water sources
 - (h) Foundation Drains
 - (i) Air conditioning condensation
 - (j) Irrigation Water
 - (k) Springs
 - (l) Water from crawl space pumps
 - (m) Footing drains
 - (n) Lawn watering
 - (o) Individual residential car washing
 - (p) Flows from riparian habitats and wetlands
 - (q) Dechlorinated swimming pool discharges
 - (r) Street wash water
- (3) Authorized by the City of Papillion.

B. All exempt discharges, as listed above, must be in conformance with all other provisions of this code.

§ 206-5. Prohibition of Illicit Connections

- A. No person shall install, maintain, or use any connection to the municipal separate storm sewer system that may result in an illicit discharge to the municipal storm sewer system. All connections to the municipal storm sewer system that provide for an illicit discharge from inside a building are prohibited.

- B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. For illicit connections made in the past, a plan to remedy the illicit connection shall be submitted to the Director.

§ 206-6. Removal of Illicit Connection

If any person fails to disconnect an illicit connection upon 30-day prior notification by the Director, the Director may cause the removal of such connection from the municipal storm sewer system. The City may pursue the recovery of costs by appropriate means including a suit at law against the person or persons responsible for such disconnection.

§ 206-7. Private Stormwater Conveyance Systems

- A. The owner of a property where a private stormwater conveyance system is located shall be responsible for the maintenance and repair, and proper operation of the private stormwater conveyance system, regardless of whether the private stormwater conveyance system is completely located on the private property or partially within the public right of way. The City shall have no responsibility or obligation for the maintenance, repair, or proper operation of a private stormwater conveyance system.

- B. If the Director determines that a private stormwater conveyance system is not operating properly and causes the improper discharge of stormwater to the street, sidewalk or municipal storm sewer system, the Director may

declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with § 137-3.

§ 206-8. Discharge of Sanitary Sewage Prohibited

No person shall cause discharge of sanitary sewage to the municipal separate storm sewer system. In addition, if the Director determines that a building drain or building sewer is not operating properly and causes the discharge of sewage to the street, sidewalk, or municipal separate storm sewer system, the Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with § 137-3.

§ 206-9. Damage to the Municipal Storm Sewer System

It is unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal storm sewer system.

§ 206-10. Waste Disposal Prohibitions

No person shall throw, deposit, place, leave, maintain, litter, keep, or permit to be thrown, deposited, left, maintained or kept any pollutant, refuse, rubbish, food waste, yard waste, garbage, or any other discarded or abandoned objects in or upon any public or private property, driveway, parking area, street, alley, sidewalk, or other location that may result in an illicit discharge to the municipal storm sewer system. Wastes placed in containers protected from urban runoff such as bags, cans, or recycling bins, and City-approved wastes from construction on public right-of-way are exempted from this prohibition.

§ 206-11. Prohibited Discharges from Industrial/Commercial Activities

The following list of discharges from industrial/commercial activities shall be considered prohibited unless permitted under a separate NPDES permit or approved by the City Public Works Department. This list is based on § 206-4 (Illicit Discharges Prohibited), but is not an exhaustive list of prohibited discharges to the municipal storm sewer system:

- A. Water from the cleaning of vehicle fueling stations, vehicle service garages, or other types of vehicle service facilities.
- B. Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial operations
- C. Water from the washing or rinsing of vehicles containing soap, detergents, solvents, or other cleaners.
- D. Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning.
- E. Vehicle fluids.
- F. Mat wash water from food service facilities.
- G. Food and kitchen cleaning water from food service facilities.
- H. Leakage from dumpsters or trash containers.
- I. Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained.
- J. Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces.
- K. Wastewater or cleaning fluids from carpet cleaning.
- L. Swimming pool and spa water.
- M. Wash out from concrete trucks.
- N. Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored.
- O. Super-chlorinated, i.e. greater than 4 mg/l chlorine, water normally associated with the disinfection of potable water systems.

§ 206-12. Notification of Prohibited Discharges Required

- A. In the event of discovery of a discharge to the municipal storm sewer system that is prohibited by this code, the discharger or permittee shall immediately notify the Director of the incident by telephone, facsimile or e-mail. The notification shall include the discharge location, type of materials

discharged, estimated concentration and volume of the discharge, and corrective actions taken to contain or minimize the effects of the discharge.

- B. In addition, a written report, facsimile or e-mail, addressed to the Director detailing the date, time and cause of the discharge, the quantity and characteristics of the discharge, corrective actions taken to contain or minimize the effects of the discharge, and corrective actions taken to prevent future discharges shall be filed by the responsible person within five days of the occurrence of the non-complying discharge.

§ 206-13. Grading Permit Required

It shall be unlawful for any person to engage in or cause any grading, clearing, or excavation activities that result in the disturbance of any land areas sufficiently large to require a general NPDES construction site stormwater permit, without the property owner, tenant, or easement holder, or their agent, first obtaining a grading permit from the City's Building and Inspections Department. This section shall not apply to grading performed solely for agricultural purposes.

§ 206-14. Application for Grading Permit

- A. Any property owner, tenant, or easement holder, or their agent, desiring a grading permit shall make an application to the permits and inspections division on the forms provided by the division.
- B. Any property owner, tenant, or easement holder, or their agent, desiring a grading permit shall also submit to the City's Permits and Inspection Division a completed NDEQ notice of intent/permit application for coverage under the general NPDES construction site stormwater permit. Such permit application shall be made on forms provided by the NDEQ and distributed by the Permits and Inspection Division. The City shall review all such completed applications and then forward the documents to the NDEQ for approval or denial.

§ 206-15. Grading Permit Fee

Before any grading permit application will be accepted by the Building and Inspections Department, the applicant shall pay to the city a fee in accordance to the Master Fee Schedule.

§ 206-16. Issuance of Grading Permit

If, after, examination of the application for a grading permit, the Public Works Department has determined that the proposed plan will meet the requirements of this article and if the NDEQ approved the NPDES application for the project, or fails to review and approve or deny the application within seven days, then the Permits and Inspection Division shall issue the grading permit.

§ 206-17. Erosion and Sediment Control at Construction and Development Sites

Provisions for erosion and sediment control at construction and development sites are set forth in the Omaha Regional Stormwater Design Manual. The provisions thereof shall be controlling of all subjects contained therein within the corporate limits and within the jurisdictional area outside the city limits. In the event of any conflict between the provisions of the Omaha Regional Stormwater Design Manual, or any other ordinance, and the provisions of an NPDES permit issued by the State of Nebraska, the provision that imposes the higher or most stringent or most specific practice shall prevail.

§ 206-18. Requirement for all New Development and Redevelopment Projects

Land development and significant redevelopment projects with the potential to add pollutants to stormwater or to affect the flow rate or velocity of stormwater runoff after construction is completed must include provisions for the management of the increased post construction runoff in a Post-Construction Stormwater Management Plan.

§ 206-19. Post-Construction Stormwater Management Plan

- A. A post-construction stormwater management plan shall be submitted to the City, on a form or format specified by the planning director, as part of any preliminary plat application or grading permit application; or building permit application that creates 5,000 square feet or more of impervious coverage. For any significant redevelopment, a post-construction stormwater management plan shall be submitted with the building permit application.
- B. For all development applications made after the adoption date of this ordinance, the post-construction stormwater management plan, at a minimum, shall include Low Impact Development (LID) BMPs to provide for water quality control of the first one-half inch of runoff from the site. The City may also require this minimum control level for significant redevelopment that increases the amount of impervious area in a previously platted parcel. For significant redevelopment projects that do not require a grading permit or that involve an increase of less than 5,000 square feet of impervious surface area, BMPs for water quality control of the first one-half inch of runoff from the site are encouraged, but not required. For significant redevelopment projects that are characterized as additions or expansions, the Planning Director may determine that the required BMPs only be applied to the area of new development.
- C. The PCSWMP shall include the design, locations, schedules, and procedures for inspection and maintenance of the selected BMPs. Temporary erosion and sediment control BMPs to be used during the construction process are to be addressed in the grading permit application. The BMPs for the PCSWMP shall address the reduction of stormwater peak discharges after development of the subject parcel to pre-development conditions for 2-year return frequency storm events and shall include LID BMPs to provide for water quality improvements in the first on-half inch of runoff from the site. Refer to the Omaha Regional Stormwater Design Manual for information on BMPs.

§ 206-20. Exemptions from the Post-Construction Stormwater Management Plan

Systems designed to accommodate only one single family dwelling unit, duplex, triplex, or quadraplex, provided the single unit is not part of a larger common plan of development or sale, are exempt from the requirements in this Ordinance to submit a Post-Construction Stormwater Management Plan.

§ 206-21. Maintenance of Post-Construction BMPs

- A. The owners and occupants of lands on which structural post-construction BMPs have been installed to meet the requirements of this Ordinance shall ensure the maintenance of these BMPs and shall themselves maintain those BMPs if other persons or entities who are also obligated to maintain those BMPs (by contract or covenant, or pursuant to this Ordinance) fail to do so. Structural BMPs shall be inspected at least annually, and a written record of inspection results and any maintenance work shall be maintained and available for review by the City.
- B. The responsibility to maintain a BMP may be transferred through a contract or other agreement. The person or entity accepting a maintenance obligation in such a contract or agreement will also be legally obliged to maintain that BMP pursuant to this Ordinance. However, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this Ordinance
- C. The maintenance agreement shall require the applicant or owner to execute an inspection and maintenance agreement, to be filled of record, binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility, at reasonable times, for inspections by the City or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.

- D. The applicant and/or owner shall record the maintenance agreement with the Register of Deeds.
- E. The maintenance agreement shall also provide that if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) or occupant within a reasonable period of time (30 days maximum), the City may perform all necessary work to place the facility in proper working condition. The owner(s) or occupant of the facility shall be assessed the cost of the work and any lawful penalties.

§ 206-22. Admission to Property

Whenever it shall be necessary for the purposes of these rules and regulations, the Director, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of: 1) copying any records required to be kept under the provisions of this article, (2) inspecting any BMPs, and (3) sampling any discharge to the municipal storm sewer system. The Director may enter upon the property at any hour under emergency circumstances. The authority to so inspect, sample and copy records shall be limited to only those things, and only the extent, that it has a direct bearing on the kind and source of discharges into the municipal storm sewer system.

§ 206-23. Regulatory Actions

If substances in violation of §206-4 of this code are discharged or proposed to be discharged into the municipal storm sewer system of the city or any tributary thereto, the city may take action necessary to:

- A. Prohibit the discharge of such effluent.
- B. Require a discharger to demonstrate that modifications to such discharger's facilities will reduce or eliminate the discharge of such substances in conformity with this article.
- C. Require pretreatment, including storage, detention or retention facilities necessary to reduce or eliminate the objectionable characteristics or

substances so that the discharge will not violate these prohibitions and limitations.

- D. Require the person making, causing, or allowing the discharge to pay an additional cost or expense incurred by the city for taking remedial actions as may be deemed to be desirable or necessary to achieve the purpose of this chapter.
- E. Require any combination or all of the above.

§ 206-24. Notice of Violation; Correction of Violations

Whenever the Director finds that any person has violated or is violating this article or any prohibition, limitation or requirement contained herein, such person shall be notified in writing.

§ 206-25. Penalty; Recovery of Damages

Any person who is found to have violated an order provided for in this article, or who willfully or negligently failed to comply with any provisions of this article and the rules and regulations issued hereunder, shall be deemed guilty of a misdemeanor and shall be fined an amount that does not exceed \$500 under this ordinance. Each day any such violation or failure to perform such act shall continue, shall constitute a separate offense, unless otherwise specifically provided. Except as prohibited by the State of Federal Constitutions, a prosecution under this ordinance shall not be the exclusive penalty for such acts or omissions.

§ 206-26. Additional Rules and Regulation

The Director may make rules and regulations, which expand upon or add to the provisions of this article but are not inconsistent with them. Prior to taking effect, such rules and regulations, or any amendments thereto, shall be approved by resolution of the city council. A copy of such rules and regulations, with any current amendments, shall be on file with the city clerk.

§ 206-27. Appeals

Any person aggrieved by the issuance, denial, suspension, cancellation, modification, or revocation of any permit provided for in this article or by any other order of the Director, may within ten days of the receipt of written notice of the entry of such order, appeal to the Board of Adjustment by complying with the provisions of § 205-100.

§ 206-28. Conflicts with Other Code Sections

The provisions of this chapter shall control over any inconsistent or conflicting provision of this code.

§ 206-29. Severability

If any portion of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby.