

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 17, 2009 AGENDA**

Subject:	Type:	Submitted By:
CODE AMENDMENTS — STORM WATER MANAGEMENT	RESOLUTION ◆ ORDINANCE (2) RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

SYNOPSIS

A public hearing has been scheduled and ordinances have been prepared for Council to consider amendments to Article 3.03.20 of the Subdivision Regulations and Chapter 154 of the Municipal Code regarding storm water management.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approve.

BACKGROUND

A public hearing has been scheduled and ordinances have been prepared for Council to consider amendments to Article 3.03.20 of the Subdivision Regulations and Chapter 154 of the Municipal Code regarding storm water management.

State law requires local governments to manage storm water runoff beginning in 2009. City Engineer John Kottmann has prepared the proposed revisions to the Subdivision Regulations and the Municipal Code which include additional definitions and establishing new minimum requirements for post-construction storm water management plans. The proposed revisions coincide with what other cities in the Omaha metro area are adopting and are in accordance with the recommendations of the Papio-Missouri River NRD.

The Planning Commission held public hearings on October 16, 2008 and January 22, 2009 and recommended approval.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 3.03.20 OF ORDINANCE 906 (SUBDIVISION REGULATIONS); TO REPEAL SECTION 3.03.20 OF ORDINANCE 906 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

Section 1. That Section 3.03.20 of the Subdivision Regulations of the City of La Vista is amended to read as follows:

3.03.20 Four copies of the following documents are to be submitted to the City for review at the time of the preliminary plat submittal:

1. A sanitary sewer plan.
2. A surface storm drainage plan including provisions for ~~reduction of storm water peak discharges after development to pre-development conditions, control of the first 0.5 inches of runoff from the site,~~
3. A street profile plan with a statement of proposed street improvements.
4. A Post-Construction Storm Water Management Plan, as provided in Chapter 154 of the La Vista Municipal Code, with a proposed implementation schedule or sequence of phased construction, and proposed maintenance, inspection and operation procedures for the proposed BMP's.

SECTION 3. Repeal of Section 3.03.20 as Previously Enacted. Section 3.03.20 of Ordinance No. 906 as previously enacted is hereby repealed.

SECTION 4. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 6. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 17TH DAY OF FEBRUARY 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTIONS 154.01 AND 154.19 TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Section 154.01. Section 154.01 of the La Vista Municipal Code is amended to read as follows:

154.03 DEFINITIONS

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEST MANAGEMENT PRACTICES (BMPs). Pollution control practices designed and carried out to reduce the pollutants contained in discharges, including Low Impact Development techniques.

BUILDING DRAIN. That part of the lowest horizontal piping of a wastewater drainage system that receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building sewer, beginning two feet outside the inner face of the building wall.

CBO. The Chief Building Official for the City or his/her authorized agent or representative.

CITY. City of La Vista.

CLEAN WATER ACT. The Federal Water Pollution Control Act, which was enacted in 1972 to prohibit the discharge of pollutants to receiving waters of the United States and later amended in 1987, to establish a framework for regulating municipal, industrial, and construction storm water discharges under the NPDES Program.

COMMERCIAL ACTIVITY. Any public or private activity not defined as an industrial activity in 40 Code of Federal Regulations (CFR) 122.26(b)(14) as of the date of this chapter, involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or non-professional services.

CONSTRUCTION ACTIVITY. Any clearing, grading, or excavation that results in soil disturbance. Construction Activity also includes, but is not limited to, construction, repairs, dewatering, remodeling, building, and emergency construction activities required to immediately protect public health and safety.

DIRECTOR. The Director of the Public Works Department for the City of La Vista or his/her authorized agent or representative.

DISCHARGE. Any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid, or solid substance to the municipal storm sewer system.

HAZARDOUS SUBSTANCE. Any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.

ILLICIT CONNECTION. Any human made conveyance that is directly or indirectly connected to the municipal separate storm sewer system and allows for an illicit discharge.

ILLICIT DISCHARGE. Any discharge to the municipal separate storm sewer system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. Illicit Discharge includes all non-storm water discharges except discharges pursuant to a NPDES permit or conditionally exempted by ordinance and include those prohibited in § § 154.04 and 154.11.

ILLICIT DISPOSAL. Any disposal, either intentional or unintentional, of material(s), substance(s), or waste(s) that has the potential to pollute runoff unless otherwise allowed by law.

INDUSTRIAL ACTIVITY. Any public or private activity which is associated with any other of the 11 categories of activities defined in 40 CFR 122.26(b)(14), as of the date of this ordinance.

INDUSTRIAL/COMMERCIAL FACILITY. Any public or private facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, or any facility involved and/or used in providing professional services. This category of facility includes but is not limited to, any facility defined by a Standard Industrial Cost (SIC).

LOW IMPACT DEVELOPMENT (LID). De-centralized management of precipitation that would otherwise be stormwater runoff, utilizing design techniques that infiltrate, filter, store, evaporate, or temporarily detain stormwater.

MAXIMUM EXTENT PRACTICABLE. A standard for implementation of storm water management programs to reduce pollutants in storm water. It is the maximum extent possible taking into account equitable consideration of competing factors, including, but not limited to the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility.

MUNICIPAL STORM SEWER SYSTEM. Any pipe, ditch or gully, or system of pipes, ditches or gullies, that is owned or operated by the City and used for collecting and conveying storm water.

NEW DEVELOPMENT. Land-disturbing activities; structural development, including construction or installation of a building or structure, the creation of impervious surfaces; and land subdivision.

NON-STORM WATER RUNOFF. Any discharge to the municipal storm sewer system that is not composed entirely of storm water.

NPDES. The National Pollutant Discharge Elimination System and is implemented and enforced by a permit issued by the U.S. Environmental Protection Agency, or the Nebraska Department of Environmental Quality (NDEQ) pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.

NUISANCE. Any nuisance as defined in § 92.15 of this code and also as defined under **PUBLIC NUISANCE.**

POLLUTANT. The same as defined in Section 502(6) of the Clean Water Act including, but are not limited to the following, but does not include uncontaminated storm water, potable water, groundwater, or reclaimed water by a lawfully permitted water treatment facility.

(1) Materials (including but not limited to fuels, solvents, chemical, detergents, plastic, pellets, hazardous substances, radioactive wastes, fertilizers, pesticides, paints, soot, slay, ash, sludge);

(2) Metals and non-metals both soluble and insoluble (including but not limited to cadmium, lead, zinc, copper, silver, nickel, chromium, chlorine, phosphorous, and arsenic);

(3) Petroleum hydrocarbons (including but not limited to fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease);

(4) Eroded soils, sediment, and particulate materials in amounts, which may adversely affect the beneficial use of the receiving waters, flora, or fauna of the state;

(5) Animal wastes (including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, and stables);

(6) Substances having acidic or corrosive characteristics, unusual coloration or turbidity;

(7) Any domestic or industrial wastewater;

(8) Any hazardous substance.

PRIVATE STORM WATER CONVEYANCE SYSTEM. A storm water conveyance system that is not owned or maintained by the City including any instrumentality that drains or conveys water from a building or from/through one or more properties to the environment or the City's storm water system.

PUBLIC NUISANCE. Any discharge in violation of the provisions of this chapter, a wastewater discharge permit, or an order of the City Council.

RECEIVING WATERS. All surface water bodies, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation ditches, gullies or channels, drainage systems, and all other bodies or accumulation of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the extraterritorial jurisdiction of the CITY.

RUNOFF. Any storm water or non-storm water discharges from a drainage area that enters the municipal storm sewer system. The term **RUNOFF** is interchangeable with the term **URBAN RUNOFF**.

SANITARY SEWAGE. Liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions.

SEPARATE STORM SEWER. Pipe or conduit, which by designation of the Director, carries only storm water runoff, discharges pursuant to a NPDES permit or discharges conditionally exempted by ordinance.

SIGNIFICANT REDEVELOPMENT

(1) Land-disturbing activity that results in the creation, addition, or replacement of at least 5,000 square feet of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the following activities that meet the minimum standards set forth in this definition:

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

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

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the current edition of the Standard Industrial Classification Manual issued by the Executive Office of the President of the United States, Office of Management and Budget.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan required by the State of Nebraska under either the general permit for storm water discharges or an individual NPDES permit, which includes requirements for stormwater discharges associated with either industrial or construction activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of storm water discharges from a site and to describe and ensure the implementation of practices to reduce pollutants in storm water discharges.

STORM WATER RUNOFF. That part of natural precipitation (rainfall or snowmelt, including that of any frozen precipitation), which travels via flow across any surface to the municipal storm sewer system.

STREET WASH WATER. The water and the associated debris resulting from the washing of streets and/or sidewalks.

URBAN RUNOFF. Any storm water and non-storm water runoff from developed land in, or adjacent to, any municipality.

U.S. EPA. The United States Environmental Protection Agency.

SECTION 2. Section 154.19. Section 154.19 of the La Vista Municipal Code is amended to read as follows:

154.19 POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN

A. The post-construction storm water management plan shall be submitted to the City on a form or format specified by the director, as part of any preliminary plat application required in the Subdivision Regulations. Any parcelAny parcel of land that is to be developed which requires a grading permit, or requires a building permit and creates more than 5,000 square feet of impervious surface, or requires a building permit and meets the definition of Significant Redevelopment, and is not already covered by an approvedan approved Post-Construction Storm Water Management Plan (PCSWMP), shall have a PCSWMP applicable to the parcel of land prepared and submitted to the City.

B. The PCSWMP shall include at a minimumminimum the design, locations, scheduleschedules, and procedures for inspection and maintenance of the selected BMP's. Erosion and sediment control BMP's during the construction process are to be addressed in the grading permit documents. The BMP's for the PCSWMP shall address the reduction of stormwater peak discharges after development of the subject parcel to pre-development conditions for 2-year, 10-year, 50-year and 100-year return frequency storm events and shall include Low Impact Development (LID) BMP's to provide for water quality improvements in the first one-half inch of runoff from the site. Refer to the Omaha Regional Storm Water Design Manual for information on BMP's. For Significant Redevelopment sites, the calculation of the area requiring control of the first one-half inch of runoff shall be based only on the impervious area of the project site that is being added or replaced.

SECTION 3. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 17TH DAY OF FEBRUARY 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk