

ORDINANCE NO. 8653

AN ORDINANCE REPEALING CERTAIN PROVISIONS OF THE CITY'S STORMWATER MANAGEMENT ORDINANCE AND ENACTING IN LIEU THEREOF NEW SECTIONS

WHEREAS, Chapter 425 of the Code of Ordinances of the City of Marshall, Missouri, contains provisions relating to the management of stormwater; and

WHEREAS, the Council of the City of Marshall desires to amend its Code of Ordinances as it relates to stormwater management to be consistent with the Missouri statutes and regulations.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Marshall, Missouri, as follows:

SECTION 1. Sections 425.010, 425.020, 425.030, 425.040, 425.050, 425.060, 425.070, 425.080, 425.090, 425.100, 425.110, 425.120, 425.130, 425.140, 425.150, 425.160, 425.170, 425.180, 425.190, 425.200, 425.210, 425.220, 425.230, 425.240, 425.250, 425.260, 425.270, 425.280, 425.290, 425.300, and 425.310 of Chapter 425 of the Code of Ordinances of the City of Marshall, Missouri, relating to stormwater management are hereby repealed and Sections 425.010, 425.020, 425.030, 425.040, 425.050, 425.060, 425.070, 425.080, 425.090, 425.100, 425.110, 425.120, 425.130, 425.140, 425.150, 425.160, 425.170, 425.180, 425.190, 425.200, 425.210, 425.220, 425.230, 425.240, 425.250, 425.260, 425.270, 425.280, 425.290, 425.300, 425.310, 425.320, 425.330, 425.340, 425.350, 425.360, 425.370, 425.380, 425.390, 425.400, 425.410, 425.420, 425.430, and 425.440 on the same subject are hereby enacted in lieu thereof, to read as follows:

CHAPTER 425. STORMWATER MANAGEMENT

ARTICLE 1. GENERAL PROVISIONS

Section 425.010. Findings of Fact. It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, sediment transport and deposition.
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants.
- C. Illicit and non-stormwater discharges to the storm drain system can contribute a wide variety of pollutants to waterways, and the control of these discharges is necessary to protect public health and safety and water quality.
- D. Improper design and construction of stormwater best management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.

- E. Clearing and grading during construction increases soil erosion and add to the loss of native vegetation.
- F. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
- G. Substantial economic losses can result from these adverse impacts on the waters of the City.
- H. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- I. The regulation of stormwater runoff discharges from land development activities to control and minimize increases in stormwater runoff rates and volumes, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- J. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of stormwater runoff from development.

Section 425.020. Intent and Purpose. The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the City of Marshall. This ordinance seeks to meet that purpose through the following objectives:

- A. To protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater discharges from new land development and redevelopment;
- B. To control the rate, quality and volume of stormwater originating from development and redevelopment sites so that surface water and groundwater are protected, and flooding and erosion potential are not increased;
- C. To encourage responsible development to occur in the City of Marshall;
- D. To control nonpoint source pollution and stream channel erosion;
- E. To maintain the integrity of stream channels and networks for their biological functions, drainage, and natural recharge of groundwater;
- F. To protect the condition of state (and U.S.) waters for all reasonable public uses and ecological functions;
- G. To provide long-term responsibility for and maintenance of stormwater best management practices;

- H. To establish legal authority to carry out all the inspection and monitoring procedures necessary to ensure compliance with this ordinance; and
- I. To enable the City of Marshall to comply with the National Pollution Discharge Elimination System permit and applicable federal and state regulations.

Section 425.030. Definitions. Unless specifically defined below, words or phrases in this Chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application:

“Applicant” means a property owner or agent of a property owner who has filed an application for a permit.

“Bankfull” means an established river stage/elevation at a given location along a river which is intended to represent the maximum safe water level that will not overflow the riverbanks or cause any significant damage within the river reach.

“Best Management Practice (BMP)” means activities, practices and procedures which control soil loss and reduce or prevent water quality degradation. BMPs during construction include erosion and sediment control as well as construction site waste management. Post-construction BMPs may either be structural practices that detain, retain, or treat stormwater runoff (grass swales, terraces, retention and detention ponds, and others); or non-structural (disconnection of impervious surfaces, directing downspouts onto grass surfaces, ordinances and educational activities).

“Building” means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 160 square feet of area.

“Channel” means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

“City” means the City of Marshall, Missouri.

“Clearing” means any activity which removes the vegetative surface cover through disturbance of the root zone.

“Dedication” means the deliberate appropriation of property by its owner for public use.

“Design Guidance” means the engineering and/or project review documents adopted by the City of Marshall containing technical standards and specifications, policies, procedures, and other materials deemed appropriate to assist with compliance with the provisions of this ordinance including the Kansas City APWA Sections 5100 and 5600 and the MARC Manual of Best Management Practices for Stormwater Quality, all related additions and exceptions of the aforementioned documents, as well as other specific design criteria as kept on file by the City of Marshall.

“Detention” is the temporary storage of storm runoff in a stormwater BMP with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

“Developer” is a person directing or participating in the direction of improvements on and/or to land, including, but not limited to, the owner of the land, a general contractor or a commercial agent engaged for such activity.

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. Development must meet the applicability requirements in Section 425.040.

“Director” means the City of Marshall Municipal Services Director.

“Drainage Facility” is a man-made structure or natural watercourse used for the conveyance of stormwater runoff. Examples are channels, pipes, ditches, swales, catch basins and street gutters.

“Easement” means a legal right granted by a landowner to a grantee allowing the use of private land for conveyance or treatment of stormwater runoff and access to stormwater practices.

“Erosion and Sediment Control Plan” is a plan designed to minimize the loss of soil at a site during construction activities, by implementation of practices that will prevent accelerated runoff.

“Grading” means excavation or fill of material, including the resulting condition thereof.

“Hazardous Materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Illegal Discharge” means any direct or indirect non-storm water discharge to the storm drain system, except as exempted by this ordinance.

“Illicit Connections” means either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system. These include but are not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency. Illicit connections also include any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

“Impaired Waters” means those streams, rivers and lakes that currently do not meet their designated use classification and associated water quality standards under the Clean Water Act.

“Impervious Cover” includes those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

“Industrial Stormwater Permit” means a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

“Infill Development” means land development that occurs within designated areas based on local land use, watershed, and/or utility plans where the surrounding area is generally developed, and where the site or area is either vacant or has previously been used for another purpose.

“Infiltration” means the process of percolating stormwater into the subsoil.

“Infiltration Facility” means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

“Jurisdictional Wetland” Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions.

“Land Disturbing Activity” means any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity that bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

“Maintenance Agreement” is a legally recorded document that acts as a property deed restriction, and that provides for long-term maintenance of stormwater quality BMPs.

“Motorized Equipment” vehicles or equipment which are motorized except this definition shall not apply to equipment used for the farming of land, or normal yard maintenance.

“Municipal Separate Storm Sewer System (MS4)” a publicly-owned facility by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage ditches/channels, reservoirs, and other drainage structures.

“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” a permit issued by the State under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

“Non-Stormwater Discharge” any discharge to the storm drain system that is not composed entirely of stormwater.

“Non-Structural Measure” a stormwater control and treatment technique that uses natural processes, restoration or enhancement of natural systems, or design approaches to control runoff and/or reduce pollutant levels. Such measures are used in lieu of or to supplement structural practices on a land development site. Non-structural measures including but not limited to: minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; creation, restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and on-lot practices such as rain barrels, cisterns, and vegetated areas that intercept rainfall and surficial runoff.

“Nonpoint Source Pollution” pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

“Ordinary High Water Mark” – That line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter or debris, or other appropriate means that consider the characteristics of the surrounding area.

“Off-Site Facility” means a stormwater BMP located outside the subject property boundary described in the permit application for land development activity.

“On-Site Facility” means a stormwater BMP located within the subject property boundary described in the permit application for land development activity.

“Owner” the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a piece of land. As used herein, owner also refers to, in the appropriate context: (i) any other person authorized to act as the agent for the owner; (ii) any person who submits a stormwater management concept or design plan for approval or requests issuance of a permit, when required, authorizing land development to commence; and (iii) any person responsible for complying with an approved stormwater management design plan.

“Perimeter Control” means a barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

“Permanent Stormwater BMP” a stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

“Person” means a natural person, corporation, partnership or other entity.

“Phasing” is the clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.

“Point source” is any discernible, confined and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, separate storm sewer or vessel or other floating craft from which pollutants are, or may be, discharged. (Code of State Regulations – 10 CSR 20-2)

“Pollutant” means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

“Professional Engineer” – a licensed engineer who is registered with and authorized to practice engineering in the state of Missouri

“Receiving Stream or Channel” means the body of water or conveyance into which stormwater runoff is discharged.

“Recharge” means the replenishment of underground water reserves.

“Redevelopment” means a change to previously existing, improved property. This includes but is not limited to the demolition or building of structures, filling, grading, paving, or excavating. Redevelopment excludes ordinary maintenance activities such as remodeling of buildings on the existing footprint, resurfacing and/or repaving of existing paved areas, and exterior changes or improvements that do not materially increase or concentrate stormwater runoff or cause additional nonpoint source pollution.

“Responsible Party” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

“Sediment Control” means measures that prevent eroded sediment from leaving the site.

“Sensitive Area” means areas containing features that are of critical importance to the protection of ecological or environmental resources, and include bluffs, caves, sinkholes, springs, and wetlands.

“Stabilization” means the use of practices that prevent exposed soil from eroding.

“Start of Construction” means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

“Stop Work Order” means an order issued that requires that all construction activity on a site be stopped except as necessary to remedy the issue(s) for which the order was issued.

“Stormwater” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation (such as rain or snow) and resulting from such precipitation.

“Stormwater drainage system” means all drainage facilities used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlets including, but not limited to, any and all of the following: Conduits and appurtenant features, canals, ditches, streams, gullies, flumes, culverts, streets, gutters and pump stations.

“Stormwater Management” means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

“Stormwater Permit” – an authorization for the permittee to conduct land disturbance activities in accordance with City ordinances and erosion and sediment control practices outlined in an approved Stormwater pollution prevention plan. Also, an authorization to construct, alter or repair new or existing stormwater management facilities including collection, conveyance, detention/retention, and treatment facilities.

“Stormwater Pollution Prevention Plan (SWPPP)” means a narrative plan, usually required by a permit, to manage stormwater associated with industrial, commercial, institutional, or other land use activities, including construction. The SWPPP commonly describes and ensures the implementation of practices that are to be used to reduce pollutants in stormwater and non-stormwater discharges.

“Stormwater Retrofit” means a stormwater BMP designed for an existing development site that previously had either no stormwater BMP in place or a practice inadequate to meet the stormwater management requirements of the site.

“Stream Buffer” means an area of land at or near a streambank, wetland, or waterbody that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to water quality.

“Stream” means a body of water, whether perennial or intermittent or ephemeral, that is either indicated by a solid or dashed blue line on the USGS quadrangle maps or has at least 50 acres of drainage area.

“Water Quality Volume (WQv)” means the storage needed to capture and treat 90% of the average annual stormwater runoff volume as calculated with methods outlined in the MARC Manual of Best Management Practices for Stormwater Quality.

“Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

“Watershed” or “Catchment” is the entire geographical area drained by a river or stream and its tributaries; an area characterized by the conveyance of all runoff to the same outlet.

Section 425.040. Applicability. This ordinance shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, that are located within the City of Marshall unless exempt pursuant to Section 425.050. These provisions apply to any new development or redevelopment site within this area that meets one or more of the following criteria:

- A. Land development or redevelopment that disturbs 1 acre or more;
- B. Land development or redevelopment activities that are smaller than the minimum applicability criteria set forth above if such activities are part of a larger common plan of development, even though multiple, separate, and distinct land development activities may take place at different times on different schedules; or
- C. Land development, regardless of size of disturbance, that involves the construction, reconstruction, or alteration of any stormwater drainage facility.

Section 425.050. Exemptions. The following activities are exempt from this ordinance:

- A. Projects that are exclusively for agricultural and silvicultural uses. Agricultural or silvicultural roads that are used to access other lands subject to this ordinance are not exempt. Agricultural structures that are used for other uses subject to this ordinance are not exempt;
- B. Maintenance and repair to any stormwater best management practices deemed necessary by the City of Marshall;
- C. Any emergency project that is immediately necessary for the protection of life, property, or natural resources;
- D. Linear construction projects, such as pipeline or utility line installation that does not result in the creation of impervious cover or land disturbance greater than one acre, as determined by the City of Marshall. Such projects must be designed to minimize the number of stream crossings and width of disturbance and are subject to erosion and sediment control practices; or
- E. Any part of a land development that was approved by the City of Marshall prior to the effective date of this ordinance. If construction has not begun prior to December 31, 2023, or has ceased for more than three years, the approval shall be nullified, and the plans must be resubmitted for review to meet the current stormwater ordinance and design guidance. The Director of Municipal Services, or his designee, will have discretion to waive a portion of the requirements based on site specific conditions on property platted before the effective date of this ordinance.

Section 425.060 Compatibility with Other Permit and Ordinance Requirements. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

Section 425.070. Limitations on Liability. Floods from stormwater runoff may occur which exceed the capacity of stormwater drainage facilities constructed and maintained under this Chapter. This Chapter does not guarantee that property will always be free from stormwater flooding or flood damage. This Chapter shall not create liability on the part of, or a cause of action against, the City or any officer or employee thereof for any flood damage. This Chapter does not purport to reduce the need or the necessity for obtaining flood insurance.

ARTICLE III. PLAN SUBMITTAL/REVIEW REQUIREMENTS

Section 425.080. Concept Review Meeting. All applicants shall participate in a concept review meeting with the City's stormwater consultant and staff. All major subdivisions of greater than five (5) lots and significant single lot site developments of greater than five (5) acres must complete this requirement. Smaller subdivisions and site developments may make a written request to waive this requirement providing sufficient information about the project for staff to decide the necessity of the meeting. The purpose of this meeting is to discuss potential approaches for stormwater design and opportunities to use design techniques to reduce runoff rates, volumes, and pollutant loads.

Section 425.090. Preliminary Stormwater Management Plan.

- A. **Preliminary Stormwater Plan Required:** A preliminary stormwater management plan shall be required to be submitted with any preliminary plat. This plan may be incorporated on the preliminary plat or included as a separate document. The purpose of this plan is to provide a comprehensive view of how stormwater will be managed throughout the subdivision.
- B. **Plan Requirements:** After the concept review meeting, the applicant shall prepare a preliminary stormwater management plan describing, in general, how stormwater runoff through and from the development will be conveyed, detained/retained and treated.
- C. **Maximize Use of Techniques to Reduce Runoff by Design:** The stormwater management preliminary plan shall utilize to the maximum extent practicable site planning and design technique that reduce runoff rates, volumes, and pollutant loads. Such techniques include, but are not limited to, minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and distributed practices that intercept and treat runoff from developed areas.
- D. **Preliminary Plan Prior to Design Plan:** The preliminary stormwater management plan must be approved by the City's stormwater consultant and staff prior to submission of a

stormwater management design plan (as part of the construction documents) for the entire development, or portions thereof.

Section 425.100. Clearing and Rough Grading. If the developer/owner only desires to obtain a land disturbance permit for purposes of clearing and rough grading, they may do so upon approval of the erosion and sediment control plan and a stormwater pollution prevention plan. The developer must also provide the City a copy of their MDNR land disturbance permit.

Section 425.110. Stormwater Management Construction Plan.

- A. **Submittal:** A stormwater management design plan containing all appropriate information and the associated maps and calculations as specified in this Ordinance and as outlined in APWA Section 5600 (Section 5609) shall be submitted to the City of Marshall in conjunction with the final subdivision plat, final development plan, final site plan, construction plan, or any other land development plan subject to this ordinance.
- B. **Application Requirements:** The stormwater management design plan submittal shall contain:
 - 1. a completed application form provided by the City of Marshall for a stormwater permit;
 - 2. a stormwater management construction plan that satisfies the requirements of this section and the Design Guidance;
 - 3. a stormwater facilities and/or BMP maintenance agreement/plan; and
 - 4. owner and contractor certification stating that all requirements of the approved plan will be complied with. Failure of the owner to demonstrate that the project meets these requirements, as determined by the City's stormwater consultant and staff, shall be sufficient reason to refuse review and/or deny approval of the plan.
- C. **Consistency between Preliminary Plans and Construction Plans:** A copy of the approved preliminary stormwater management plan shall be submitted with the construction plans. The City's stormwater consultant and City staff shall check the construction plan for consistency with the preliminary plan.
- D. **Stormwater Management Design Plan Content:** The stormwater management design plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, calculations, citations to supporting references, a record of all major permit decisions, and other information as may be necessary for a complete review of the plan, and as specified in the Design Guidance.

Section 425.120 Construction Plan Review Procedures.

- A. **Review for Completeness of Plan:** The City of Marshall shall have a maximum of ten (10) workdays from the receipt of an application for preliminary review to determine if

the application is complete. After this period, the application will be accepted for review, which will begin the thirty (30) calendar day review period or rejected for incompleteness.

- B. Review Period:** The thirty (30) calendar day review period begins on the day the complete stormwater management construction plan is accepted for review by the City of Marshall. During the thirty (30) day review period, the City of Marshall shall either approve or disapprove the plan and communicate the decision to the applicant in writing. Approval or denial shall be based on the plan's compliance with this Ordinance and the Design Guidance. Within thirty (30) days after receiving an application, the City shall, in writing:
1. approve the permit application; or
 2. approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 3. disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.
- C. Modifications Needed for Approval:** In cases where modifications are required to approve the plan, the City of Marshall shall have an additional thirty (30) days to review the revised plan from the initial and any subsequent resubmission dates. If the plan is approved, one copy bearing certification of such approval shall be returned to the applicant. If the plan is disapproved, the applicant shall be notified in writing of the reasons.
- D. Substantive Changes to Plan:** No substantive changes shall be made to an approved plan without review and written approval by the City of Marshall. The City may request additional data with a plan amendment as may be necessary for a complete review of the plan and to ensure that changes to the plan will comply with the requirements of this ordinance.
- E. Expiration of Plan Approval:** The stormwater management construction plan's approval expires two years from the date of approval unless work has begun on the site or an extension request from the owner or design engineer has been received by the Director. If the stormwater management construction plan approval expires and is not granted an extension, the applicant shall file with the City of Marshall for reapproval of the stormwater management construction plan.

Section 425.130 Coordination with Other Approvals and Permits.

- A. Approval of Other Permits:** Unless exempt or otherwise allowed, no stormwater permit or building permit shall be issued for land development without approval of a stormwater management construction plan.
- B. Coordination with Other Plans:** Approval of the stormwater management construction plan shall be coordinated by the City of Marshall with approval of an erosion and sediment control or construction stormwater plan regarding the location, schedule, and/or phasing

for temporary and permanent stormwater management measures. If natural drainage features or other natural areas are to be preserved, then these areas must be shown and measures provided for their protection on both the erosion and sediment control plan and the stormwater management construction plan. If other elements of the stormwater management construction plan utilize soils, vegetation, or other natural features for infiltration or treatment, then these areas must be shown on the erosion and sediment control plan and measures provided for their protection during construction

- C. Other Permits or Approvals May Be Needed:** Approvals issued in accordance with this ordinance do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or local agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to: applicable state and federal permits for stream and wetland impacts, land disturbance and applicable dam safety permits. Applicants are required to show proof of compliance with these regulations before the City of Marshall will issue a stormwater permit.
- D. Stormwater Measures within Designated Flood Hazard Areas:** Construction of stormwater measures or facilities within a Federal Emergency Management Agency (FEMA) designated floodplain or floodway shall be avoided to the extent possible. When this is unavoidable, all stormwater BMP construction shall comply with all applicable requirements of the Flood Plain Management Ordinance.

Section 452.140 Maintenance Agreement and Plans. Prior to approval by the City of Marshall of a stormwater management construction plan which includes post-construction stormwater quality BMPs, each owner shall submit a maintenance agreement and maintenance plan in accordance with the following:

- A. Responsible Party:** The owner(s) of the land served by the BMP shall be responsible for the operation and maintenance of such measures and shall pass such responsibility to any successor owner.
- B. Requirement for Maintenance Agreement & Plan:** If a stormwater management construction plan requires structural or nonstructural water quality measures, the owner shall execute a stormwater maintenance agreement prior to the City of Marshall final approval for the plan, or any plan of development or other development for which a permit is required under this Ordinance. The agreement shall be recorded in the office of the Cole County Recorder of Deeds and shall run with the land (which shall include all parcels that are served by the long-term best management practices). Additionally, the key aspects of the inspection and maintenance plan shall be included on the plan sheets (drawings) for each associated BMP.
- C. Required Elements for Maintenance Agreement & Plan:** The stormwater maintenance agreement shall be in a form approved by the City, and shall, at a minimum:
 - 1. Designate Responsible Party:** Designate for the land development the owner, governmental agency, or other legally established entity (responsible party) which shall be permanently responsible for maintenance of the structural or non-

structural measures required by the plan. There may be multiple responsible parties designated to different inspection and maintenance activities.

2. **Pass Responsibility to Successors:** Pass the responsibility for such maintenance to successors in title.
3. **Right of Entry for Stormwater Authority:** Grant the City of Marshall and its representatives the right of entry for the purposes of inspecting all stormwater facilities and BMPs at reasonable times and in a reasonable manner. This includes the right to enter a property when the City of Marshall has a reasonable basis to believe that a violation of this Ordinance is occurring or has occurred and to enter when necessary for correction of a violation of this Ordinance.
4. **Inspection and Maintenance Plan:** Ensure the continued performance of the maintenance obligations required by the plan and this ordinance through an inspection and maintenance plan (which shall be an attachment to the actual maintenance agreement). The plan shall include a list of inspection and maintenance tasks, a schedule for routine inspection and maintenance, and actions to be taken when maintenance is required. These shall be site and stormwater quality BMP specific.

ARTICLE IV PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT

Section 425.150. General Stormwater Management Criteria.

- A. **Compliance with Federal & State Regulations:** All stormwater facilities and conveyance systems shall be designed in compliance with all applicable state and federal laws and regulations, including the Federal Clean Water Act and all applicable erosion and sediment control, wetland and flood plain regulations.
- B. **Protect Public Health, Safety & General Welfare:** The design of stormwater BMPs shall consider public health, safety, and general welfare. These considerations include but are not limited to: preventing the flooding of structures; safe passage of vehicles on roadways; preventing standing water in facilities, manholes, inlets, and other structures in a manner that promotes breeding of mosquitoes; preventing attractive nuisance conditions and dangerous conditions due to velocity or depth of water and/or access to orifices and drops; and preventing aesthetic nuisances due to excessive slopes, cuts and fills, and other conditions.
- C. **Adherence to Design Guidance:** All stormwater facilities and BMPs shall be designed utilizing the design criteria set forth in the Kansas City APWA Section 5100, Section 5600 and MARC Water Quality BMP manual as well as any specific design criteria set forth by the City deemed necessary unless a variance is granted, or the applicant is exempt from such requirements. Standard drawings (KC-APWA Section 5300) shall be referenced as necessary for design and construction. When the two documents conflict, the City of Marshall Standard Details shall rule.

- D. Stormwater Authority Discretion:** If hydrologic, geologic, topographic, or land use conditions warrant greater control than that provided by the minimum control requirements, the City may impose additional requirements prior to the approval of the preliminary stormwater management plans, as deemed reasonable and necessary to control the volume, timing, rate and/or quality of runoff. The City may restrict the use of certain stormwater BMPs, require additional pretreatment, and/or require a post-construction stormwater pollution prevention plan in certain circumstances. These include but are not limited to: stormwater generated from stormwater hotspots, stormwater discharges that are conveyed with non-stormwater discharges, and stormwater discharged in important groundwater management areas or areas where geologic conditions are conducive to groundwater contamination (e.g., karst).
- E. Hydrologic Computation Assumptions:** Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations. All pre-development calculations shall consider woods and fields to be in good condition, regardless of actual conditions at the time of application.
- F. Location of Stormwater Facilities on Lots:** Stormwater facilities within residential subdivisions that serve multiple lots and/or a combination of lots and roadways shall be on a lot owned and maintained by an entity of common ownership, unless an alternative arrangement is approved by the City. Stormwater practices located on individual lots shall be placed within an easement and either maintained by the lot owner or maintained by an entity of common ownership.

Section 425.160. Engineered Systems.

- A. Replicating Pre-Development Hydrology:** Stormwater management designs shall preserve the natural hydrologic functions, stream channel characteristics, and groundwater recharge of the pre-developed site to the maximum extent practical. This shall be accomplished by treating runoff at the source, disconnecting impervious surfaces, preserving or enhancing natural flow paths and vegetative cover, preserving or enhancing natural open spaces and riparian areas, and other measures that replicate pre-development hydrologic conditions. The City will exercise discretion in the application of this standard, especially in cases of infill development, redevelopment, or other unique circumstances.
- B. Overland Flood Routes:** Overland flood routing paths shall be used to convey stormwater runoff from the 100-year storm event to an adequate receiving water resource or stormwater BMP such that the runoff is contained within the drainage easement for the flood routing path and does not cause flooding of buildings or related structures. The peak 100-year water surface elevation along flood routing paths shall be at least one foot below the finished grade elevation at the structure. When designing the flood routing paths, the conveyance capacity of the site's storm sewers shall be taken into consideration.
- C. Velocity Dissipation:** Velocity dissipation devices shall be placed at discharge locations of the stormwater conveyance system and along the length of any outfall to provide non-erosive flow velocity from the structure to an adequate receiving stream or channel so that the natural physical and biological characteristics and functions of the receiving stream are maintained and protected.

- D. Discharges to Adjacent Property:** Concentrated discharges from the stormwater conveyance system or stormwater best management practices shall not be discharged onto adjacent property without adequate conveyance in a natural stream or storm sewer system. Drainage easements are required where stormwater discharges must cross an adjacent or off-site property before reaching an adequate conveyance.
- E. Flow toward streets:** In order to have sufficient traffic safety, any concentration of surface flow in excess of two (2) cubic feet per second (cfs) for the ten-year frequency rain shall be intercepted before reaching the street right-of-way and shall be carried by a storm drain to connect with a drainage structure at the low point in the street right-of-way or to discharge to a watercourse.
- F. Drainage onto Sidewalks:** Tributary areas where sidewalks exist or are proposed and which drain across a public sidewalk, must not exceed three thousand (3,000) square feet of impervious area, nine thousand (9,000) square feet of sodded area, or in proportional amounts for a combination of such areas. Paved, Roofed, or other impervious areas exceeding three thousand (3,000) square feet shall be provided with drains for discharge into storm conduits, channels or street gutters.
- G. Downspouts:** Downspouts shall not be discharged directly onto sidewalks or entrance ways. When downspouts are connected to the public drainage system, they shall be connected by a method approved by the City. Downspouts shall not discharge within the building setback unless there is a drainage swale established to carry the water to the front or the rear of the property or closest natural drainage course. Downspouts may also discharge within the building setback if discharging into a rain garden, rain barrel or other stormwater best management practice.
- H. Existing storm drains:** No cuts shall be made nor fill deposited over existing storm drains nor shall existing storm drains be altered (including extensions) without approval of the City.

Section 425.170. Natural Systems/Stream Buffers.

- A. Stream Buffers:** Stream buffers will be required as part of all new and redevelopments in the City of Marshall. This section establishes minimum acceptable standards for the design of stream buffers to protect the streams, wetlands, floodplains and riparian and aquatic ecosystems of the City of Marshall.

1. Design Standards for Stream Buffers

- (a) **General.** An adequate buffer for a stream system shall consist of a predominantly undisturbed strip of land extending along both sides of a stream and their adjacent wetlands, floodplains or slopes. The buffer width may be adjusted to include contiguous sensitive areas, such as steep slopes or erodible soils, where disturbance may adversely affect water quality, streams, wetlands, or other water bodies. All specified stream buffer widths

are minimums and may be increased as specified in these regulations or on a voluntary basis by the property owner.

(b) **Buffer Measurement.** The buffer shall begin and be measured from the ordinary high-water mark of the channel during base flows or the top of bank whichever is greater. The buffer shall be twenty-five (25) feet wide and the building setback shall be at least thirty-five (35) feet from the edge of the buffer (60' from ordinary high-water mark or top of bank whichever is greater).

2. **Stream Buffer Plan Requirements:** Stream buffer limits shall be shown graphically on all surveys, plats, development plans and building permit applications.
3. **Temporary Boundary Markers.** Markers will be installed by the applicant prior to commencing clearing and grading operations and maintained throughout the applicant's development activities. The markers will be placed on the outside edge of the buffer zone prior to the start of any activity within 50-feet of the buffer or as shown on a land disturbance plan approved by the City of Marshall. Markers shall be clearly visible and shall be spaced at a maximum of 200 feet. The markers shall be joined by marking tape or fencing.
4. **No Buffer Required.** A stream buffer shall not be required for portions of a stream that are less than 150 feet in length due to the stream having been previously enclosed within a pipe or box structure immediately upstream and downstream of the subject location. In such cases, said stream portion may be similarly enclosed in a pipe or box structure. Also, this article shall not be construed so as to prevent modifications to stream channels or wetlands if such modifications have been approved and permitted by a Federal Agency such as the U.S. Army Corps of Engineers.
5. **Stream Buffer Management and Maintenance**
 - (a) **Management, Responsible Party.** The stream buffer, including wetlands and floodplains, shall be managed by the landowner to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of the land and vegetation.
 - (b) **Allowed maintenance practices and activities in the streamside buffer.** All allowed uses may be maintained subject to the review of the City. Any entity conducting an allowed activity within the streamside zone shall restore any disturbed area to its previous condition or in accordance with an approved plan. In addition to maintenance of allowed uses, the following maintenance activities may be conducted:
 - (i) Roads, bridges, paths, and utilities existing as of the date of adoption of these regulations.

(ii) Rights of way for roads and utilities should be the minimum width to allow for installation, access and maintenance.

(iii) Removal of diseased or dead trees, brush and trash.

(iv) Maintenance of all City-approved improvements, including utilities

(v) Removal of debris which could cause flooding.

(vi) Selective (spot) spraying of noxious or other vegetation

(c) **Restricted maintenance practices and activities within the building setback adjacent to the stream buffer:** The following practices are prohibited within the stream buffer unless specifically permitted by the Director:

(i) Clearing of existing vegetation.

(ii) Soil disturbance by grading, stripping, or other practices.

(iii) Filling or dumping.

(iv) Drainage by ditching, under drains or other systems.

(v) Use, storage, or application of pesticides.

(vi) Storage or operation of motorized vehicles, except for maintenance and emergency use approved by the City or when operated on a legally established roadway.

B. Stream & Wetland Crossings: All stream and wetland crossings subject to Section 404 of the Clean Water Act and/or state stream and/or wetland regulations shall minimize impacts on streams and wetlands, to the extent practical and achievable, by crossing streams and wetlands at a right-angle, reducing the footprint of grading and fill, matching the existing stream profile grade, and utilizing bridges, open bottom arches, spans, or other structures that do not restrict or alter stream or wetland hydrology. If culverts are placed within streams and/or wetlands, at least one culvert shall be countersunk at least one foot (1') below the natural channel flowline (or 10% of the pipe diameter) to allow movement of aquatic organisms. As much as possible, the natural multi-stage channel shape shall be mimicked.

C. Location of Structures Adjacent to Waterways: In addition to any other requirements set forth by ordinance for constructed in designated flood hazard areas, the following restrictions for construction adjacent to all watercourses and other drainage facilities shall apply:

1. No house or building and no other structure shall be constructed within sixty (60) feet of the ordinary high-water mark of a watercourse or other drainage facility nor shall any such structure be constructed with openings at an elevation below four (4) feet above the highest bank of a watercourse or top of other drainage facilities which traverse or are adjacent to the parcel being developed.
2. The City may vary the requirements upon visiting the building site for low-density residential construction or reviewing plans and any associated calculations should such revisions not diminish the overall intent of this chapter.

Section 425.180. Stormwater Quantity Control.

- A. **Channel Protection Criteria:** The stormwater system shall be designed so that post-development discharges will not erode natural channels or steep slopes. This will protect in-stream habitats and reduce in-channel erosion.
 1. Wherever practical, maintain sheet flow to riparian buffers or vegetated filter strips. Vegetation in buffers or filter strips must be preserved or restored where existing conditions do not include dense vegetation.
 2. Energy dissipaters and level spreaders must be used to spread flow at outfalls.
 3. On-site conveyances must be designed to reduce velocity through a combination of sizing, vegetation, and check dams in the channel bottom and sides.
 4. If flows cannot be converted to sheet flow, they must be discharged at an elevation that will not cause erosion or require discharge across any constructed slope or natural steep slopes.
 5. Outfall velocities must be non-erosive from the point of discharge to the receiving channel or waterbody where the discharge point is calculated.
- B. **Flood Control Criteria:** Downstream overbank flood and property protection shall be provided by controlling the post-development peak discharge rate to the pre-development rate. This criterion shall be met for the 10-year, 24-hour storm event on residential properties and the 25-year, 24-hour storm event on non-residential properties. Stormwater BMPs that impound water shall demonstrate that the 100-year storm can safely pass through the structure without overtopping or creating damaging conditions downstream.
- C. **Waiver:** The Director may waive some or all of the requirements of this section as specified below:
 1. **Discharge to Large Waterbody:** The land development discharges directly to a floodplain, major river or waterbody and the City determines that waiving

the flooding criteria will not harm public health and safety. The applicant shall secure drainage easements from any downstream property owners across whose property the runoff must flow to reach the flood plain, major river or waterbody. The applicant shall also demonstrate that any piped or open-channel system in which the runoff will flow has adequate capacity and stability to receive the project's runoff plus any off-site runoff also passing through the system.

2. **Insignificant Increases in Peak Flow:** The land development results in insignificant increases in peak flow rates, as determined by the City.
3. **Alternative Criteria Provided:** The land development is subject to a floodplain study that recommends alternative criteria for flood control.
4. **Increases in Downstream Peak Flows or Flood Elevations:** The City determines that complying with the requirements of this section will result increases in peak flows or downstream flooding conditions due to coincident peaks from the site and the contributing watershed or another factor.
5. **Documentation for Waiver:** When seeking a waiver in accordance with any of the above, the applicant shall demonstrate that stormwater discharges will not unreasonably increase the extent, frequency, or duration of flooding at downstream properties and structures or have an unreasonable adverse effect on streams, aquatic habitats, and channel stability. In making its determination to allow full or partial waivers, the City will consider cumulative impacts and also the land development's adherence to the land use plans and policies of the City of Marshall, including the promotion of infill and redevelopment in particular areas.

Section 425.190. Stormwater Runoff Treatment (Quality Control)

- A. **Water Quality Protection:** In order to protect the receiving waters from nonpoint source pollution, the remainder of the water quality volume shall be treated through filtration BMPs such as bioretention facilities, sand filters, vegetated swales, or proprietary products.
 1. **Treatment of the Water Quality Volume:** Post-development runoff from the water quality rainfall event shall be captured and treated in a water quality BMP to prevent or minimize water quality impacts from land development. Up to 10%, but not more than 1 acre, of a site's total impervious surface may discharge in a sheet flow condition through existing established vegetation such as may exist in a stream buffer without otherwise being treated.
 2. **Additional Criteria for Stormwater Hotspots:** In addition, stormwater discharges from stormwater hotspots may require the use of specific structural, non-structural, and/or pollution prevention practices, including enhanced pre-treatment. Discharges from a stormwater hotspot shall not be infiltrated without enhanced pre-treatment, as approved by the City.

- 3. Treat Entire Land Development:** The stormwater design shall provide for treatment of runoff from the water quality rainfall event to the maximum extent practicable through the use of structural and non-structural BMPs. Up to 10%, but not more than 1 acre, of a site's total impervious surface may discharge in a sheet flow condition in a non-erosive manner through existing established vegetation such as may exist in a stream buffer without otherwise being treated.
- B. Landscape Plan:** The design of vegetative stormwater BMPs shall include a landscape plan detailing both the vegetation to be in the practice and how and who will manage and maintain the vegetation.
- C. Pretreatment:** Each stormwater BMP shall have an acceptable form of water quality pretreatment if required to provide adequate long-term operation and maintenance of the BMP.
- D. Treatment of Off-Site Stormwater:** Off-site stormwater conveyed through a land development shall be placed within an easement and conveyed in a manner that does not increase upstream or downstream flooding. Off-site stormwater shall be conveyed around on-site stormwater BMPs, unless the facilities are designed to manage the off-site stormwater. The City may allow the treatment of off-site stormwater in lieu of up to 10% of the site's water quality volume.

Section 425.200. Redevelopment Criteria. Land development that qualifies as redevelopment shall meet one of the following criteria:

- A. Reduce Impervious Cover:** Reduce existing site impervious cover by at least 20%.
- B. Provide Treatment:** Provide water quality treatment for at least 20% of the site's pre-development impervious cover and 100% of any new impervious cover through stormwater BMPs designed in accordance with the criteria in the Design Guidance.
- C. Apply Innovative Approaches:** Utilize innovative approaches to reduce stormwater impacts across the site. Examples include green roofs and pervious parking materials.
- D. Provide Off-Site Treatment:** Provide equivalent stormwater treatment at an off-site facility within the same watershed and as immediately downstream of the site as feasible.
- E. Address Downstream Issues:** Address downstream channel and flooding issues through channel restoration, increase in existing system capacity and/or other off-site remedies.
- F. Combination of Measures:** Any combination of (A) through (E) above that is acceptable to the City of Marshall.

ARTICLE V. CONSTRUCTION SITE RUNOFF CONTROL.

Section 425.210. General. Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment and other construction-related pollutants from the site. The Design Guidance shall be followed insofar as it is applicable. Applicants shall provide a copy of their Missouri Department of Natural Resources land disturbance permit to the City prior to the commencement of land disturbance activities.

Section 425.220. Clearing and Grading.

- A. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other City regulations.
- B. Clearing techniques that retain natural vegetation and retain natural drainage patterns shall be used to the maximum extent practicable.
- C. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- D. Cut and fill slopes shall be no greater than 3:1, except as approved by the City to meet other community or environmental objectives.
- E. Phasing shall be required on all sites disturbing greater than thirty acres, with the size of each phase to be established at plan review.
- F. Other measures may be required in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

Section 425.230 Erosion Control.

- A. Soil must be stabilized within 14 days of clearing or inactivity in construction, unless otherwise authorized, and shall be effectively maintained throughout the duration of any inactivity.
- B. Soil stockpiles must be stabilized or covered at the end of each workday unless otherwise protected from allowing sediment to leave the site.
- C. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
- D. Techniques that divert upland runoff past disturbed slopes shall be employed.

Section 425.240. Sediment Controls.

- A. Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls.

- B. Where possible, settling basins shall be designed in a manner that allows adaptation to provide long term stormwater management.
- C. Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls wherever possible.

Section 425.250. Waterways and Watercourses.

- A. When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided, and an approval obtained from the U.S. Army Corps of Engineers and the Missouri Department of Natural Resources if deemed a jurisdictional stream.
- B. When in-channel work is conducted, the channel shall be stabilized before, during and after work.
- C. Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.

Section 425.260. Construction Site Access.

- A. A stabilized temporary access road or driveway shall be provided at all sites.
- B. Regardless of the amount of land disturbance at a particular site, it shall be the responsibility of the permit holder and/or property owner to ensure streets open to the public surrounding a permitted site are kept free of debris and sediment throughout construction. Upon notification that a problem exists, the permit holder and/or property owner shall remedy the issue within 24 hours.

Section 425.270. Control of Other Construction Pollutants.

- A. **Concrete Truck and Mortar Washout:** Concrete truck and mortar washout shall not discharge surplus concrete, mortar or drum wash water on the site in such a manner that promotes contact with storm waters discharging from the site.
- B. **Construction Waste and Site Litter/Trash:** All construction waste material (included discarded building materials) and site litter/trash shall be collected, deposited, and stored in a manner to prevent contact with storm waters discharging from the site and shall be disposed of by a licensed solid waste management contractor. No waste shall be buried on the site.
- C. **Sanitary Waste:** A licensed sanitary waste management contractor shall collect all sanitary waste from portable units that will be maintained on a regular basis for any site that cannot provide other means of sanitary waste disposal. The portable units shall not be placed adjacent to any stormwater conveyances.
- D. **Petroleum Products:** All construction equipment and vehicles shall be monitored for leaks and receive regular preventative maintenance to ensure proper operation and

reduce the risk for leaks or spills. Petroleum products shall be stored in clearly labeled and tightly sealed containers or tanks. Any soil contaminated by fuel or oil spills shall be removed and disposed of properly.

- E. **Fertilizers/Pesticides:** Fertilizers and pesticides shall be applied following manufacturer's recommendations. Fertilizers and pesticides shall be stored in a covered area or in watertight containers. Partially used products shall be properly sealed and stored to avoid spills or leaks.
- F. **Hazardous materials:** Storage areas for hazardous materials such as oils, greases, paints, fuels, and chemicals, shall be provided with secondary containment to ensure that spills in these areas do not reach waters of the State. All hazardous waste materials shall be disposed of according to state regulation or the manufacturer's recommendations.

Section 425.280. Stormwater Pollution Prevention Plan (SWPPP) and Self-inspections Required.

- A. As part of each application for a stormwater permit related to land disturbance activities, an applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) that meets the requirements set forth in the Missouri Department of Natural Resources (MDNR) Land Disturbance permit. This SWPPP must include sufficient information to evaluate the environmental characteristics of the affected area, to assess the potential impacts of the proposed land disturbance on water resources and identify proposed methods to minimize on-site soil erosion and prevent off-site sedimentation to the maximum extent practicable. A copy of the SWPPP shall be kept readily on site.
- B. Construction site operators shall conduct self-inspections at minimum every fourteen (14) days, when construction is active; and within 72 hours of any storm event; and within 48 hours after any storm event equal to or greater than a 2-year, 24-hour storm has ceased. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures and/or maintenance of existing measures. All inspections shall be documented in written form and kept readily on site. Failure to produce the SWPPP or required inspection records shall be considered a violation of this ordinance.
- C. The City will periodically inspect development sites. Through such periodic inspections, the City shall ensure that the SWPPP is properly implemented, and any necessary amendments thereto made in order to protect the environment and the public's health, safety and welfare. The erosion and sediment control measures for the site must be maintained by the developer until the site is stabilized and the MDNR land disturbance permit is closed. In order for the City to complete these oversight inspections in a timely manner, the construction site operator shall notify the City at least two (2) working days before the start of site clearing.

ARTICLE VI. ONGOING MAINTENANCE FOR STORMWATER FACILITIES

Section 425.290. General Maintenance Requirement. All stormwater facilities and long term BMPs shall be maintained in accordance with the approved and recorded stormwater maintenance agreement and stormwater maintenance plan. If no maintenance agreement or plan is in place, the owner shall maintain the facility as it was designed in order to continue the mitigation of stormwater quantity and quality impacts. This maintenance shall include removal of overgrown vegetation, repair of erosion, repairs to any inlet/outlet structures, and removal of excess silt or any other maintenance deemed necessary to provide said mitigation. The design of stormwater facilities shall incorporate maintenance accommodation and long-term maintenance reduction features.

Section 425.300. Maintenance Responsibility. The responsible party (parties) named in the recorded stormwater maintenance agreement shall maintain in good condition and promptly repair and restore all structural and non-structural stormwater facilities and long term BMPs and all necessary access routes and appurtenances (grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices) in order to maintain the mitigation of stormwater quantity and quality impacts. Such repairs or restoration and maintenance shall be in accordance with the approved stormwater management design plan, the stormwater maintenance agreement, and the stormwater maintenance plan.

Section 425.310. Records of Maintenance Activities. The responsible party shall make records of the installation and of all maintenance and repairs and shall retain the records for at least five (5) years. These records shall be made available to the Director or his/her designee during inspection of the facility and at other reasonable times upon request.

Section 425.320. Failure to Provide Adequate Maintenance.

- A. In the event that the stormwater facility has not been maintained and/or becomes a danger to public safety or public health, the Director shall notify the responsible party by registered or certified mail. The notice shall specify the measures needed to comply with the maintenance agreement and the maintenance plan and shall specify that the responsible party has thirty (30) days or other time frame mutually agreed to between the Director and the responsible party, within which such measures shall be completed. If such measures are not completed, then the Director shall pursue enforcement procedures pursuant to Article IX of this Ordinance.
- B. If a responsible person fails or refuses to meet the requirements of an inspection report, maintenance agreement, or maintenance plan the Director, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the practice in proper working condition. The Director may assess the responsible party of the practice for the cost of repair work which shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by Saline County.

Section 425.330. Required Easements. Whenever improvements to land are made, easements for the stormwater management facilities including structural facilities, engineered channels and

overflow paths, shall be provided across private property. Easements through existing developments shall be obtained as deemed necessary. Drainage easements shall include access from a convenient public street or parking lot. Minimum dimensions are as follows:

- A. Where a storm drain consists of a closed conduit, the width shall be the greater of fifteen (15) feet or the sum of the conduit diameter and twice the cover depth over the conduit.
- B. Where the drainage system consists of an engineered channel, easements shall at a minimum be as wide as the top of bank width plus ten (10) feet each side.
- C. The width of the easement must contain the overflow from the 100-year (1% annual chance) storm event and shall indicate the highest expected water surface elevation of said event.
- D. Access easements to and around detention/retention facilities shall be a minimum of fifteen (15) feet wide with cross slopes less than 5 horizontal to 1 vertical in order to be safely accessible by a vehicle unless otherwise approved by the City.

Section 425.340. Interference and Damage. No person shall damage, discharge or place any substance into the drainage system which will or may cause obstruction to flow or other interference with the operation of the stormwater drainage system. Any person violating this section or damaging the stormwater drainage system shall be liable to the City for all expense, loss or damage incurred by the City due to such violation or damage, in addition to any other penalties set forth herein.

ARTICLE VII. ILLICIT DISCHARGE DETECTION AND ELIMINATION.

Section 425.350. General.

- A. **Purpose:** This ordinance is intended to regulate non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:
 - 1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
 - 2. To prohibit Illicit Connections and Discharges to the MS4;
 - 3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.
- B. **Applicability:** This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted.

- C. **Ultimate Responsibility:** The standards set forth in this article and promulgated pursuant to this article are minimum standards. Compliance with this article does not ensure that there will be no contamination, pollution or unauthorized discharge of pollutants into the waters of the United States. This article shall not create liability on the part of the City or any agent or employee of the City for any damages that result from any discharges, reliance on this article or any administrative decision made under this article.
- D. **Stormwater Pollution Prevention:** Any owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Section 425.360. Prohibitions.

- A. **Illegal Discharges:** It shall be unlawful for any person to discharge or cause to be discharged into the municipal separate storm sewer system or into any water course any material other than stormwater, except as provided below. The following discharges are exempt from the discharge prohibitions established by this article:
1. Waterline flushing or other potable water sources;
 2. Landscape irrigation or lawn watering;
 3. Diverted stream flows;
 4. Rising groundwater;
 5. Groundwater infiltration;
 6. Uncontaminated pumped groundwater;
 7. Foundation or footing drains excluding active groundwater de-watering systems;
 8. Crawlspace pumps, air conditioning condensation;
 9. Springs;

10. Natural riparian habitat or wetland flows;
11. Swimming pools if de-chlorinated to less than 1 ppm chlorine;
12. Emergency firefighting activities (this does not include runoff from firefighting training activities or washing of fire trucks);
13. Other water not containing pollutants;
14. Discharges specified by the City as necessary to protect public health and safety;
15. Dye testing if notification is given to the City before the test; and
16. Any non-storm water discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

B. Prohibitions of Illicit connections:

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. 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 the connection.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.
4. Improper connections in violation of this ordinance must be disconnected and redirected if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the appropriate jurisdictional agency.
5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation by the City requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge

point be identified. Results of these investigations are to be documented and provided to the City.

- C. **Waste disposal prohibitions:** It shall be unlawful for any person to place, deposit or dump or to cause or allow the placing, depositing or dumping any refuse, rubbish, yard waste, paper litter or other discarded or abandoned objects, articles and accumulations containing pollutants into the municipal separate storm sewer system or into any waterway.
- D. **Watercourse protection:** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
- E. **Industrial or construction activity discharges:** It shall be unlawful for any person subject to an industrial activity or construction NPDES storm water discharge permit to fail to comply with all provisions of such permit.

Section 425.370. Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the City in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within three business days of the original notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Failure to provide notification of a release as provided above is a violation of this ordinance.

Section 425.380. Regulations and Monitoring.

- A. The City Council may, by ordinance, adopt standards identifying best management practices (BMP) for any activity, operation or facility which may cause or contribute to pollution of storm water, the storm drain system, waters of the state or waters of the United States. These standards shall be on file at the City of Marshall. It shall be unlawful for any person undertaking any activity or owning or operating any facility subject to such standards to fail to comply with the standards.
- B. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes

into the municipal separate storm sewer system or water courses through the use of structural and non-structural BMPs. Any person responsible for property which is or may be the source of an illicit discharge may be required to implement additional structural and non-structural BMPs to prevent further discharge. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity to the extent practicable shall be deemed in compliance with provisions of this section. These BMPs shall be a part of the storm water pollution prevention plan as necessary for compliance with the requirements of the NPDES permit.

ARTICLE VIII. PERMITS.

Section 425.390. Promulgation of Rules. The Municipal Services Director may promulgate rules governing the issuance of the permits required by this section and may produce forms to effectuate the intent of this ordinance.

Section 425.400. Stormwater Permit.

- A. **Authorization to Discharge to MS4:** If runoff from a land development will flow to a municipal separate storm sewer system (MS4) or other publicly-owned storm sewer system, then the applicant shall obtain authorization from the system's owner to discharge into the system. The applicant must demonstrate that the system has adequate capacity for any increases in peak flow rates and volumes.
- B. **Permit Required:** No stormwater drainage facility shall be constructed, altered or reconstructed without a stormwater permit. To obtain a permit, the application form provided by the City shall be completed and plans must be submitted for review and approval. All such construction shall comply with the general requirements and design procedures, as set forth in this chapter, and the criteria of the Design Guidance. No clearing, grading, borrowing or filling of land resulting in a land disturbance greater than one acre shall commence prior to obtaining a stormwater permit. All such work shall also comply with an approved SWPPP, erosion and sediment control plan and be in conjunction with an approved site development/grading plan.
- C. **Approved Stormwater Plans Required:** Prior to the issuance by the City of a permit for any type of construction, the property owner, the developer or their agent shall have a stormwater management plan approved by the City in accordance with Article III. The property owner, developer or their agent shall, at his own expense, submit necessary plans, designs and specifications to the City for review and approval. This plan shall:
 - 1. Include a pre- and post-development hydrologic analysis of the site;
 - 2. Identify pollutants of concern for each area of the site;
 - 3. Identify pollution prevention measures;
 - 4. Identify controls that provide treatment and reduce stormwater volumes and velocities;

5. Identify any environmentally sensitive areas and provide a plan for protection of these areas ;
 6. Identify Low Impact Development opportunities that can best mimic the natural hydrology of the site and filter pollutants from the runoff; and
 7. Provide for long term operation and maintenance of controls.
- D. **Waiver:** Provisions of this section for plan requirement shall be waived provided no land is disturbed and no trees, shrubs, grass or vegetation is destroyed or removed for construction, reconstruction, repair or alteration of any building provided the improvement does not alter or increase the flow of water.
- E. **Individual Lots Not Separate Land Development:** Residential, commercial or industrial developments shall apply these stormwater management criteria to land development as a whole. Individual residential lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project.
- F. **Expiration:** Every approval under this section for clearing, grading, borrowing or filling of land as well as construction of stormwater management facilities shall expire within two (2) years from the date of issuance. This permit may be renewed for up to two (2) years by submitting a written request for an extension to the Municipal Services Director.

Section 425.410. Inspection. The City shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

- A. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.
- B. Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- C. The City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the facility's storm water discharge.
- D. The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

- E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- F. Unreasonable delays in allowing the City access to a permitted facility is a violation of a stormwater permit and of this ordinance. A person who is the operator of a facility with a permit to discharge storm water associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- G. If the City has been refused access to any part of the premises from which storm water is discharged, and they are able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

ARTICLE IX. VIOLATIONS, ENFORCEMENT, AND PENALTIES.

Section 425.420. Violations and Penalties for Permits.

- A. The City may suspend or revoke any permit associated with the site or any permit associated with the person(s) holding the permit(s) for the site for non-compliance with the Stormwater Permit.
- B. **Procedure:**
 - 1. Upon discovery of a violation of this article, the contractor will be notified and given up to seven (7) days to remedy the violation of construction site runoff control or up to forty-five (45) days for a post-construction runoff control violation. Extensions of time may be granted in the Municipal Services Director's sole discretion.
 - 2. If the violation has not been remedied within the time frame set forth in the notice, a stop work order may be issued and the permit(s) will be suspended. The stop work order shall state the reason for the order and the conditions under which the order and suspension will be lifted.
 - 3. Any person who shall continue to engage in activity for which a permit is required after having been served with a stop work order, except in such work as that person is directed to perform to remove a violation or unsafe condition, shall be a violation of this ordinance.
 - 4. After two (2) stop work orders of a permit for the same site for similar violations, the permit(s) shall be revoked and the violation deemed a nuisance.

All applicable procedures will have to be followed for re-issuance of the permit(s). Additionally, any remediation or abatement costs will be required to be paid prior to re-issuance.

5. If the stop work order has not been lifted through compliance with its terms within thirty (30) days from the date of its issuance, the permit shall be revoked and the violation deemed a nuisance. All applicable procedures will have to be followed for re-issuance of the permit(s). Additionally, any remediation or abatement costs will be required to be paid prior to re-issuance.
6. A person aggrieved by a decision to revoke any permit provided for herein may appeal the revocation to the City of Marshall City Council.
7. Engaging in activity requiring a permit without first obtaining such permit shall be a violation of this ordinance.

Section 425.430. Administration, Penalties, and Remedies.

- A. **Responsibility for Administration:** The provisions of this chapter shall be administered and enforced by the Municipal Services Director. The Municipal Services Director shall prescribe forms for attainment of the purposes of this chapter and for the proper enforcement thereof. The Municipal Services Director may delegate the administration of this chapter, or any part thereof, subject to limitations of the ordinances of the City, to duly qualified employees, deputies or agents of the City including the City's stormwater consultant.
- B. **Interpretation and Conflict:** The provisions of this chapter shall be the minimum requirements for the protection of the public health, safety and general welfare and shall be liberally and broadly construed and applied to the greatest extent permitted by law in order to promote and protect the public health, safety and welfare. These regulations are not intended to conflict with, abrogate or annul any other rule, law or regulation. Where any provisions of these regulations impose restrictions different than from those imposed by any other regulation, rule or law, the provision which is more restrictive or imposes a higher standard shall control. These regulations are intended to be construed harmoniously and consistently with each other, the Design Guidance, and all other applicable rules, laws and regulations.
- C. **Severability:** If any part or provision of these regulations is declared invalid or unconstitutional then the remainder of these regulations shall not be declared invalid or unconstitutional but shall remain in full force and effect to the greatest extent permitted by law.
- D. **Penalties and Remedies:** Any owner, lessee, tenant, occupier of land or other person who violates any provision of these regulations shall be deemed guilty of a misdemeanor and shall be upon conviction punished as provided by law. In addition, any person permitting, aiding, abetting or concealing a violation of this ordinance shall be deemed guilty of a misdemeanor and shall be upon conviction punished as provided by law. Each day a violation of these regulations continues shall constitute a separate

offense. The penalty provided in this section shall not be construed to be exclusive but is intended to be supplemental and in addition to any other remedy provided by law or at equity. The City may institute in the circuit court of Saline County any appropriate action or proceedings to prevent any unlawful activity proscribed in this ordinance or to correct any violations of this ordinance. Where a violation of this ordinance is declared a nuisance, all policies and procedures set forth in Chapter 215 shall apply.

Section 425.440. Variances.

- A. **General:** Where undue hardships or practical difficulties may result from strict compliance with this chapter, the developer may file an application for a variance. Said applications shall be directed to the Subdivision Advisory Board, which shall have the jurisdiction and shall be charged with the duty of hearing and deciding applications for variances from the strict application of the provisions of this ordinance. The Subdivision Advisory Board may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the following criteria:
1. The variance shall not have the effect of nullifying the intent and purpose of this stormwater ordinance;
 2. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property or improvements.
 3. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.
 4. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if this chapter was strictly interpreted and carried out.
- B. **Conditions:** In recommending variances and exceptions, staff may recommend, and the Subdivision Advisory Board may require such conditions as will, in the judgment of each, secure substantially the objectives of the standards or requirements of this chapter.
- C. **Application:** An application for a variance shall be submitted at the time of filing for a preliminary plat or for application for a building permit, whenever possible. The application shall state fully the grounds for the request and all facts relied upon by the practitioner. The application shall be filed with the Municipal Services Director and the Municipal Services Director shall make a recommendation to the Subdivision Advisory Board to grant or deny the application and state the reasons for his or her recommendation. Either the applicant or the City may appeal or seek judicial review of any decision of the Subdivision Advisory Board as provided by law.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed. In all other respects, the Code of Ordinances of the City of Marshall, Missouri shall remain unchanged.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED by the Council of the City of Marshall, Missouri, this 27th day of December 2021.

/s/ Julie M. Schwetz
President

APPROVED by the Mayor this 27th day of December 2021.

/s/ Julie M. Schwetz
Mayor

FILED this 27th day of December 2021.

/s/ Diane Green
Assistant City Clerk