

City of Las Vegas

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RECOMMENDING COMMITTEE MEETING
CITY HALL, 400 STEWART AVENUE
CITY MANAGER'S EIGHTH FLOOR CONFERENCE ROOM
CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.lasvegasnevada.gov>
SEPTEMBER 2, 2008
4:00 P.M.

THE RECOMMENDING COMMITTEE WILL RECEIVE PUBLIC INPUT ON EACH ITEM OF LEGISLATION BEING CONSIDERED. THE RECOMMENDING COMMITTEE MAY, THEREAFTER, CONTINUE THE HEARING TO A FUTURE DATE OR FORMULATE A RECOMMENDATION TO THE CITY COUNCIL FOR PASSAGE, REJECTION OR AMENDMENT OF THE PROPOSED BILL. ANY MEMBER OF THE CITY COUNCIL MAY SUBSTITUTE FOR A MEMBER OF THE RECOMMENDING COMMITTEE AT ANY TIME.

DUPLICATE AUDIO CDS MAY BE AVAILABLE AT A COST OF \$5.00 EACH THROUGH THE CITY CLERK'S OFFICE.

1. CALL TO ORDER
2. ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW
3. Bill No. 2008-43 – Adopts regulations governing stormwater and stormwater management in compliance with State and Federal laws and regulations. Proposed by: Jorge Cervantes, Director of Public Works
4. CITIZENS PARTICIPATION: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the committee. No subject may be acted upon by the committee unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited
5. ADJOURNMENT

ALL INTERESTED PERSONS ARE INVITED TO ATTEND: Copies of the above Bills may be obtained through the Office of the City Clerk, Monday through Friday, 8:00 A.M. to 5:00 P.M.

Facilities are provided throughout City Hall for the convenience of disabled persons. Reasonable efforts will be made to assist and accommodate physically handicapped persons. If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 229-6311 and advise of your need at least 48 hours in advance of the meeting.

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:

City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge
Bulletin Board, City Hall Plaza, (next door to Metro Records)
Las Vegas Library, 833 Las Vegas Boulevard North
Clark County Government Center, 500 S. Grand Central Parkway
Grant Sawyer Building, 555 E. Washington Avenue

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AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: SEPTEMBER 2, 2008

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

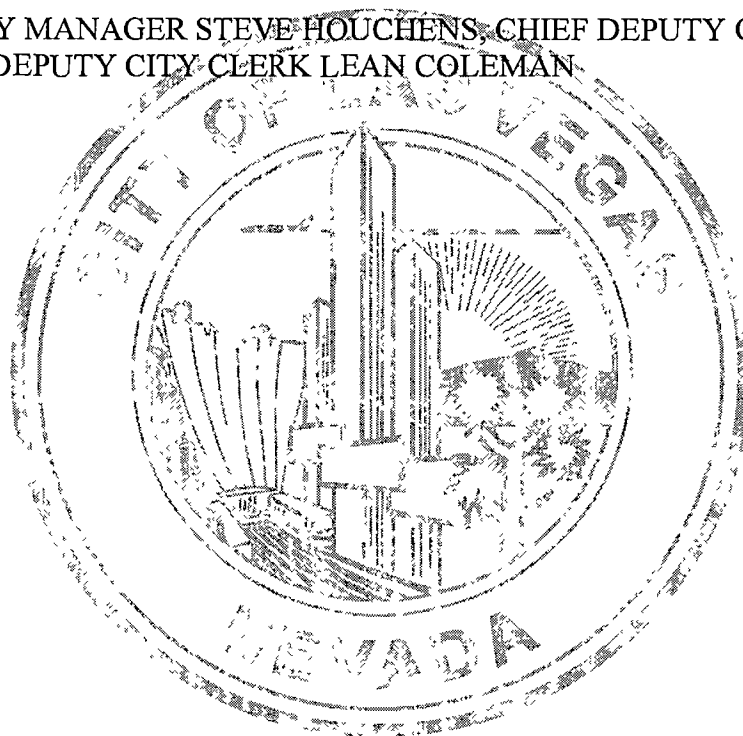
CALL TO ORDER

Minutes:

COUNCILWOMAN TARKANIAN called the meeting to order at 4:00 p.m.

PRESENT: COUNCILMEMBERS TARKANIAN and BARLOW

Also Present: CITY MANAGER STEVE HOUCHEMS, CHIEF DEPUTY CITY ATTORNEY VAL STEED and DEPUTY CITY CLERK LEAN COLEMAN



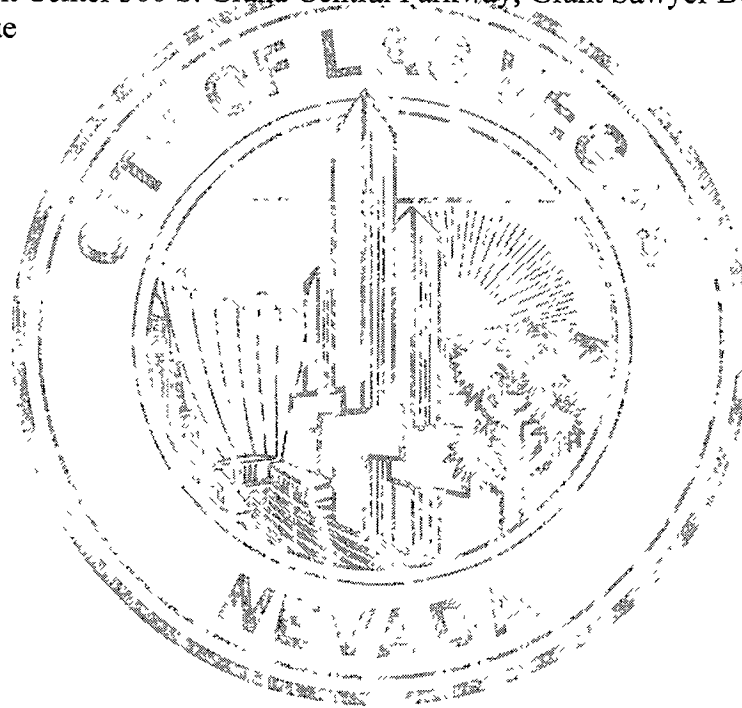
AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: SEPTEMBER 2, 2008

DEPARTMENT: CITY CLERK
DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:
ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW

Minutes:

ANNOUNCEMENT MADE - Meeting noticed and posted at the following locations: City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge Bulletin Board, City Hall Plaza (next door to Metro Records), Las Vegas Library, 833 Las Vegas Boulevard North, Clark County Government Center 500 S. Grand Central Parkway, Grant Sawyer Building, 555 E. Washington Avenue



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: SEPTEMBER 2, 2008

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT:

Bill No. 2008-43 – Adopts regulations governing stormwater and stormwater management in compliance with State and Federal laws and regulations. Proposed by: Jorge Cervantes, Director of Public Works

Fiscal Impact

No Impact

Augmentation Required

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will adopt stormwater regulations in response to mandates from the Environmental Protection Agency (EPA) and the Nevada Department of Environmental Protection. Such regulations are designed to assist all regulatory agencies in controlling pollutants, primarily related to runoff from industrial, construction and other development sites. This bill is based on a model EPA ordinance, incorporates input from stakeholder groups, and reflects a regulatory approach that is appropriate to the City's jurisdiction.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2008-43
2. Submitted at meeting – Copy of Proposed First Amendment

Motion made by RICKI Y. BARLOW to Approve Do Pass as a First Amendment

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

LOIS TARKANIAN, RICKI Y. BARLOW; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

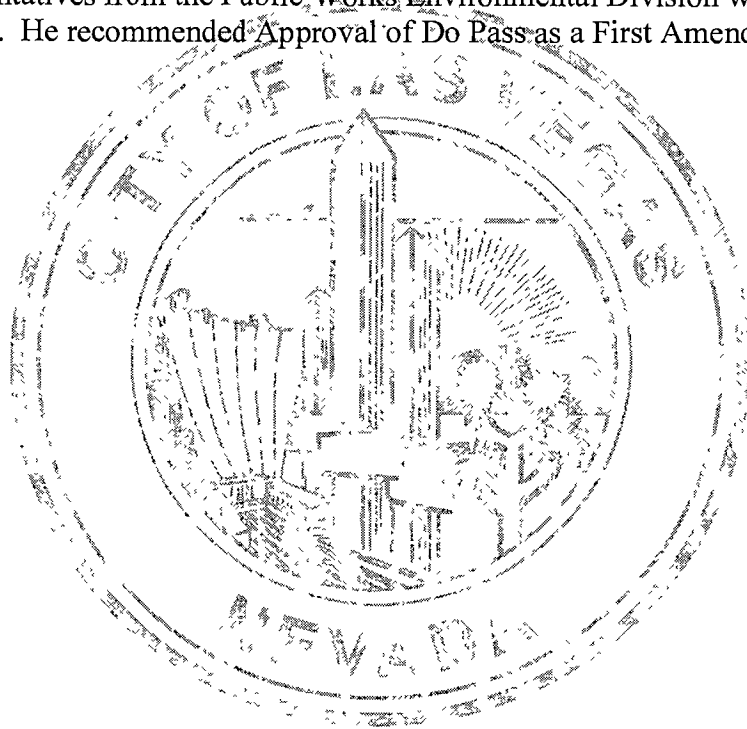
CHIEF DEPUTY CITY ATTORNEY VAL STEED explained that Bill No. 2008-43 has been worked on for several months and is the result of requests from the state, federal and local governments to help manage storm water and ensure that all permit requirements were met. He added that these provisions have been based on a model ordinance that was worked on by several

CITY COUNCIL MEETING OF: September 02, 2008

stakeholder groups and was designed to ensure the City was in compliance with both state and federal requirements.

CHIEF DEPUTY CITY ATTORNEY STEED noted that this item was fast tracked for adoption at tomorrow's City Council meeting in order to be put in place by September. Referring to the proposed First Amendment, he pointed out two revisions. He explained that one of the definitions relative to stormwater pollution prevention plan is not used in the ordinance and therefore has been removed. The second revision on Lines 19 and 20 of the original bill relates to a permit, which is not a prerequisite and was deleted.

CHIEF DEPUTY CITY ATTORNEY STEED stated that an email was received from the Southern Nevada Home Builders indicating their agreement and support of the bill as proposed. He noted that representatives from the Public Works Environmental Division were present to answer any questions. He recommended Approval of Do Pass as a First Amendment.



1 **BILL NO. 2008-43**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO ADOPT REGULATIONS GOVERNING STORMWATER AND
4 STORMWATER MANAGEMENT IN COMPLIANCE WITH STATE AND FEDERAL LAWS
AND REGULATIONS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

5 Proposed by: Jorge Cervantes, Director of
6 Public Works

Summary: Adopts regulations governing
stormwater and stormwater management in
compliance with State and Federal laws and
7 regulations.

8 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
9 AS FOLLOWS:

10 SECTION 1: Title 14 of the Municipal Code of the City of Las Vegas, Nevada, 1983
11 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 18, consisting of
12 the provisions set forth as Sections 2 to 30, inclusive, of this Ordinance.

13 SECTION 2: The following definitions shall govern the construction of this Chapter:

14 "Act" means the provisions of the Clean Water Act, as amended and as set forth in 33 U.S.C.
15 §§ 1251 et seq , together with all guidelines, limitations and standards that are promulgated by the
16 EPA pursuant to the Act.

17 "BMP" or "best management practices" means a structural or non-structural device, facility,
18 measure, source control practice, or any activity, along with any required documentation thereof, that
19 helps to achieve compliance with any discharge requirement set forth in this Chapter.

20 "CFR" means the Code of Federal Regulations, a codification of regulations issued by the
21 executive departments and agencies of the Federal Government.

22 "Construction activity" means activities subject to NPDES construction permits as defined in
23 40 CFR § 122.26

24 "Director" means the Director of Public Works, or an authorized agent or representative of the
25 Director.

26 "Discharge" means a point source discharge of pollutants into the storm system.

27 "Illicit discharge" means a direct or indirect discharge of non-stormwater to the storm system,
28 except as allowed for in this Chapter.

1 "Illicit connection" means any connection to the storm system from an indoor sink or drain,
2 or any drain or conveyance, whether on the surface or subsurface, which allows entrance to the storm
3 system of a discharge of sewage, industrial process wastewater, or non-stormwater that could interfere
4 with the storm system or present an imminent and substantial endangerment to human health or the
5 environment.

6 "Industrial activity" means activities subject to NPDES industrial permits as defined in 40
7 CFR § 122.26

8 "Maximum extent practicable" means the technology-based discharge standard to reduce
9 pollutants in stormwater discharges that was established by Section 402(p) of the Act and is described
10 in 40 CFR §122.34(a).

11 "NDEP" means the Division of Environmental Protection of the Nevada Department of
12 Conservation and Natural Resources.

13 "Non-stormwater" means any discharge to the storm system that is not composed entirely of
14 stormwater.

15 "NPDES permit" means a National Pollutant Discharge Elimination System permit that is
16 issued by NDEP pursuant to Section 402 of the Act, authorizing a person to discharge pollutants into
17 the waters of the United States.

18 "Person" means any individual, association, organization, partnership, firm, corporation or
19 other entity recognized by law and acting as either the owner of premises or of an operation (or as the
20 owner's agent), but does not include the City or any other state or local governmental entity within
21 the State of Nevada, or any of their employees or agents.

22 "Point source" means "point source" as that term is defined in Section 502(14) of the Act.

23 "Pollutant" means "pollutant" as that term is defined in Section 502(6) of the Act.

24 "Premises" means any building, lot, parcel of land, or portion of land, whether improved or
25 unimproved, and including adjacent sidewalks and parking strips.

26 "Release" or "spill" means any significant spill, leak, or release of any non-stormwater into
27 the storm system, whether intentional or unintentional, other than that which is allowed for in this
28 Chapter.

1 "Stormwater" means any discharge resulting from precipitation, irrigation, or normal
2 residential activity.

3 "Stormwater pollution prevention plan" means a document which describes the BMPs and
4 activities to be implemented by a person or business to identify sources of pollution or contamination
5 at a site and the actions to eliminate or reduce the discharge of pollutants into the storm system to the
6 maximum extent practicable.

7 "Surface waters" means "navigable waters" as that term is defined in Section 502(7) of the
8 Act.

9 "Storm system" means any publicly-owned facility by which stormwater is collected or
10 conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters,
11 curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and
12 human-made or altered drainage channels, reservoirs, and other drainage structures.

13 SECTION 3. The purpose of this Chapter is to provide for the health, safety, and
14 general welfare of City residents and visitors through the regulation of discharges to the storm system,
15 to the maximum extent practicable. This Chapter establishes methods for controlling the introduction
16 of stormwater and non-stormwater into the storm system in order to comply with requirements of the
17 City's NPDES stormwater permit. The objectives of this Chapter are to

- 18 (A) Regulate the discharge of stormwater and non-stormwater to the storm system;
19 (B) Prohibit illicit connections and illicit discharges to the storm system;
20 (C) Establish legal authority to carry out all inspection, surveillance, monitoring
21 procedures, and enforcement activities necessary to ensure compliance with this Chapter;
22 (D) Establish civil, administrative and criminal penalties for violations of the
23 provisions of this Chapter; and
24 (E) Provide procedures for City compliance with requirements that are placed upon
25 the City by other governmental agencies.

26 SECTION 4: This Chapter shall apply to all water entering the storm system that has
27 been generated on any developed and undeveloped lands, unless explicitly exempted by the Director
28 or NDEP.

1 SECTION 5: The Director shall be responsible for administering, implementing, and
2 enforcing the provisions of this Chapter. Any powers granted or duties imposed upon the Director
3 may be delegated in writing by the Director to persons or entities acting in the beneficial interest of,
4 or in the employ of, the City.

5 SECTION 6: The standards established by this Chapter are minimum standards that
6 have been adopted by the City for the purposes stated. Nothing in this Chapter:

7 (A) Is intended, nor shall be deemed, to imply that compliance with this Chapter
8 by any person will insulate that person from liability under other sources of law or theories of liability
9 relating to the discharge of pollutants into the storm system;

10 (B) Shall create liability on the part of the City or its officers, employees or agents
11 for any damages that result from a discharger's reliance on this Chapter or any administrative decision
12 lawfully made thereunder.

13 SECTION 7: The City is authorized to regulate discharges from persons and premises
14 that are located outside of the corporate boundaries of the City but are tributary to the storm system,
15 consistent with any interlocal agreement. The requirements of this Chapter shall apply to each such
16 person. The Director is authorized to inspect and monitor the facilities of each such person in order
17 to determine its compliance with this Chapter

18 SECTION 8: (A) It is unlawful for any person to discharge or cause to be
19 discharged into the storm system any non-stormwater, unless the discharge has been authorized by
20 NDEP and approved by the Director, or is one of the following:

21 (1) Water line flushing; water from other potable water sources; landscape
22 irrigation or lawn watering; diverted stream flows; rising ground water; ground water infiltration to
23 the storm system; foundation or footing drains (not including active groundwater dewatering systems);
24 crawl space pumps; air conditioning and swamp cooler condensation; springs, non-commercial
25 washing of vehicles; natural riparian habitat or wetland flows; firefighting activities; or any other
26 water source not containing pollutants, provided that NDEP has not determined the source to be a
27 substantial contributors of pollutants.

28 (2) Dechlorinated swimming pool water (less than one mg/L chlorine),

1 provided that a suitable connection to the sanitary sewer is not available, as determined by the
2 Director, and permission to discharge swimming pool water into the storm system has first been
3 obtained from the Director.

4 (3) Discharges specified by NDEP as being necessary to protect public
5 health and safety.

6 (4) Dye testing, provided that notification, either verbal or written, is given
7 to the Director prior to the time of the testing.

8 (B) It is unlawful for any person to discharge or cause to be discharged into any
9 surface waters within the City any pollutant, without first obtaining from NDEP an NPDES permit
10 authorizing the discharge, when such a permit is required by the Act.

11 (C) It is unlawful for any person to discharge or cause to be discharged into the
12 storm system any non-stormwater that would cause a violation of the City's NPDES stormwater
13 permit.

14 SECTION 9: (A) The construction, use, maintenance or continued existence of
15 illicit connections to the storm system is prohibited, which expressly includes, without limitation,
16 illicit connections made in the past, regardless of whether the connection was permissible under law
17 or practices applicable or prevailing at the time of connection.

18 (B) A person is considered to be in violation of this Chapter if the person connects
19 a line conveying sewage to the storm system, or allows such a connection to continue.

20 (C) It is unlawful for any person to remove any manhole cover, or to discharge or
21 cause to be discharged any stormwater or non-stormwater directly into a manhole or other opening in
22 the storm system that has not been authorized for stormwater discharge, unless such discharge is
23 approved by the Director. The Director may require a written application by the person and the
24 payment of the applicable fees and charges that have been established by the City Council pursuant
25 to Section 21 of this Ordinance.

26 SECTION 10: It is unlawful for any person to dispose of trash, construction debris, or
27 industrial waste materials into the storm system, except as allowed by this Chapter or by the Director.

28 SECTION 11: (A) The Director shall have the full power and authority to

1 immediately and effectively halt or prevent, through whatever means and procedures are deemed
2 reasonably necessary, and after informal notice to the discharger, any discharge of non-stormwater into
3 the storm system which appears to present an imminent endangerment to the health or welfare of any
4 person or the environment, or which discharge threatens property or the proper operation of the storm
5 system, or which places or threatens to place the City in violation of its NPDES stormwater permit.
6 In implementing such measure or measures, the personnel of the City, any party with which the City
7 has contracted for such purpose, or a duly authorized representative of any other government agency
8 shall have immediate access to the premises on which such condition exists. The Director may
9 prohibit the approach to such premises by any person, vehicle, vessel or thing, and all persons who
10 are not actually employed in the abatement of such condition or in the preservation of life or property
11 on, or in the vicinity of, such premises may be excluded from such premises. The affected person or
12 persons shall have the opportunity to respond, after the fact, to any action taken pursuant to this
13 Section by requesting a hearing in the manner that is set forth in Subsection (E) of this Section.

14 (B) Any person who is notified of action pursuant to Subsection (A) of this Section
15 (a "storm system access suspension") shall immediately cease and desist the discharge of all
16 non-stormwater from its facilities into the storm system.

17 (C) If a person fails to comply voluntarily with a storm system access suspension
18 order, the Director may take such action as may be reasonably necessary in order to ensure immediate
19 compliance with such order, including without limitation the immediate blockage or the disconnection
20 of the person's connection to the storm system.

21 (D) In addition, the Director, in the event of any violation of this Chapter by any
22 person, may serve such person with a notice of an intended order of storm system access suspension,
23 which notice states the reasons therefor, notifies the person of the opportunity for a hearing with
24 respect thereto and establishes the proposed effective date of the intended order.

25 (E) Any person who has been notified of a storm system access suspension under
26 this Section may file with the Director a request for a hearing with respect thereto; provided, however,
27 that the filing of such a request shall not stay the existing or proposed storm system access suspension.

28 (F) If a hearing is requested with respect to an existing or proposed storm system

1 access suspension, the Director shall hold a hearing with respect to such storm system access
2 suspension within fourteen days after receipt of the request. Within two working days following the
3 close of the hearing, the Director shall make a determination concerning whether to affirm, to
4 terminate or conditionally to terminate the storm system access suspension. Reasonable notice of the
5 hearing shall be given to such person no less than five working days prior to the date of the hearing.

6 (G) The Director may terminate a storm system access suspension under this
7 Section upon proof of the compliance by the person with applicable requirements, which compliance
8 ends the emergency nature of the hazard that had caused the Director to initiate the storm system
9 access suspension; provided, however, that the Director must be satisfied that the person will
10 henceforth comply with all of the discharge requirements that are set forth in this Chapter, the City's
11 rules and regulations that relate to the discharge of stormwater, and any lawful order that is issued
12 pursuant to this Chapter.

13 SECTION 12: Any person who is required by the Act to obtain an NPDES permit for
14 stormwater associated with industrial activity or an NPDES permit for stormwater associated with
15 construction activity shall obtain such permit within the time allowed by the Act. Proof of having
16 obtained such permit may be required in a form acceptable to the Director.

17 SECTION 13: (A) Whenever it is necessary to make an inspection to monitor or
18 enforce any of the provisions of, or to perform any duty imposed by, this Chapter, or whenever the
19 Director has reasonable cause to believe that there exists upon any premises any violation of the
20 provisions of this Chapter or any condition which makes such premises hazardous, unsafe or
21 dangerous, the Director is authorized to enter such premises at all reasonable times and inspect the
22 same and perform any duty that is imposed upon the Director by this Chapter, subject to the following
23 conditions:

24 (1) If the premises are occupied, the Director shall first present proper
25 credentials to the occupant and request entry after explaining the reasons therefor and the purpose of
26 the inspection; or

27 (2) If the premises are unoccupied, the Director shall first make a reasonable
28 effort to locate the owner or other person who has the care or control of such premises and request

1 entry after explaining the reasons therefor and the purpose of the inspection. If such entry is refused
2 or cannot be obtained because the owner or other person who has the care or control of such premises
3 cannot be found after due diligence, the Director may have recourse to every remedy that is provided
4 by law to effect lawful entry and to inspect such premises.

5 (B) Notwithstanding the provisions of Subsection (A) of this Section, if the Director
6 has reasonable cause to believe that non-stormwater discharge conditions on or emanating from the
7 premises are so hazardous, unsafe or dangerous as to require immediate inspection and action in order
8 to safeguard the public health or safety, the Director shall have the right immediately to enter and
9 inspect such premises and may use any reasonable means that may be required in order to effect such
10 entry and make such inspection, whether the premises are occupied or unoccupied and whether or not
11 formal permission to enter and inspect has been obtained.

12 (C) It shall be unlawful for any person to fail or refuse, after a proper demand has
13 been made upon that person in accordance with Subsection (B) of this Section, promptly to permit the
14 Director to enter such premises and to make any inspection that is provided for by Subsection (B).
15 In addition to any criminal penalty that may be imposed upon any person who violates this Subsection
16 (C), such person's storm system access may be suspended as provided for in Section 11 of this
17 Ordinance.

18 (D) Any person subject to this Chapter shall consent and agree to the entry at all
19 reasonable times by the Director or designated personnel upon the premises that are described in such
20 permit for any of the following purposes:

21 (1) To inspect all areas of the person's facilities that have the potential to
22 influence the characteristics of the non-stormwater that is, or may be, discharged to the storm system;

23 (2) To inspect, sample and take flow measurements of the discharge from
24 such person's facilities and to examine records in the performance of the Director's authorized duties;

25 (3) To set up on such person's property such devices as may be necessary
26 or appropriate in order to conduct sampling, inspections, compliance monitoring, flow measuring or
27 metering operations, or any combination thereof;

28 (4) To inspect and copy any record, report, test result or other information

1 that is required to carry out the provisions of this Chapter; and

2 (5) To photograph or otherwise create a record of any waste, waste
3 container, vehicle, waste treatment process, discharge location or violation that is discovered during
4 any such inspection.

5 (E) If a person has instituted security measures that require proper identification
6 and clearance before entry upon its premises, such person shall make all arrangements with its security
7 guards that may be necessary in order that, upon presentation of their credentials, the duly designated
8 personnel of the City shall be permitted to enter upon the premises without delay for the purpose of
9 performing their authorized duties.

10 SECTION 14: (A) For any construction, commercial or industrial site, the Director
11 may require BMPs that reduce the discharge of pollutants to the maximum extent practicable. These
12 BMPs shall be consistent with applicable local guidance documents developed to implement this
13 Section. BMPs that are consistent with the applicable local guidance documents shall be deemed in
14 compliance with this Section. These BMPs shall be installed and maintained at the sole expense of
15 the owner or operator.

16 (1) The Director may require the owner or operator of any construction,
17 commercial or industrial site to submit a written plan for BMPs before commencement of construction
18 or operation of the site, or at any time thereafter. The Director may require any person who proposes
19 development or significant redevelopment to submit a written plan for BMPs, and for the operation
20 and maintenance of any BMP. Any such plan is subject to approval by the Director, and shall be
21 maintained at the same site for which it was written and be available for inspection during normal
22 business hours.

23 (2) Compliance with all terms and conditions of a valid NPDES stormwater
24 permit authorizing the discharge of stormwater to the storm system shall be deemed in compliance
25 with the provisions of this Section.

26 (B) If the Director determines that existing BMPs do not reduce the discharge of
27 pollutants to the maximum extent practicable, the Director may require additional BMPs to satisfy the
28 provisions of Subsection (A) of this Section

1 (C) The Director may require secondary containment for any hazardous substance
2 when the Director determines that the substance has the potential to enter the storm system illicitly.
3 Such secondary containment shall be provided and maintained at the sole cost and expense of the
4 person responsible for the substance.

5 SECTION 15: Notwithstanding any other requirement of law, as soon as any person
6 responsible for a facility or operation, or responsible for emergency response related thereto, has
7 information regarding any known or suspected release of non-stormwater at or from that facility or
8 operation, where such release is not authorized by this Chapter, the person shall take all necessary
9 steps to ensure the discovery, containment, and cleanup of such release. In the event of a release that
10 is in excess of a Federally-reportable quantity, the person shall immediately notify the Director and
11 emergency response agencies of the occurrence by calling 911. In the event of any non-hazardous
12 release, the person shall notify the Director no later than the next business day. If the release emanates
13 from a commercial or industrial establishment, the owner or operator of such establishment shall also
14 retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such
15 records shall be retained for at least three years.

16 SECTION 16: (A) The Director may rely on any appropriate evidence to determine
17 noncompliance with this Chapter.

18 (B) In the case of noncompliance with this Chapter, the Director may proceed with
19 any one or more of the following actions:

- 20 (1) Issue a notice of violation;
- 21 (2) Assess noncompliance fees;
- 22 (3) Revoke City permits, licenses and agreements pertaining to work on the
23 premises,
- 24 (4) Issue a cease and desist order requiring any person who caused or is
25 responsible for the release to cease the release within a specified time;
- 26 (5) Issue a cleanup and abatement order requiring any such person to clean
27 up and abate the release within a specified time;
- 28 (6) Cause the release to be cleaned up and abated, and thereafter recover

1 the costs thereof from the person or persons who are responsible for the release; or

2 (7) Take any other action as provided for in any provision of the Chapter.

3 (C) The payment of noncompliance fees shall not preclude the Director from
4 undertaking any other enforcement procedure that is specified in this Chapter

5 SECTION 17: (A) Any person who is affected by any decision, action or
6 determination made by the Director in the interpretation or the implementation of the provisions of
7 this Chapter may file with the Director a written request for the reconsideration of such decision,
8 action or determination. The person requesting reconsideration must file the request within thirty days
9 after receipt of notice of the decision, action or determination, and must set forth in detail the facts that
10 support the request for reconsideration. Such facts must include a statement that sets forth any newly
11 discovered relevant fact that was not known or was unavailable to the person requesting
12 reconsideration at the time of the initial decision, action or determination. The Director shall render
13 a written decision with respect to the request within thirty days after receipt thereof.

14 (B) Each request for reconsideration shall be accompanied by the fee, if any, that
15 has been established by the City Council, pursuant to Section 21 of this Ordinance, for the filing of
16 such a request. Any such fee may, in the sole discretion of the Director, be refunded if the Director's
17 ruling with respect to such request is in favor of the person who made the request.

18 (C) If the ruling of the Director with respect to a request for reconsideration is
19 unacceptable to the person who made such request, the person may, within ten working days after the
20 date of its receipt of the notification of the Director's ruling, file a written appeal to the City Council.

21 (D) Each appeal shall be accompanied by the fee, if any, that has been established
22 by the City Council, pursuant to Section 21 of this Ordinance, for the filing of an appeal. Any such
23 fee may, in the sole discretion of the City Council, be refunded if the City Council's ruling with
24 respect to such appeal is in favor of the person who filed the appeal.

25 (E) The appeal shall be heard by the City Council within forty-five days after the
26 date on which the appeal was filed, and the City Council shall make a final ruling with respect to the
27 appeal within forty-five days after the hearing is concluded.

28 SECTION 18: (A) In the event of any violation of any provision of this Chapter for

1 which the Director is authorized by this Section to issue a compliance order, the Director is authorized
2 to commence a civil action against the person or persons responsible for the violation. The action may
3 seek all appropriate relief, including without limitation civil penalties or a temporary and permanent
4 injunction against the perpetuation of such violation, or both, or to impose administrative penalties
5 for the violation in accordance with Sections 19 and 21 of this Ordinance.

6 (B) A person may be held liable for civil penalties pursuant to Subsection (A) of
7 this Section for failure to comply with any provision of this Chapter.

8 (C) Before commencing a civil action against a person pursuant to this Section, the
9 Director shall issue an order that requires the person to comply with this Chapter and advises the
10 person that, upon failure to comply with the order, the Director is authorized to bring a civil action in
11 accordance with this Section.

12 (D) Any compliance order which the Director issues pursuant to this Section shall
13 be in writing and shall be served personally or by registered or certified mail that is addressed to the
14 recipient's last known address, return receipt requested. The order shall state with reasonable
15 specificity the nature of the violation in respect of which the order is issued and shall specify a period
16 in which compliance therewith is required. The period for compliance shall not exceed thirty days,
17 in the case of a violation of an interim compliance schedule or operation and maintenance
18 requirement, and shall not exceed the period that the Director determines is reasonable, in the case of
19 a violation of a final deadline. In determining the period for compliance, the Director shall consider
20 the seriousness of the violation and any good faith effort on the part of the user or other person to
21 comply with the applicable requirements.

22 (E) In any civil action that is brought by the Director for enforcement of the
23 provisions of this Chapter, the Director shall seek the imposition of a civil penalty upon the person
24 against whom the action is brought, consistent with the provisions of State law, in an amount that is
25 not less than one thousand dollars nor more than twenty-five thousand dollars for each day that each
26 such violation continues. In determining the amount of a civil penalty that is to be imposed, following
27 a finding by the court of liability, the court shall consider the circumstances, extent and gravity of the
28 violation in respect of which the action is brought, the economic benefit, if any, that has inured to the

1 person as the result of the violation, any history of similar violations, the degree of culpability of the
2 person, any good faith effort on the part of the person to comply with the applicable requirements, the
3 potential economic impact of the penalty upon the person, and such other matters as justice may
4 require

5 (F) The civil and administrative penalties that are provided for in this Section and
6 in Sections 19 and 21 of this Ordinance shall be in addition to, and not in substitution for, any criminal
7 penalty that may be imposed for the violation that forms the subject matter of any such civil or
8 administrative relief and in addition to, and not in substitution for the invocation of any of the
9 provisions of this Chapter as the result of the violation.

10 SECTION 19: (A) Whenever, on the basis of the information that is available, the
11 Director finds that any person is in violation of any of the provisions of this Chapter, the Director may
12 assess an administrative penalty in an amount that is not less than five hundred dollars nor more than
13 ten thousand dollars for each day that each such violation continues, unless a different administrative
14 penalty for any of such violations is established in the schedule of fees and charges that has been
15 established by the City Council pursuant to Section 21 of this Ordinance

16 (B) Before assessing any administrative penalty pursuant to this Section, the
17 Director shall give the person upon whom such penalty is to be imposed written notice of the proposed
18 assessment and the opportunity to request, within thirty days after the date on which such notice is
19 received by it, a hearing with respect to the proposed order of assessment.

20 (C) In determining the amount of any penalty assessed pursuant to this Section, the
21 Director shall consider the nature, circumstances, extent and gravity of the violation in respect of
22 which the penalty is proposed to be assessed, the economic benefit, if any, that has inured to the
23 person as the result of such violation, any good faith effort on the part of the person to comply with
24 the applicable requirements; the potential economic impact of the penalty upon the user or other
25 person; any history of similar violations; the degree of culpability of the user or other person; and such
26 other matters as justice may require.

27 (D) An order which imposes an administrative penalty pursuant to this Section shall
28 become final:

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(1) Thirty days after its issuance; or

(2) If a hearing has been requested pursuant to Subsection (B) of this Section, upon the Director's issuance of a decision following the hearing.

(E) The failure of a person to pay any administrative penalty that is imposed by the Director pursuant to this Section within thirty days after the imposition thereof shall be grounds for any remedy that is available under this Chapter for terminating the person's ability to discharge or cause to be discharged stormwater or non-stormwater from its facilities into the storm system.

SECTION 20: Any fee, assessment or penalty that is imposed pursuant to this Chapter and that remains unpaid for a period that exceeds thirty days after the same became due shall, upon the expiration of such thirty-day period, constitute a perpetual lien on and against the premises which are subject to such fee, assessment or penalty as well as constituting a debt that is owing to the City by the person upon whom such fee, assessment or penalty is imposed and the owner of record of such premises, if such owner is someone other than the person. The City may bring a civil action in any court of competent jurisdiction to recover such fee, assessment or penalty, or any combination thereof, together with interest thereon, and may enforce such lien by recording a notice thereof with the County Recorder upon the expiration of such thirty-day period and foreclosing the same against the premises that are subject to such lien in the same manner as is provided by the laws of the State for the foreclosure of mechanics' liens.

SECTION 21: (A) In order to provide for the recovery by the City of its costs that are related to the discharge of stormwater, non-stormwater or pollutants into the storm system and for the enforcement of the provisions of this Chapter, or both, the City Council shall establish a schedule of fees and charges. Such schedule, which shall be subject to periodic revision, may establish a specific amount for any fee, charge, assessment, penalty or other cost that is related to the discharge of stormwater, non-stormwater or pollutants to the storm system or the enforcement of the provisions of this Chapter, or both, including without limitation:

- (1) Inspection fees;
- (2) Application fees;
- (3) Plan review fees;

- 1 (4) Monitoring fees;
- 2 (5) Administrative penalties,
- 3 (6) Fees for filing requests for reconsideration and appeals; and
- 4 (7) Other fees that the City Council deems appropriate.

5 (B) Except as may be otherwise provided in this Chapter, whenever any fee, charge,
6 assessment or penalty that is required by this Chapter to be paid is based upon an estimated value or
7 an estimated quantity, the Director shall make such determination in accordance with generally
8 recognized practices.

9 SECTION 22: All fees, charges, assessments and penalties that are imposed pursuant
10 to the provisions of this Chapter, or pursuant to the approved schedule of fees and charges that is
11 established in accordance with Section 21 of this Ordinance, shall be due and payable upon delivery
12 of notice thereof, or upon mailing such notice to the last known mailing address of the person or entity
13 responsible for payment thereof. All such fees, charges, assessments and penalties shall be and
14 become delinquent thirty days after delivery or mailing of the notice described above.

15 SECTION 23: The City shall keep a permanent and accurate account of all fees,
16 charges, assessments and penalties that are received by it under this Chapter, which account shall
17 include the name and address of each person who paid any such fee, charge, assessment or penalty or
18 on whose behalf the same was paid, the date of such payment and amount thereof and the purpose for
19 which the same was paid.

20 SECTION 24: Whenever a delinquency charge has not been specifically provided for
21 in this Chapter, any fee, charge or assessment that becomes delinquent shall have added to it a basic
22 delinquency charge that is equal to ten percent of the fee, charge or assessment that became
23 delinquent, and thereafter an additional delinquency charge shall accrue on the total amount that is
24 due, including the ten percent basic delinquency charge, at the rate of ten percent per month
25 compounding, but the amount of the delinquent fee, charge or assessment, as increased by delinquency
26 charges, shall not exceed twice the amount of the original fee, charge or assessment. In addition to
27 the delinquency charges described in this Section, the City may also, as permitted by law, assess
28 collection costs, including, without limitation, any attorneys' fees and court costs that the City may

1 incur in collecting the fee, charge or assessment and the delinquency charges.
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3 SECTION 25: Any action that is brought by the City for the purpose of collecting any
4 fee, charge, assessment or penalty that is provided for in this Chapter may include a request for an
5 injunction to prevent repeated and recurring violations of this Chapter.

6 SECTION 26: (A) Any person who does any of the following is guilty of a
7 misdemeanor:

8 (1) Negligently or wilfully introduces or causes to be introduced into the
9 storm system any non-stormwater which such person knew, or with the exercise of reasonable
10 diligence would have known, could cause personal injury or property damage;

11 (2) Causes any violation of any condition of any permit that has been issued
12 to the City pursuant to the Act, unless such action is necessary in order for the person to comply with
13 all applicable Federal, State and local requirements or permits; or

14 (3) Knowingly makes a false statement, representation or certification of
15 any material fact in any application, record, report, plan or other document that is filed or required to
16 be maintained pursuant to this Chapter or who knowingly falsifies, tampers with or renders inaccurate
17 any monitoring device or method that is required by this Chapter.

18 (B) Whenever in this Chapter any act is prohibited or is made or declared to be
19 unlawful or an offense or a misdemeanor, or whenever in this Chapter the doing of any act is required
20 or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the
21 doing of any such prohibited act or the failure to do any such required act shall constitute a
22 misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one thousand
23 dollars or by imprisonment for a term of not more than six months, or by any combination of such fine
24 and imprisonment. Any day of any violation of this Chapter shall constitute a separate offense.

25 SECTION 27: Any person who discharges or causes to be discharged any
26 non-stormwater into the storm system shall be liable to the City for all damages, cleanup costs,
27 monitoring costs and other associated costs that result therefrom.

28 SECTION 28 In lieu of enforcement proceedings, penalties and remedies authorized

1 by this Chapter, the Director may impose upon a violator alternative compensatory actions, as
2 determined by the Director.

3 SECTION 29: In addition to the enforcement processes and penalties provided, any
4 condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat
5 to public health, safety, and welfare, and is declared and deemed a nuisance. Such nuisance may be
6 summarily abated or restored at the violator's expense, a civil action filed to abate, enjoin, or
7 otherwise compel the cessation of such nuisance, or any combination thereof.

8 SECTION 30: The remedies listed in this Chapter are not exclusive of any other
9 remedies available under any applicable Federal, state or local law, and it is within the discretion of
10 the Director to seek cumulative remedies.

11 SECTION 31: If any section, subsection, subdivision, paragraph, sentence, clause or
12 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
13 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
14 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
15 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
16 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
17 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
18 invalid or ineffective.

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SECTION 32: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2008.

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, CMC
City Clerk

APPROVED AS TO FORM:

Val Steed 8-6-08
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2008, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2008, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

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APPROVED:

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By OSCAR B. GOODMAN, Mayor

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15 ATTEST:

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BEVERLY K BRIDGES, CMC
City Clerk

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1 **PROPOSED FIRST AMENDMENT**

2 **BILL NO. 2008-43**

3 **ORDINANCE NO. _____**

4 AN ORDINANCE TO ADOPT REGULATIONS GOVERNING STORMWATER AND
5 STORMWATER MANAGEMENT IN COMPLIANCE WITH STATE AND FEDERAL LAWS
AND REGULATIONS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

6 Proposed by: Jorge Cervantes, Director of
7 Public Works

Summary: Adopts regulations governing
stormwater and stormwater management in
8 compliance with State and Federal laws and
regulations.

9 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
10 AS FOLLOWS:

11 SECTION 1: Title 14 of the Municipal Code of the City of Las Vegas, Nevada, 1983
12 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 18, consisting of
13 the provisions set forth as Sections 2 to 30, inclusive, of this Ordinance.

14 SECTION 2: The following definitions shall govern the construction of this Chapter:

15 "Act" means the provisions of the Clean Water Act, as amended and as set forth in 33 U.S.C.
16 §§ 1251 et seq., together with all guidelines, limitations and standards that are promulgated by the
17 EPA pursuant to the Act.

18 "BMP" or "best management practices" means a structural or non-structural device, facility,
19 measure, source control practice, or any activity, along with any required documentation thereof, that
20 helps to achieve compliance with any discharge requirement set forth in this Chapter.

21 "CFR" means the Code of Federal Regulations, a codification of regulations issued by the
22 executive departments and agencies of the Federal Government.

23 "Construction activity" means activities subject to NPDES construction permits as defined in
24 40 CFR § 122.26.

25 "Director" means the Director of Public Works, or an authorized agent or representative of the
26 Director.

27 "Discharge" means a point source discharge of pollutants into the storm system

28 "Illicit discharge" means a direct or indirect discharge of non-stormwater to the storm system,

Submitted At Meeting

Date 9/2/08 Item 3

1 except as allowed for in this Chapter.

2 “Illicit connection” means any connection to the storm system from an indoor sink or drain,
3 or any drain or conveyance, whether on the surface or subsurface, which allows entrance to the storm
4 system of a discharge of sewage, industrial process wastewater, or non-stormwater that could interfere
5 with the storm system or present an imminent and substantial endangerment to human health or the
6 environment.

7 “Industrial activity” means activities subject to NPDES industrial permits as defined in 40
8 CFR § 122.26.

9 “Maximum extent practicable” means the technology-based discharge standard to reduce
10 pollutants in stormwater discharges that was established by Section 402(p) of the Act and is described
11 in 40 CFR §122.34(a).

12 “NDEP” means the Division of Environmental Protection of the Nevada Department of
13 Conservation and Natural Resources.

14 “Non-stormwater” means any discharge to the storm system that is not composed entirely of
15 stormwater.

16 “NPDES permit” means a National Pollutant Discharge Elimination System permit that is
17 issued by NDEP pursuant to Section 402 of the Act, authorizing a person to discharge pollutants into
18 the waters of the United States.

19 “Person” means any individual, association, organization, partnership, firm, corporation or
20 other entity recognized by law and acting as either the owner of premises or of an operation (or as the
21 owner’s agent), but does not include the City or any other state or local governmental entity within
22 the State of Nevada, or any of their employees or agents.

23 “Point source” means “point source” as that term is defined in Section 502(14) of the Act.

24 “Pollutant” means “pollutant” as that term is defined in Section 502(6) of the Act.

25 “Premises” means any building, lot, parcel of land, or portion of land, whether improved or
26 unimproved, and including adjacent sidewalks and parking strips.

27 “Release” or “spill” means any significant spill, leak, or release of any non-stormwater into
28 the storm system, whether intentional or unintentional, other than that which is allowed for in this

1 Chapter.

2 "Stormwater" means any discharge resulting from precipitation, irrigation, or normal
3 residential activity.

4 "Surface waters" means "navigable waters" as that term is defined in Section 502(7) of the
5 Act.

6 "Storm system" means any publicly-owned facility by which stormwater is collected or
7 conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters,
8 curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and
9 human-made or altered drainage channels, reservoirs, and other drainage structures.

10 SECTION 3: The purpose of this Chapter is to provide for the health, safety, and
11 general welfare of City residents and visitors through the regulation of discharges to the storm system,
12 to the maximum extent practicable. This Chapter establishes methods for controlling the introduction
13 of stormwater and non-stormwater into the storm system in order to comply with requirements of the
14 City's NPDES stormwater permit. The objectives of this Chapter are to:

- 15 (A) Regulate the discharge of stormwater and non-stormwater to the storm system;
16 (B) Prohibit illicit connections and illicit discharges to the storm system;
17 ~~(C) Establish legal authority to carry out all inspection, surveillance, monitoring~~
18 ~~procedures, and enforcement activities necessary to ensure compliance with this Chapter;~~
19 (D) Establish civil, administrative and criminal penalties for violations of the
20 provisions of this Chapter; and
21 (E) Provide procedures for City compliance with requirements that are placed upon
22 the City by other governmental agencies.

23 SECTION 4: This Chapter shall apply to all water entering the storm system that has
24 been generated on any developed and undeveloped lands, unless explicitly exempted by the Director
25 or NDEP.

26 SECTION 5: The Director shall be responsible for administering, implementing, and
27 enforcing the provisions of this Chapter. Any powers granted or duties imposed upon the Director
28 may be delegated in writing by the Director to persons or entities acting in the beneficial interest of,

1 or in the employ of, the City.

2 SECTION 6: The standards established by this Chapter are minimum standards that
3 have been adopted by the City for the purposes stated. Nothing in this Chapter:

4 (A) Is intended, nor shall be deemed, to imply that compliance with this Chapter
5 by any person will insulate that person from liability under other sources of law or theories of liability
6 relating to the discharge of pollutants into the storm system;

7 (B) Shall create liability on the part of the City or its officers, employees or agents
8 for any damages that result from a discharger's reliance on this Chapter or any administrative decision
9 lawfully made thereunder.

10 SECTION 7: The City is authorized to regulate discharges from persons and premises
11 that are located outside of the corporate boundaries of the City but are tributary to the storm system,
12 consistent with any interlocal agreement. The requirements of this Chapter shall apply to each such
13 person. The Director is authorized to inspect and monitor the facilities of each such person in order
14 to determine its compliance with this Chapter.

15 SECTION 8: (A) It is unlawful for any person to discharge or cause to be
16 discharged into the storm system any non-stormwater, unless the discharge has been authorized by
17 NDEP and approved by the Director, or is one of the following:

18 (1) Water line flushing; water from other potable water sources; landscape
19 irrigation or lawn watering; diverted stream flows, rising ground water; ground water infiltration to
20 the storm system; foundation or footing drains (not including active groundwater dewatering systems);
21 crawl space pumps; air conditioning and swamp cooler condensation; springs; non-commercial
22 washing of vehicles; natural riparian habitat or wetland flows; firefighting activities; or any other
23 water source not containing pollutants, provided that NDEP has not determined the source to be a
24 substantial contributors of pollutants.

25 (2) Dechlorinated swimming pool water (less than one mg/L chlorine),
26 provided that a suitable connection to the sanitary sewer is not available, as determined by the
27 Director, and permission to discharge swimming pool water into the storm system has first been
28 obtained from the Director.

1 (3) Discharges specified by NDEP as being necessary to protect public
2 health and safety.

3 (4) Dye testing, provided that notification, either verbal or written, is given
4 to the Director prior to the time of the testing.

5 (B) It is unlawful for any person to discharge or cause to be discharged into any
6 surface waters within the City any pollutant, without first obtaining from NDEP an NPDES permit
7 authorizing the discharge, when such a permit is required by the Act.

8 (C) It is unlawful for any person to discharge or cause to be discharged into the
9 storm system any non-stormwater that would cause a violation of the City's NPDES stormwater
10 permit.

11 SECTION 9: (A) The construction, use, maintenance or continued existence of
12 illicit connections to the storm system is prohibited, which expressly includes, without limitation,
13 illicit connections made in the past, regardless of whether the connection was permissible under law
14 or practices applicable or prevailing at the time of connection.

15 (B) A person is considered to be in violation of this Chapter if the person connects
16 a line conveying sewage to the storm system, or allows such a connection to continue.

17 ~~(C) It is unlawful for any person to remove any manhole cover, or to discharge or~~
18 ~~cause to be discharged any stormwater or non-stormwater directly into a manhole or other opening in~~
19 ~~the storm system that has not been authorized for stormwater discharge, unless such discharge is~~
20 ~~approved by the Director. The Director may require a written application by the person and the~~
21 ~~payment of the applicable fees and charges that have been established by the City Council pursuant~~
22 ~~to Section 21 of this Ordinance~~

23 SECTION 10: It is unlawful for any person to dispose of trash, construction debris, or
24 industrial waste materials into the storm system, except as allowed by this Chapter or by the Director.

25 SECTION 11. (A) The Director shall have the full power and authority to
26 immediately and effectively halt or prevent, through whatever means and procedures are deemed
27 reasonably necessary, and after informal notice to the discharger, any discharge of non-stormwater into
28 the storm system which appears to present an imminent endangerment to the health or welfare of any

1 person or the environment, or which discharge threatens property or the proper operation of the storm
2 system, or which places or threatens to place the City in violation of its NPDES stormwater permit.
3 In implementing such measure or measures, the personnel of the City, any party with which the City
4 has contracted for such purpose, or a duly authorized representative of any other government agency
5 shall have immediate access to the premises on which such condition exists. The Director may
6 prohibit the approach to such premises by any person, vehicle, vessel or thing, and all persons who
7 are not actually employed in the abatement of such condition or in the preservation of life or property
8 on, or in the vicinity of, such premises may be excluded from such premises. The affected person or
9 persons shall have the opportunity to respond, after the fact, to any action taken pursuant to this
10 Section by requesting a hearing in the manner that is set forth in Subsection (E) of this Section.

11 (B) Any person who is notified of action pursuant to Subsection (A) of this Section
12 (a “storm system access suspension”) shall immediately cease and desist the discharge of all
13 non-stormwater from its facilities into the storm system.

14 (C) If a person fails to comply voluntarily with a storm system access suspension
15 order, the Director may take such action as may be reasonably necessary in order to ensure immediate
16 compliance with such order, including without limitation the immediate blockage or the disconnection
17 of the person’s connection to the storm system.

18 (D) In addition, the Director, in the event of any violation of this Chapter by any
19 person, may serve such person with a notice of an intended order of storm system access suspension,
20 which notice states the reasons therefor, notifies the person of the opportunity for a hearing with
21 respect thereto and establishes the proposed effective date of the intended order.

22 (E) Any person who has been notified of a storm system access suspension under
23 this Section may file with the Director a request for a hearing with respect thereto; provided, however,
24 that the filing of such a request shall not stay the existing or proposed storm system access suspension.

25 (F) If a hearing is requested with respect to an existing or proposed storm system
26 access suspension, the Director shall hold a hearing with respect to such storm system access
27 suspension within fourteen days after receipt of the request. Within two working days following the
28 close of the hearing, the Director shall make a determination concerning whether to affirm, to

1 terminate or conditionally to terminate the storm system access suspension. Reasonable notice of the
2 hearing shall be given to such person no less than five working days prior to the date of the hearing.

3 (G) The Director may terminate a storm system access suspension under this
4 Section upon proof of the compliance by the person with applicable requirements, which compliance
5 ends the emergency nature of the hazard that had caused the Director to initiate the storm system
6 access suspension; provided, however, that the Director must be satisfied that the person will
7 henceforth comply with all of the discharge requirements that are set forth in this Chapter, the City's
8 rules and regulations that relate to the discharge of stormwater, and any lawful order that is issued
9 pursuant to this Chapter.

10 SECTION 12: Any person who is required by the Act to obtain an NPDES permit for
11 stormwater associated with industrial activity or an NPDES permit for stormwater associated with
12 construction activity shall obtain such permit within the time allowed by the Act. Proof of having
13 obtained such permit may be required in a form acceptable to the Director.

14 SECTION 13: (A) Whenever it is necessary to make an inspection to monitor or
15 enforce any of the provisions of, or to perform any duty imposed by, this Chapter, or whenever the
16 Director has reasonable cause to believe that there exists upon any premises any violation of the
17 ~~provisions of this Chapter or any condition which makes such premises hazardous, unsafe or~~
18 dangerous, the Director is authorized to enter such premises at all reasonable times and inspect the
19 same and perform any duty that is imposed upon the Director by this Chapter, subject to the following
20 conditions:

21 (1) If the premises are occupied, the Director shall first present proper
22 credentials to the occupant and request entry after explaining the reasons therefor and the purpose of
23 the inspection; or

24 (2) If the premises are unoccupied, the Director shall first make a reasonable
25 effort to locate the owner or other person who has the care or control of such premises and request
26 entry after explaining the reasons therefor and the purpose of the inspection. If such entry is refused
27 or cannot be obtained because the owner or other person who has the care or control of such premises
28 cannot be found after due diligence, the Director may have recourse to every remedy that is provided

1 by law to effect lawful entry and to inspect such premises.

2 (B) Notwithstanding the provisions of Subsection (A) of this Section, if the Director
3 has reasonable cause to believe that non-stormwater discharge conditions on or emanating from the
4 premises are so hazardous, unsafe or dangerous as to require immediate inspection and action in order
5 to safeguard the public health or safety, the Director shall have the right immediately to enter and
6 inspect such premises and may use any reasonable means that may be required in order to effect such
7 entry and make such inspection, whether the premises are occupied or unoccupied and whether or not
8 formal permission to enter and inspect has been obtained.

9 (C) It shall be unlawful for any person to fail or refuse, after a proper demand has
10 been made upon that person in accordance with Subsection (B) of this Section, promptly to permit the
11 Director to enter such premises and to make any inspection that is provided for by Subsection (B).
12 In addition to any criminal penalty that may be imposed upon any person who violates this Subsection
13 (C), such person's storm system access may be suspended as provided for in Section 11 of this
14 Ordinance.

15 (D) Any person subject to this Chapter shall consent and agree to the entry at all
16 reasonable times by the Director or designated personnel upon any premises subject to this Chapter
17 ~~for any of the following purposes:~~

18 (1) To inspect all areas of the person's facilities that have the potential to
19 influence the characteristics of the non-stormwater that is, or may be, discharged to the storm system;

20 (2) To inspect, sample and take flow measurements of the discharge from
21 such person's facilities and to examine records in the performance of the Director's authorized duties;

22 (3) To set up on such person's property such devices as may be necessary
23 or appropriate in order to conduct sampling, inspections, compliance monitoring, flow measuring or
24 metering operations, or any combination thereof;

25 (4) To inspect and copy any record, report, test result or other information
26 that is required to carry out the provisions of this Chapter, and

27 (5) To photograph or otherwise create a record of any waste, waste
28 container, vehicle, waste treatment process, discharge location or violation that is discovered during

1 any such inspection.

2 (E) If a person has instituted security measures that require proper identification
3 and clearance before entry upon its premises, such person shall make all arrangements with its security
4 guards that may be necessary in order that, upon presentation of their credentials, the duly designated
5 personnel of the City shall be permitted to enter upon the premises without delay for the purpose of
6 performing their authorized duties

7 SECTION 14: (A) For any construction, commercial or industrial site, the Director
8 may require BMPs that reduce the discharge of pollutants to the maximum extent practicable. These
9 BMPs shall be consistent with applicable local guidance documents developed to implement this
10 Section. BMPs that are consistent with the applicable local guidance documents shall be deemed in
11 compliance with this Section. These BMPs shall be installed and maintained at the sole expense of
12 the owner or operator.

13 (1) The Director may require the owner or operator of any construction,
14 commercial or industrial site to submit a written plan for BMPs before commencement of construction
15 or operation of the site, or at any time thereafter. The Director may require any person who proposes
16 development or significant redevelopment to submit a written plan for BMPs, and for the operation
17 ~~and maintenance of any BMP. Any such plan is subject to approval by the Director, and shall be~~
18 maintained at the same site for which it was written and be available for inspection during normal
19 business hours.

20 (2) Compliance with all terms and conditions of a valid NPDES stormwater
21 permit authorizing the discharge of stormwater to the storm system shall be deemed in compliance
22 with the provisions of this Section.

23 (B) If the Director determines that existing BMPs do not reduce the discharge of
24 pollutants to the maximum extent practicable, the Director may require additional BMPs to satisfy the
25 provisions of Subsection (A) of this Section.

26 (C) The Director may require secondary containment for any hazardous substance
27 when the Director determines that the substance has the potential to enter the storm system illicitly.
28 Such secondary containment shall be provided and maintained at the sole cost and expense of the

1 person responsible for the substance.

2 SECTION 15: Notwithstanding any other requirement of law, as soon as any person
3 responsible for a facility or operation, or responsible for emergency response related thereto, has
4 information regarding any known or suspected release of non-stormwater at or from that facility or
5 operation, where such release is not authorized by this Chapter, the person shall take all necessary
6 steps to ensure the discovery, containment, and cleanup of such release. In the event of a release that
7 is in excess of a Federally-reportable quantity, the person shall immediately notify the Director and
8 emergency response agencies of the occurrence by calling 911. In the event of any non-hazardous
9 release, the person shall notify the Director no later than the next business day. If the release emanates
10 from a commercial or industrial establishment, the owner or operator of such establishment shall also
11 retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such
12 records shall be retained for at least three years.

13 SECTION 16: (A) The Director may rely on any appropriate evidence to determine
14 noncompliance with this Chapter.

15 (B) In the case of noncompliance with this Chapter, the Director may proceed with
16 any one or more of the following actions:

- 17 ~~(1) Issue a notice of violation;~~
- 18 (2) Assess noncompliance fees;
- 19 (3) Revoke City permits, licenses and agreements pertaining to work on the
20 premises;
- 21 (4) Issue a cease and desist order requiring any person who caused or is
22 responsible for the release to cease the release within a specified time;
- 23 (5) Issue a cleanup and abatement order requiring any such person to clean
24 up and abate the release within a specified time;
- 25 (6) Cause the release to be cleaned up and abated, and thereafter recover
26 the costs thereof from the person or persons who are responsible for the release, or
27 (7) Take any other action as provided for in any provision of the Chapter.

28 (C) The payment of noncompliance fees shall not preclude the Director from

1 undertaking any other enforcement procedure that is specified in this Chapter.

2 SECTION 17: (A) Any person who is affected by any decision, action or
3 determination made by the Director in the interpretation or the implementation of the provisions of
4 this Chapter may file with the Director a written request for the reconsideration of such decision,
5 action or determination. The person requesting reconsideration must file the request within thirty days
6 after receipt of notice of the decision, action or determination, and must set forth in detail the facts that
7 support the request for reconsideration. Such facts must include a statement that sets forth any newly
8 discovered relevant fact that was not known or was unavailable to the person requesting
9 reconsideration at the time of the initial decision, action or determination. The Director shall render
10 a written decision with respect to the request within thirty days after receipt thereof.

11 (B) Each request for reconsideration shall be accompanied by the fee, if any, that
12 has been established by the City Council, pursuant to Section 21 of this Ordinance, for the filing of
13 such a request. Any such fee may, in the sole discretion of the Director, be refunded if the Director's
14 ruling with respect to such request is in favor of the person who made the request.

15 (C) If the ruling of the Director with respect to a request for reconsideration is
16 unacceptable to the person who made such request, the person may, within ten working days after the
17 ~~date of its receipt of the notification of the Director's ruling, file a written appeal to the City Council.~~

18 (D) Each appeal shall be accompanied by the fee, if any, that has been established
19 by the City Council, pursuant to Section 21 of this Ordinance, for the filing of an appeal. Any such
20 fee may, in the sole discretion of the City Council, be refunded if the City Council's ruling with
21 respect to such appeal is in favor of the person who filed the appeal.

22 (E) The appeal shall be heard by the City Council within forty-five days after the
23 date on which the appeal was filed, and the City Council shall make a final ruling with respect to the
24 appeal within forty-five days after the hearing is concluded.

25 SECTION 18. (A) In the event of any violation of any provision of this Chapter for
26 which the Director is authorized by this Section to issue a compliance order, the Director is authorized
27 to commence a civil action against the person or persons responsible for the violation. The action may
28 seek all appropriate relief, including without limitation civil penalties or a temporary and permanent

1 injunction against the perpetuation of such violation, or both, or to impose administrative penalties
2 for the violation in accordance with Sections 19 and 21 of this Ordinance.

3 (B) A person may be held liable for civil penalties pursuant to Subsection (A) of
4 this Section for failure to comply with any provision of this Chapter.

5 (C) Before commencing a civil action against a person pursuant to this Section, the
6 Director shall issue an order that requires the person to comply with this Chapter and advises the
7 person that, upon failure to comply with the order, the Director is authorized to bring a civil action in
8 accordance with this Section.

9 (D) Any compliance order which the Director issues pursuant to this Section shall
10 be in writing and shall be served personally or by registered or certified mail that is addressed to the
11 recipient's last known address, return receipt requested. The order shall state with reasonable
12 specificity the nature of the violation in respect of which the order is issued and shall specify a period
13 in which compliance therewith is required. The period for compliance shall not exceed thirty days,
14 in the case of a violation of an interim compliance schedule or operation and maintenance
15 requirement, and shall not exceed the period that the Director determines is reasonable, in the case of
16 a violation of a final deadline. In determining the period for compliance, the Director shall consider
17 ~~the seriousness of the violation and any good faith effort on the part of the user or other person to~~
18 comply with the applicable requirements.

19 (E) In any civil action that is brought by the Director for enforcement of the
20 provisions of this Chapter, the Director shall seek the imposition of a civil penalty upon the person
21 against whom the action is brought, consistent with the provisions of State law, in an amount that is
22 not less than one thousand dollars nor more than twenty-five thousand dollars for each day that each
23 such violation continues. In determining the amount of a civil penalty that is to be imposed, following
24 a finding by the court of liability, the court shall consider the circumstances, extent and gravity of the
25 violation in respect of which the action is brought, the economic benefit, if any, that has inured to the
26 person as the result of the violation, any history of similar violations, the degree of culpability of the
27 person, any good faith effort on the part of the person to comply with the applicable requirements, the
28 potential economic impact of the penalty upon the person, and such other matters as justice may

1 require.

2 (F) The civil and administrative penalties that are provided for in this Section and
3 in Sections 19 and 21 of this Ordinance shall be in addition to, and not in substitution for, any criminal
4 penalty that may be imposed for the violation that forms the subject matter of any such civil or
5 administrative relief and in addition to, and not in substitution for the invocation of any of the
6 provisions of this Chapter as the result of the violation.

7 SECTION 19: (A) Whenever, on the basis of the information that is available, the
8 Director finds that any person is in violation of any of the provisions of this Chapter, the Director may
9 assess an administrative penalty in an amount that is not less than five hundred dollars nor more than
10 ten thousand dollars for each day that each such violation continues, unless a different administrative
11 penalty for any of such violations is established in the schedule of fees and charges that has been
12 established by the City Council pursuant to Section 21 of this Ordinance.

13 (B) Before assessing any administrative penalty pursuant to this Section, the
14 Director shall give the person upon whom such penalty is to be imposed written notice of the proposed
15 assessment and the opportunity to request, within thirty days after the date on which such notice is
16 received by it, a hearing with respect to the proposed order of assessment.

17 ~~(C) In determining the amount of any penalty assessed pursuant to this Section, the~~
18 Director shall consider the nature, circumstances, extent and gravity of the violation in respect of
19 which the penalty is proposed to be assessed; the economic benefit, if any, that has inured to the
20 person as the result of such violation; any good faith effort on the part of the person to comply with
21 the applicable requirements; the potential economic impact of the penalty upon the user or other
22 person; any history of similar violations; the degree of culpability of the user or other person; and such
23 other matters as justice may require.

24 (D) An order which imposes an administrative penalty pursuant to this Section shall
25 become final:

26 (1) Thirty days after its issuance; or

27 (2) If a hearing has been requested pursuant to Subsection (B) of this
28 Section, upon the Director's issuance of a decision following the hearing.

1 (E) The failure of a person to pay any administrative penalty that is imposed by the
2 Director pursuant to this Section within thirty days after the imposition thereof shall be grounds for
3 any remedy that is available under this Chapter for terminating the person's ability to discharge or
4 cause to be discharged stormwater or non-stormwater from its facilities into the storm system.

5 SECTION 20: Any fee, assessment or penalty that is imposed pursuant to this Chapter
6 and that remains unpaid for a period that exceeds thirty days after the same became due shall, upon
7 the expiration of such thirty-day period, constitute a perpetual lien on and against the premises which
8 are subject to such fee, assessment or penalty as well as constituting a debt that is owing to the City
9 by the person upon whom such fee, assessment or penalty is imposed and the owner of record of such
10 premises, if such owner is someone other than the person. The City may bring a civil action in any
11 court of competent jurisdiction to recover such fee, assessment or penalty, or any combination thereof,
12 together with interest thereon, and may enforce such lien by recording a notice thereof with the County
13 Recorder upon the expiration of such thirty-day period and foreclosing the same against the premises
14 that are subject to such lien in the same manner as is provided by the laws of the State for the
15 foreclosure of mechanics' liens.

16 SECTION 21: (A) In order to provide for the recovery by the City of its costs that
17 ~~are related to the discharge of stormwater, non-stormwater or pollutants into the storm system and for~~
18 the enforcement of the provisions of this Chapter, or both, the City Council shall establish a schedule
19 of fees and charges. Such schedule, which shall be subject to periodic revision, may establish a
20 specific amount for any fee, charge, assessment, penalty or other cost that is related to the discharge
21 of stormwater, non-stormwater or pollutants to the storm system or the enforcement of the provisions
22 of this Chapter, or both, including without limitation:

- 23 (1) Inspection fees;
- 24 (2) Application fees;
- 25 (3) Plan review fees,
- 26 (4) Monitoring fees;
- 27 (5) Administrative penalties;
- 28 (6) Fees for filing requests for reconsideration and appeals; and

1 (7) Other fees that the City Council deems appropriate.

2 (B) Except as may be otherwise provided in this Chapter, whenever any fee, charge,
3 assessment or penalty that is required by this Chapter to be paid is based upon an estimated value or
4 an estimated quantity, the Director shall make such determination in accordance with generally
5 recognized practices.

6 SECTION 22: All fees, charges, assessments and penalties that are imposed pursuant
7 to the provisions of this Chapter, or pursuant to the approved schedule of fees and charges that is
8 established in accordance with Section 21 of this Ordinance, shall be due and payable upon delivery
9 of notice thereof, or upon mailing such notice to the last known mailing address of the person or entity
10 responsible for payment thereof. All such fees, charges, assessments and penalties shall be and
11 become delinquent thirty days after delivery or mailing of the notice described above.

12 SECTION 23: The City shall keep a permanent and accurate account of all fees,
13 charges, assessments and penalties that are received by it under this Chapter, which account shall
14 include the name and address of each person who paid any such fee, charge, assessment or penalty or
15 on whose behalf the same was paid, the date of such payment and amount thereof and the purpose for
16 which the same was paid.

17 ~~SECTION 24: Whenever a delinquency charge has not been specifically provided for~~
18 in this Chapter, any fee, charge or assessment that becomes delinquent shall have added to it a basic
19 delinquency charge that is equal to ten percent of the fee, charge or assessment that became
20 delinquent, and thereafter an additional delinquency charge shall accrue on the total amount that is
21 due, including the ten percent basic delinquency charge, at the rate of ten percent per month
22 compounding, but the amount of the delinquent fee, charge or assessment, as increased by delinquency
23 charges, shall not exceed twice the amount of the original fee, charge or assessment. In addition to
24 the delinquency charges described in this Section, the City may also, as permitted by law, assess
25 collection costs, including, without limitation, any attorneys' fees and court costs that the City may
26 incur in collecting the fee, charge or assessment and the delinquency charges.

27 SECTION 25: Any action that is brought by the City for the purpose of collecting any
28 fee, charge, assessment or penalty that is provided for in this Chapter may include a request for an

1 injunction to prevent repeated and recurring violations of this Chapter.

2 SECTION 26: (A) Any person who does any of the following is guilty of a
3 misdemeanor:

4 (1) Negligently or wilfully introduces or causes to be introduced into the
5 storm system any non-stormwater which such person knew, or with the exercise of reasonable
6 diligence would have known, could cause personal injury or property damage;

7 (2) Causes any violation of any condition of any permit that has been issued
8 to the City pursuant to the Act, unless such action is necessary in order for the person to comply with
9 all applicable Federal, State and local requirements or permits; or

10 (3) Knowingly makes a false statement, representation or certification of
11 any material fact in any application, record, report, plan or other document that is filed or required to
12 be maintained pursuant to this Chapter or who knowingly falsifies, tampers with or renders inaccurate
13 any monitoring device or method that is required by this Chapter.

14 (B) Whenever in this Chapter any act is prohibited or is made or declared to be
15 unlawful or an offense or a misdemeanor, or whenever in this Chapter the doing of any act is required
16 or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the
17 ~~doing of any such prohibited act or the failure to do any such required act shall constitute a~~
18 misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one thousand
19 dollars or by imprisonment for a term of not more than six months, or by any combination of such fine
20 and imprisonment. Any day of any violation of this Chapter shall constitute a separate offense.

21 SECTION 27: Any person who discharges or causes to be discharged any
22 non-stormwater into the storm system shall be liable to the City for all damages, cleanup costs,
23 monitoring costs and other associated costs that result therefrom.

24 SECTION 28: In lieu of enforcement proceedings, penalties and remedies authorized
25 by this Chapter, the Director may impose upon a violator alternative compensatory actions, as
26 determined by the Director

27 SECTION 29: In addition to the enforcement processes and penalties provided, any
28 condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat

1 to public health, safety, and welfare, and is declared and deemed a nuisance. Such nuisance may be
2 summarily abated or restored at the violator's expense, a civil action filed to abate, enjoin, or
3 otherwise compel the cessation of such nuisance, or any combination thereof.

4 SECTION 30: The remedies listed in this Chapter are not exclusive of any other
5 remedies available under any applicable Federal, state or local law, and it is within the discretion of
6 the Director to seek cumulative remedies.

7 SECTION 31: If any section, subsection, subdivision, paragraph, sentence, clause or
8 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
9 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
10 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
11 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
12 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
13 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
14 invalid or ineffective.

15 SECTION 32: All ordinances or parts of ordinances or sections, subsections, phrases,
16 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
17 ~~1983 Edition; in conflict herewith are hereby repealed.~~

18 PASSED, ADOPTED and APPROVED this ____ day of _____, 2008.

19 APPROVED:

20
21 By _____
OSCAR B. GOODMAN, Mayor

22 ATTEST:
23 _____
24 BEVERLY K. BRIDGES, CMC
City Clerk

25 APPROVED AS TO FORM:
26 _____
Date

28

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2008, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2008, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as amended and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11

12

APPROVED:

13

14

By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

16

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BEVERLY K. BRIDGES, CMC
City Clerk

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AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: SEPTEMBER 2, 2008

DEPARTMENT: CITY CLERK

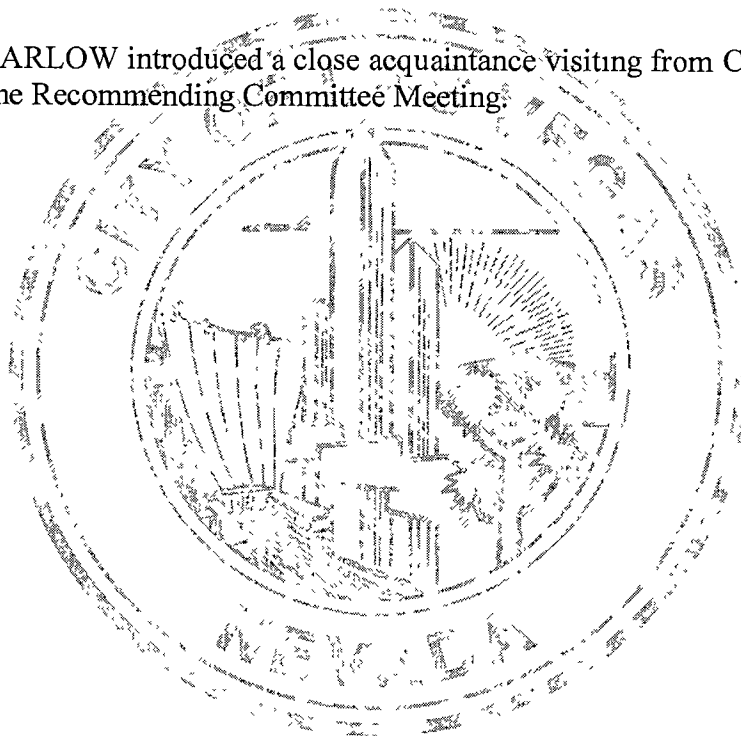
DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

CITIZENS PARTICIPATION: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the committee. No subject may be acted upon by the committee unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited

Minutes:

COUNCILMAN BARLOW introduced a close acquaintance visiting from California and welcomed him to the Recommending Committee Meeting.



AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: SEPTEMBER 2, 2008


DEPARTMENT: CITY CLERK
DIRECTOR: BEVERLY K. BRIDGES

Consent Discussion

SUBJECT:
ADJOURNMENT

Minutes:
The meeting adjourned at 4:05 p m.

Respectfully submitted,


Luan Coleman, Deputy City Clerk
September 4, 2008

