

CHAPTER 13**STORMWATER MANAGEMENT**

- Div. I. Stormwater Management in General
 - Art. I. General Provisions, §§15-13-1--15-13-1.2
 - Art. II. Stormwater Concept and Plan, §§15-13-1.3–15-13-1.10
 - Art. III. Maintenance, Construction and Inspection, §§15-13-1.11–15-13-1.13
 - Art. IV. Miscellaneous Provisions, §§15-13-1.14–15-13-3
- Div. II. Stormwater Fees
 - Art. I. Permit Fee Schedule, §15-13-4
 - Art. II. Stormwater Utility Fund, §15-13-5
- Div. III. Hot Springs Creek Tunnel Regulations, §15-13-6

DIVISION I. STORMWATER MANAGEMENT IN GENERAL

ARTICLE I. GENERAL PROVISIONS

15-13-1. Stormwater management ordinance - Adoption.

The following regulations, designed to lessen or deter hazards to persons, property and the environment caused by increased runoff, obstructions to drainage and introduction of excessive silts, debris and pollutants into the drainage system, lakes, ponds, streams, rivers and other water bodies in the City of Hot Springs, and to otherwise promote the public health, safety and welfare of the public are hereby adopted and this ordinance may be referred to as the “Hot Springs Stormwater Management Ordinance.”

15-13-1.1. Introduction and findings.

The Board of Directors finds that uncontrolled stormwater runoff from developed land adversely affects the public health, safety and welfare because:

- (a) Impervious surfaces increase the quantity and velocity of surface runoff, which reduces percolation of water through soil and increases erosion and flooding;
- (b) Improper stormwater collection and conveyance adversely affects property and increases the incidence and severity of flooding, which can endanger property and human life;
- (c) Increased erosion leads to sedimentation in stormwater management systems, which decreases the system’s capacity; and
- (d) Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.

Cross reference- §16-4-1, Subdivision Code.

Editors note: The Stormwater Management Program adopted by Resolution No 7340 is on file in the office of the city clerk.

15-13-1.2. Purpose and definitions.

(a) The purpose of this ordinance is to set forth the minimum requirements for construction site erosion control and stormwater management associated with both future land development and existing developed land within the city. These requirements will diminish threats to public health, safety, public and private property and natural resources of the City of Hot Springs by establishing performance standards that:

- (1) Protect life and property from dangers associated with flooding;
- (2) Protect public and private property from damage resulting from runoff or erosion;
- (3) Ensure the annual runoff rates and volumes from post development site conditions mimic the annual runoff rates and volumes from pre-development site conditions;
- (4) Ensure the site design minimizes the generation of stormwater and maximizes pervious areas for stormwater treatment;
- (5) Promote regional stormwater management by watershed;
- (6) Provide a single, consistent set of performance standards that apply to all developments;
- (7) Protect water quality from nutrients, pathogens, toxic matters, debris and other contaminants;
- (8) Promote infiltration and groundwater recharge;
- (9) Provide a vegetated corridor (buffer) to protect water resources from development;
- (10) Protect functional values of natural water courses and wetlands;
- (11) Provide plant and animal habitat and support riparian ecosystems;
- (12) Achieve an 80% reduction in sediment load rates to the City of Hot Springs waters compared to no controls for all new development, a 40% reduction in sediment load rates compared to no controls for all redevelopment and street reconstruction, and a 20% reduction in sediment load rates compared to no controls for existing developments;
- (13) Minimize sedimentation to the water resources of the City of Hot Springs;
- (14) Protect functional values of natural water courses and wetlands;

- (15) Protect public and private property from damage resulting from runoff or erosion;
- (16) Control soil erosion and sedimentation to minimize soil deposition in streams and other receiving water bodies and storm drainage systems;
- (17) Require implementation of Best Management Practices to minimize the discharge of chemicals and other illicit discharges and pollutants, either directly or indirectly into the streams, rivers, lakes and other bodies of water; and into the city's drainage infrastructure; and
- (18) Assuring the City of Hot Springs is and will remain in compliance with federal and state law.

(b) The application of this ordinance and the provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute. In addition, if site characteristics indicate that complying with these minimum requirements will not provide adequate designs or protection for local property or residents, it is the designer's responsibility to exceed the minimum requirements as necessary.

(c) Enforcement and administration of this ordinance shall be the responsibility of such office(s) or officer(s) as designated by the City Manager, hereinafter termed Administrative Authority. The Administrative Authority may appoint such inspectors and assistants as necessary to assist in the performance of these duties. The Administrative Authority shall also be responsible to address other stormwater issues as they relate to the city's compliance with its Small MS4 Storm Water Permit as issued by ADEQ to the City of Hot Springs.

(d) Definitions. As used in the Stormwater Management Ordinance, the following words and phrases shall have the following meanings:

Best Management Practices (BMPs) - Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, engineered systems, programs and other management practices published by state or designated area-wide planning agencies.

Bio-retention – (1) An engineered process to manage stormwater runoff, using the chemical, biological and physical properties afforded by a natural, terrestrial-based community of plants, microbes and soil. Bioretention provides two important functions: water quantity (flood) controls; and improves water quality through removal of pollutants and nutrients associated with runoff. (2) A method used for flow detention by utilizing infiltration. This method is normally used in small areas.

C.H.S. (CHS) – City of Hot Springs

City engineer – The civil engineer responsible for directing the city engineering department in the execution of its duties.

City engineering department - The department responsible for all stormwater management activities and implementation of the provisions of this ordinance.

Collector and arterial streets and highways – These are certain streets as depicted on the latest City of Hot Springs Master Street Plan Map for a particular design capacity and purpose.

Commercial development – means any development that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, multi-apartment buildings, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

Common plan of development - A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

Constructed wetlands - an artificial wetland system designed to mitigate the impacts of urban runoff.

Construction activity - For this permit, construction activity includes construction activity as defined in 40 C.F.R. part 122.26(b)(14)(x) and small construction activity as defined in 40 C.F.R. part 122.26(b)(15). This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated storm water runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more.

Construction site erosion control - Preventing or reducing soil erosion and sedimentation from land disturbing activity.

Contractor certification program - a voluntary program in which the city will provide periodic seminars and training to educate contractors and other professionals on the proper procedures for installation and maintenance of erosion and sediment control measures and related matters. Refer to the City of Hot Springs Best Management Practices manual for additional information.

Debris - Any material including floating woody materials and other trash, suspended sediment, or bed load, moved by a flowing stream.

Detention - The temporary detaining or storage of floodwater in reservoirs, on parking lots, on rooftops and other areas under predetermined and controlled conditions and accompanied by controlled release of the stored water.

Detention basin - An open excavation or depression in the ground surface used for temporary storage of stormwater prior to release downstream.

Detention pond - A stormwater detention facility which maintains a fixed minimum water elevation between runoff events except for the lowering resulting from losses of water due to infiltration or evaporation.

Detention/Retention maintenance plan - Pre and post construction maintenance is the responsibility of the owner or property owners association. Timing and methods must be described in the maintenance plan. Maintenance responsibilities include: sediment removal, outlet cleaning, mowing, herbicide spraying, litter control, and routine inspections. (Ord. No. 5628, §1(p), 1-8-08)

Develop land - To change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

Developer – Any person or entity proposing building or land improvements.

Development – Any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity. Or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Development - Should generally mean any of the following actions undertaken by a public or private individual or entity:

- (a) The division of a lot, tract or parcel of land into two (2) or more lots, plots, sites, tracts, parcels or other divisions by plat or deed, or
- (b) Any land change, including, without limitation, clearing, tree removal, grubbing, stripping, dredging, grading, excavating, transporting and filling of land.

Disturbed area – means an area that is altered as a result of clearing, grading, and/or excavation.

Drainage area – All land area that contributes runoff to the same discharge point.

Drainage basin – All land area contributing to a given discharge point in terms of drainage.

Drainage easement - Authorization by a property owner for use by another party or parties for all or any portion of his/her land for a drainage and adjoining utility purposes. Easements shall be dedicated to the city when required or approved by the Administrative Authority.

Drainage pipe – Drainage conduit, which carries storm water flows in either a closed storm water sewer system or culverts. RCP, CMP & HDPE are some common drainage pipes used throughout the state.

Duplex – Two housing units that share a common wall.

Easement - Shall mean a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

Elevation or elevations – All required elevations shall be based on mean sea level datum.

Emergency Flood Insurance Program or emergency program - Means the program as implemented on an emergency basis in accordance with the NFIP. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

Engineer – A person who is a registered professional engineer in the State of Arkansas.

Engineer of record - A registered professional engineer in Arkansas. This engineer shall supervise the design and construction of the development project and shall be acceptable to the City Engineer.

Erosion – the wearing away of land surfaces by the action of wind or water.

Erosion prevention - Measures employed to prevent erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover and construction phasing.

Excavation - Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the resulting conditions.

Existing development – Buildings and other structures and impervious areas existing prior to ordinance adoption.

Existing structure – Means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date.

Fill - Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved to a new location and shall include the resulting conditions.

Final stabilization - means that either:

- (a) All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 80% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed; or (Ord. No. 5628, §(q), 1-8-08)
- (b) For individual lots in residential construction by either: (a) The homebuilder completing final stabilization as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization; or

(Homeowners typically have an incentive to put in the landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways.); or
- (c) For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land) final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters and drainage systems, and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in (a) or (b) above.

Freeboard – The vertical clearance of the lowest structural member of the bridge superstructure above the water surface elevation of the overtopping flood; the vertical distance between the level of the water surface usually corresponding to the design flow and a point of interest such as levee top or specific location on the roadway grade.

General contractor - The party who signs the construction contract with the owner to construct the project described in the final plans and specifications. Where the construction project involves more than one contractor, the general contractor will be the party responsible for managing the project on behalf of the owner. In some cases, the owner may be the general contractor. In these cases, the owner may contract an individual as the operator who would become the Co-Permittee.

Good housekeeping practice – a common practice related to the storage, use, or cleanup of materials performed in a manner that minimizes the discharge of pollutants. Examples include cleaning up spills and leaks and storing materials in a manner that will contain any leaks and spills.

Grading - Shall mean excavating, filling (including hydraulic fill), or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.

Household hazardous waste - A product that is discarded from a home or a similar source that is either ignitable, corrosive, reactive, or toxic (e.g. used motor oil, oil-based paint, auto batteries, gasoline, pesticides, etc.).

Illegal discharge - Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in this Ordinance.

Illegal/Illicit connections - An illicit connection is defined as either of the following:

- (a) Any drain or conveyance, whether on the surface or subsurface, which allows illegal discharge to enter the storm drain system including, but not limited to, any conveyances which 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 or,
- (b) Any drain or conveyance connected from and 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.

Impervious – a hard surface (such as a parking lot), which prevents or retards the entry of water into the soil, thus causing water to run off the surface in greater quantities and at an increased flow rate. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

Infiltration – means the downward entry of water into the surface of the soil or the flow of a fluid through pores or small openings, commonly used in hydrology to denote the flow of water into soil material.

Legal authority – defined as the ability to impose and enforce statutes, ordinances, and regulations to require control of pollutant sources and regulate the discharge of pollutants to the storm drain system, and to enter into interagency agreements, contracts, and memorandums of understanding.

Litter - Waste that is improperly disposed of on the street, sidewalk, lakes and other bodies of water, and in the general environment.

Municipal separate storm sewer system (MS4) – conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by a state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes,

stormwater, or other wastes, including special districts under state law such as a sewer district, flood control or drainage district, similar entity, and Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges to water of the United States.

Natural waterways - Shall mean waterways that are part of the natural topography. They usually maintain a continuous or seasonal flow during the year and are characterized as being irregular in cross-section with a meandering course. Construction channels such as drainage ditches shall not be considered natural waterways.

New structure – Structures for which the start of construction commences on or after the effective date of these regulations.

Non-storm water discharge - Any discharge to the storm drain system that is not composed entirely of storm water.

Non-structural BMP – a best management practice that does not require construction of a facility to control urban runoff.

Notice of intent (NOI) - Application form for obtaining coverage under a General Storm Water Permit for construction activities that disturbs one or more acres or for industrial activities.

Notice of termination – A notice to terminate coverage under this permit after construction is complete, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established, in accordance with all applicable conditions of this permit.

NPDES – National Pollutant Discharge Elimination System initiated in 1972 by the amendments to the Federal Water Pollution Control Act (the Clean Water Act or CWA) to address the discharge of pollutants to navigable waters from point sources unless the discharge is authorized by an NPDES permit. The Water Quality Act of 1987 added section 402(p) to the CWA establishing phased and tiered requirements for stormwater discharge under the NPDES program.

Owner - The person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.

Permittee – A person, partnership or corporation to whom a permit is granted.

Permittee - A person or persons, firm, or governmental agency or other institution that signs the application submitted to AEDQ and is responsible for compliance with the terms and conditions of this permit.

Person responsible for the land disturbing activity - The person who has or represents having financial or operation control over the land disturbing activity; and/or the landowner or person in possession or control of the land who directly or indirectly allowed the land disturbing activity or has benefitted from it or who has failed to comply with any provision of this ordinance.

Point source – pollution arising from a well-defined origin, such as a discharge from an industrial plant.

Pollutant – any introduced gas, liquid, or solid that makes a resource unfit for a specific purpose. A substance that pollutes air, water or land. They are defined in Section (502) of the federal Clean Water Act (33 U.S.C. ‘ 1362(6)). Specifically, pollutants that are carried by runoff from rainstorms or other watering activities. Examples of pollutants include but are not limited to the following:

- (a) Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
- (b) Metals such as cadmium, lead, zinc, copper, silver, nickel, and chromium; and non-metals such as phosphorus and arsenic;
- (c) Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease);
- (d) Excessive eroded soils, sediment, and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora, or fauna;
- (e) Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities);
- (f) Substances having characteristics such as pH less than 6 or greater than 9, unusual coloration or turbidity, excessive levels of fecal coliform, fecal streptococcus, or enterococcus.

Post-development - Refers to the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan. This term is used to match pre- and post-development stormwater peak flows as required by the ordinance.

Pre-developed conditions - Those land use conditions that existed prior to the initiation of the land disturbing activity in terms of topography, vegetation, or land use and rate, volume, or direction of stormwater runoff.

Pre-development - Refers to the extent and distribution of land cover types present before the initiation of land development activity, assuming that all land uses prior to land disturbing activity and in “good” condition as described in the Natural Resources Conservation Service Technical Release 55, Urban Hydrology for Small Watersheds” (commonly known as TR-55). This term is used to match pre- and post-development

stormwater peak flows as required by the ordinance. In a situation where cumulative impervious surface created after the adoption of this ordinance exceeds the 20,000 sq. ft. threshold, the pre-development conditions shall be those prior to any land disturbance.

Raingarden - (1) Shallow depressions designed to collect rain on the site – typically runoff from impervious surfaces such as roofs – and allow plants, bacteria and soils to clean the water as it seeps into the ground. (2) A strategically located low area planted with native vegetation that intercepts runoff. Other terms include mini-wetland, stormwater garden, water quality garden, stormwater marsh, backyard wetland or bioretention pond.

Receiving water – rivers, lakes, oceans, or other bodies that receive runoff.

Redevelopment – land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Where redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated. Where Redevelopment results in an alteration to less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the alteration must be mitigated, and not the entire development. 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. Existing single family structures are exempt from the redevelopment requirements.

Registered landscape architect - A landscape architect properly registered and licensed to conduct work within the State of Arkansas.

Registered land surveyor - A land surveyor properly registered and licensed to conduct work within the State of Arkansas.

Registered professional engineer - Shall mean a professional engineer properly registered and licensed to conduct work within the State of Arkansas.

Regulatory floodway – The floodplain area that is reserved in an open manner by Federal, State or local requirements, i.e., unconfined or unobstructed either horizontally or vertically, to provide for the discharge of the base flood so that the cumulative increase in water surface elevation is no more than a designated amount (not to exceed 1 foot as established by the Federal Emergency Management Agency (FEMA) for administering the National Flood Insurance Program).

Retention structure - A permanent structure whose primary purpose is to permanently store a given volume of stormwater runoff. Release of the given volume is by infiltration and/or evaporation.

Riparian buffer - A natural or vegetated area adjacent to streams and perennial water bodies through which stormwater flows in a diffuse manner, so that runoff does not become channelized and which provides for the infiltration of runoff and filtering of pollutants. The riparian buffer is measured landward (horizontal distance) from the stream bank on both sides of the stream or from the normal pool elevation of a perennial water body.

Riverine – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Runoff – the portion of rainfall or irrigation water and other watering activities also known as dry-weather flows that flow across the ground surface and eventually to receiving waters. Runoff can pick up pollutants from the air or the land and carry them to receiving waters.

Sediment – Fragmentary material that originates from weathering of rocks and is transported by, suspended in, or deposited by water.

Sediment - Solid earth material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice, and has come to rest on the earth's surface at a different site.

Sediment control - Methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Stormwater – Water which originates from atmospheric moisture (rainfall or snowmelt) and falls onto land, water, or other surfaces.

Stormwater management plan - The set of drawings and other documents that comprise all of the information and specifications for the drainage systems, structures, concepts and techniques that will be used to control stormwater as required by this Ordinance and the Stormwater Management Manual. Also included are the supporting engineering calculations and results of any computer analysis.

Stormwater management manual - The set of drainage policies, analysis methods, design charts, stormwater runoff methods, and design standards used by the City as the official design guidelines for drainage improvements consistent with this Ordinance. Any modifications will be made by the Administrative Authority consistent with the stated policies and intent of the Ordinance.

Stormwater Pollution Prevention Plan (SWPPP) – A plan designed to eliminate or reduce at the source the use, generation, or release of silts, toxic pollutants, hazardous substances, and hazardous wastes from entering storm waters.

Stormwater runoff - Water that results from precipitation which is not absorbed by the soil, evaporated into the atmosphere or entrapped by ground surface depressions and vegetation, which flows over the ground surface.

Stream – A body of running water.

Triple fee – Refers as to this ordinance as three (3) times the original cost of a permit which may be imposed on construction sites that have started land disturbance activities without approval or permits from the Administrative Authority. (Ord. No. 5628, §1(p), 1-8-08)

Urban forestry – (1) The management of trees for their contribution to the physiological, sociological, and economic well-being of urban society. Urban forestry deals with woodlands, groups of trees, and individual trees, where people live - it is multifaceted, for urban areas it includes a great variety of habitats (streets, parks, derelict corners, etc) where trees bestow a great variety of benefits and problems. (2) The art, science and technology of managing trees, forests, and natural systems in and around urban areas for the health and well being of communities.

Waters of the state - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof. The definitions of certain words and phrases as used throughout this ordinance are included in Appendix A hereof.

ARTICLE II. STORMWATER CONCEPT AND PLAN

15-13-1.3. Performance standards and design criteria.

(a) The City of Hot Springs Stormwater Management Manual, as adopted by this ordinance, shall be the source for design criteria and performance standards with respect to stormwater management.

(b) Stormwater concept and stormwater management plans and design reports that are incidental to the overall or ongoing site design shall be prepared and certified by an Engineer, Landscape Architect, or a Soil and Erosion Control Specialist with sufficient training and education in erosion control prevention and with approval by the Administration Authority. In addition, the person must verify that the plans have been designed in accordance with this ordinance and the standards and criteria stated or referred to in this ordinance. (Ord. No. 5628, §1(a), 1-8-08)

15-13-1.4. Stormwater management permit.

The stormwater management permit does not authorize:

- (a) Discharges mixed with sources of non-stormwater unless the non-stormwater discharges are determined not to be a significant contributor of pollutants as defined in Part VII of the Arkansas General Permit No. ARR040000 to waters of the United States;
- (b) Stormwater discharges associated with industrial activity as defined in 40 CFR 122.26(b)(14)(I)-(ix) and (xi), except as allowed under Part I.B.2.b;
- (c) Stormwater discharges associated with construction activity as defined in 40 CFR 122.26(b)(14)(x) or 40 CFR 122.26(b)(15), except as allowed under Part I.B.2.a;
- (d) Stormwater discharges currently covered under an individual or other general NPDES permit;
- (e) Stormwater discharges whose direct, indirect, interrelated, interconnected, or interdependent impacts would jeopardize a listed endangered or threatened species or adversely modify designated critical habitat as defined by the U.S. Fish & Wildlife Services (USF&WS). <http://endangered.fws.gov/> ;
- (f) Stormwater discharges or implementation of the stormwater management plan, which adversely affect properties listed or eligible for listing in the National Register of Historic Places, unless you are in compliance with requirements of the National Historic Preservation Act and have coordinated any necessary activities to avoid or minimize impacts with the appropriate State Historic Preservation Officer;
- (g) Stormwater discharges that will cause or contribute to non-attainment of water quality standards, including failure to protect and maintain existing designated uses of receiving waters. ADEQ may require an application for an individual NPDES permit to authorize discharges of stormwater from any activity that ADEQ determines to cause or makes a contribution to exceed a water quality standard or that ADEQ determines to cause or contribute to the loss of a designated use of receiving waters;
- (h) Discharges to waters for which there is an approved Total Maximum Daily Load and/or implementation plan (TMDL/IP) addressing discharges of stormwater associated with MS4s, unless the MS4 operator develops and certifies a SWMP that is consistent with the assumptions and allocations in the approved TMDL/IP. To be eligible for coverage under this general permit, operators must incorporate into their SWMP any conditions applicable to their discharges necessary for consistency with the assumptions and allocations of the TMDL/IP within any time frames established in the TMDL/IP. If a specific numeric waste load allocation has been established that would apply to the project's discharges,

the operator must incorporate that allocation into its SWMP and implement necessary steps to meet that allocation. Information regarding existing and proposed TMDLs can be obtained from the Water Quality Section of the ADEQ Water Division at (501) 682-0660 or from the ADEQ website at the following address: http://www.adeg.state.ar.us/water/branch_planning/;

- (i) Stormwater discharges which are prohibited for permitting in 40 CFR 122.4 of the federal regulation.

15-13-1.5. Stormwater submittal requirements.

(a) Large, Medium, and Small Construction Sites as described below are required to submit the following documents prior to any earth moving activities:

- (1) Stormwater Management Plan
- (2) Stormwater Pollution Prevention Plan (SWPPP)
- (3) Stormwater Detention/Retention Plan (includes maintenance plan)(Ord. No. 5628, §1(b),1-8-08)
- (4) Stormwater Quality Plan
- (5) A copy of the approved ADEQ NPDES permit

(b) Special Construction Sites as described below are required to submit the following documents prior to any earth moving activities:

- (1) Post on-site (CHS) Stormwater Construction Notice (Ord. No. 5628, §1(c), 1-8-08)
- (2) Develop Stormwater Pollution Prevention Plan (SWPPP)
- (3) Submit copy of SWPPP to CHS prior to construction for review.
- (4) Use Best Management Practices (BMPs) to reduce runoff.
- (5) Maintain SWPPP on-site and inspect stormwater controls weekly.
- (6) Remove all unnecessary BMPs after final stabilization.
- (7) Maintain a solid waste dumpster located at the site to properly dispose of building materials and solid waste.

(c) Construction sites are defined as follows:

- (1) Large construction sites include any construction sites that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of five (5) or more acres of total land area.

- (2) Small construction sites include any construction activity that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of greater than or equal to one (1) acre and less than five (5) acres of total land area or less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more, but less than five (5) acres. Provided, however, that any new commercial construction site under (1) acre which includes construction activity that will result in the disturbance (e.g., clearing, grading, excavating, etc.) will meet the requirements of a small construction site.
- (3) Special Construction Sites: Any construction activity that meets the following definition:
 - a. Any construction activity (e.g., clearing, grading, excavating, etc.) less than 1 acre of land with the potential to pollute, which is adjacent to any lake, stream, tributary, creek or other flowing body of water.
 - b. Road, pipeline, and utility maintenance activities are not regulated under this permit unless one or more acres of underlying and/or surrounding soil are cleared, graded or excavated as part of the operation.
 - c. Road, pipeline and utility maintenance activities are regulated when bordering lakes or streams under either the small, medium or large construction site category. (Ord. No. 5628, §1(d), 1-8-08)

15-13-1.6. Stormwater and urban runoff pollution control.

(a) **Illegal dumping/disposal.** No person shall throw, deposit, place, leave, maintain, or keep or permit to be thrown, placed, left, maintained or kept, any refuse, rubbish, garbage, or any other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or drainage structure, business place, or upon any public or private plot of land in the city, so that the same might be or become a pollutant, except in containers, recycling bags, or other lawfully established waste disposal facility.

(b) **Disposal in storm sewer.** No person shall intentionally dispose of grass, leaves, dirt, or other landscape debris into a water resource buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

(c) **Illicit discharges and connections.** No person shall cause any illicit discharge to enter the municipal stormwater system unless such discharge: (1) consists of non-stormwater that is authorized by an NPDES point source permit; or (2) is associated with fire fighting activities.

(d) Storage of materials, machinery and equipment. Objects, such as motor vehicles including parts, containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials, shall not be stored in areas susceptible to runoff as is prohibited in areas identified by FEMA as designated floodplain areas identified as shown on current FEMA FIRM maps. Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills or discharges.

(e) Removal of debris and residue. Debris and residue shall be removed, as noted below:

(1) All motor vehicle parking lots shall be swept, at a minimum of twice a year to remove debris. Such debris shall be collected and properly disposed. However, parking lots are not required to be swept for one month following a day on which precipitation of one-half inch or more occurs.

(2) Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries, which is located in an area susceptible to runoff, shall be removed as soon as possible and disposed of properly. Household hazardous waste may be disposed of through city collection programs or at any other appropriate disposal site and shall not be placed in a trash container.

(f) Non-stormwater discharges. All discharges covered by this permit shall be composed entirely of stormwater except the following non-stormwater discharges that are combined with stormwater may be authorized by this permit:

(1) Discharges from fire fighting activities; fire hydrant flushings; water used to wash vehicles (where detergents are not used) or control dust; potable water sources including uncontaminated waterline flushings; irrigation drainage; routine external building wash down which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents are not used; uncontaminated air conditioning or compressor condensate; uncontaminated springs; uncontaminated ground water; foundation or footing drains where flows are not contaminated with process materials such as solvents; and uncontaminated excavations dewatering.

(2) Except as described in (f)(1) above, discharges of material other than stormwater must be in compliance with an individual NPDES permit issued for the discharge.

(g) Good housekeeping provisions. Any owner or occupant of property within the city shall comply with the following good housekeeping requirements:

(1) Discharges. No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm drain system may occur. This section shall apply to both actual and potential discharges.

- (2) Pools are not allowed to discharge chlorinated water into the stormwater system. Pool discharges should utilize a water filtering device if possible. (Ord. No. 5628, §1(e), 1-8-08)
- (3) All large, medium, small and special construction sites must have solid waste dumpsters located at the site to properly dispose of building materials and solid waste.
- (h) Construction site stormwater runoff control. Any owner, developer or occupant of property within the city shall install and maintain erosion and sediment controls during land disturbing activities (§15-13-1.4) in order to reduce pollutants from stormwater from entering waterways.
- (i) Post-construction stormwater runoff control. Any owner, developer or occupant of property within the city shall install and maintain erosion and sediment controls during land disturbing activities (§15-13-1.4) from new development and redevelopment projects in order to reduce pollutants from stormwater from entering waterways.
- (j) Runoff. Runoff of water from residential property shall be minimized to the maximum extent practicable. Runoff of water from the washing down of paved areas in commercial or industrial property is prohibited unless necessary for health or safety purposes and not in violation of any other provisions in community codes.

15-13-1.7. Stormwater Management Manual.

(a) To assist in the design and evaluation of stormwater management facilities in the City of Hot Springs, a Stormwater Management Manual is hereby adopted. This manual contains the submittal requirements for development within the City of Hot Springs. The required submittal documents prior to earthmoving activities within the City of Hot Springs, which are addressed in the manual, are:

- (1) Stormwater Management Plan
- (2) Stormwater Pollution Prevention Plan
- (3) Detention/Retention Plan (includes maintenance plan) (Ord. No. 5628, §1(f), 1-8-08)
- (4) Stormwater Quality Plan

(b) The City of Hot Springs will allow the use of the following software for the analysis of stormwater detention facilities: Pond 2, HEC-1, HEC-HMS or an acceptable equal approved by the Administrative Authority .

(c) Stormwater detention pond outlets shall be designed to limit the peak stormwater discharge rate of the 2-, 10-, 25-, 50-, and 100-year storm frequencies after development to pre-development rates. The principal outlet will be designed to safely convey the runoff resulting from a 25-year event chance storm. A second outlet, the emergency outlet, will be designed to safely convey the runoff resulting from a 100-year event storm.

(d) All private systems must be designed to discharge at pre-developed rates unless approved by the Administrative Authority. New stormwater drainage systems cannot tie into existing systems of lesser capacity. In other words, a larger pipe cannot discharge into a smaller pipe of lesser capacity.

15-13-1.8. Permits and fees required.

(a) A stormwater management permit will be required for construction site activities and those activities associated with excavation, filling, grading and removal of trees or surface vegetation unless otherwise exempt by this ordinance. The permit application and required submittal documents, when applicable, shall include a copy of the permit coverage for medium or large construction sites issued from the Arkansas Department of Environmental Quality (ADEQ). Approvals shall be secured per size of development from the City of Hot Springs and ADEQ, as applicable prior to starting any clearing or earth work. It is the developer's responsibility to determine if other permits are required and to secure them. (Ord. No. 5628, §1(g), 1-8-08)

(b) The following permit requirements must be met:

(1) No final occupancy permit shall be issued without the following:

- a. Recorded easements for stormwater management facilities.
- b. Receipt of an as-built plan which includes a certification of the storm drainage system.

(2) No site grading permit shall be issued or modified without the following:

- a. Right of entry for emergency maintenance, if necessary.
- b. Right of entry for inspections.
- c. Any off-site easements needed.
- d. An approved stormwater management plan.

(c) The approved stormwater management plan shall contain certification by the applicant that all land clearing, construction, development and drainage will be done according to the stormwater management plan or previously approved revisions. Any and all site grading permits may be revoked at any time if the construction of stormwater management facilities is not in strict accordance with approved plans.

(d) In addition to the plans and permits required from the city, applicants shall obtain all state and federal permits for the proposed development. The applicant shall also be responsible for determining the existence and limits of any wetlands and/or floodways as may be applicable, and be responsible for securing permits and approvals from the U.S. Army Corps of Engineers and Federal Emergency Management Agency as required.

(e) Permit fees. The permit and rates associated with the implementation of this ordinance will be based on the disturbance for more than 4,000 square feet of land as stated in this ordinance. Such fees shall be established by resolution of the Board of Directors.

(f) Triple fees. A triple fee penalty may be imposed on the original cost of the permit if land disturbance activities occur prior to receiving approval from the Administrative Authority. (Ord. No. 5628, §1(h), 1-8-08)

15-13-1.9. Exemptions.

(a) Any land disturbing activity with the potential to pollute less than 1 acre within 100 feet of a stream or a lake is not exempt from this ordinance. (Ord. No. 5628, §1(i), 1-8-08)

(b) The following activities are exempt from requirements of this ordinance:

(1) Land use for agricultural purpose.

(2) Land where timber extraction takes place, provided that it is to be re-seeded as timber land.

(3) Construction activity on an area less than 1 acre that is not adjacent to a stream or lake and not for commercial use.

(4) Reserved. (Ord. No. 5628, §1(j), 1-8-08)

(5) One commercial or industrial project built on an individual lot that is part of a larger subdivision that has been issued an approved drainage control permit when the proposed project is demonstrated to be in compliance with the overall subdivision drainage permit.

(6) Existing commercial and industrial structures where additional structural improvements are less than 500 square feet.

(7) Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site, or runoff from the site.

(8) Any activity directly related to the planting, growing and harvesting of agricultural crops.

(9) Action taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms or other hazards.

15-13-1.10. Permit conditions, application and processing.

(A) Permit conditions - Each permit issued shall be subject to the following conditions:

(1) Area. The development, including associated construction, shall be conducted only within the area specified in the approved permit.

- (2) Execution. Activities requiring a stormwater management permit shall not commence until the permit is in the possession of the permittee. The approved permit shall be on file with the Administrative Authority and a copy on file with the contractor at the project site, and available for review and inspection upon request.
- a. The plan shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Stormwater components of the plan shall be maintained in perpetuity.
 - b. The permittee is responsible for successful completion of the erosion control plan and the stormwater management plan. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.
 - c. Application for a permit shall constitute express permission by the permittee and landowner for the local approval authority to enter the property for purposes of inspection or curative action. The application form shall contain a prominent provision advising the applicant and landowner of this requirement.
 - d. All incidental mud-tracking off-site onto adjacent thoroughfares shall be cleaned up and removed by the end of each working day using proper disposal methods.
- (3) Inspections. A schedule of inspections to be carried out during the construction phase of permitting shall be established by the Administrative Authority as a condition to the permit.
- a. Application for a permit under this ordinance shall constitute permission by the applicant and landowner for the local approval authority to enter upon the property and inspect during the construction phase prior to the inspections pursuant to paragraphs (4) and (5), as necessary to confirm compliance with the requirements of this ordinance.
 - b. Applicant and landowner for the local approval authority to enter upon the property and inspect during the construction phase prior to the inspections as necessary to confirm compliance with the requirement of this ordinance.
 - c. As part of the plan approval process, the Administrative Authority shall determine the minimum number of inspections required to assure compliance. The site of any regulated land disturbing activity should be inspected once every 30 days, or more frequently as determined by the Administrative Authority during the construction phase.
 - d. The permittee shall notify the Administrative Authority before construction activity begins. (Ord. No. 5628, §1(1), 1-8-08)

- e. The Administrative Authority shall inspect the property to verify compliance with the erosion control plan within 10 days of notification of soil stabilization.
- (4) Duration.
- a. Unless revoked or otherwise modified, the duration of a stormwater management permit issued pursuant to this chapter shall be one year.
 - b. If the permitted project discharge structure is not completed prior to expiration, the stormwater management permit duration can be extended to cover the project duration subject to approval of the Administrative Authority.
- (5) Maintenance. Maintenance activities, as specified in the approved maintenance plan, shall be executed routinely, with scheduled reporting documents kept current, stored on the project site, and available for review and inspection upon request.
- (6) Modifications. If the activity authorized by the permit is not completed according to the approved schedule and permit conditions, the Administrative Authority shall be notified. For revisions resulting in a schedule extension of more than 30 days, or if deviations from the permit conditions are expected to occur, approval of a permit modification is required by the Administrative Authority.
- (7) Transfer. No transfer, assignment or sale of the rights granted by virtue of an approved permit shall be made without prior written approval from the Administrative Authority.
- (8) Special. Any additional special conditions, as deemed appropriate by the Administrative Authority, shall be established to address specific project needs or circumstances.
- (B) Permit application. A storm water permit application shall be submitted to the Administrative Authority using appropriate forms as provided. A permit application shall contain sufficient information and plans to allow the Administrative Authority to determine whether the project complies with the requirements of this ordinance. The specific items to be submitted for a permit application shall be in the form and follow the procedures as described in the Stormwater Management Manual and this Ordinance.
- (c) Approval process.
- (1) The Administrative Authority shall verify that the permit application is complete and in accordance with this ordinance.
 - (2) Within the time frame set by the Administrative Authority, plan review staff shall either approve the submitted plan or notify the applicant of any deficiencies.

- (3) The Administrative Authority shall notify the applicant in writing of any deficiency in the proposed plan and the applicant shall be given an opportunity to correct any deficiency.
- (4) Upon approval of the Administrative Authority, the stormwater management permit shall be issued by the Administrative Authority after the applicant has met all other requirements of this ordinance.

ARTICLE III. MAINTENANCE, CONSTRUCTION AND INSPECTION

15-13-1.11. Public and private maintenance responsibilities under the stormwater management system.

- (a) Owner inspections and maintenance. The owner shall be responsible for inspections and maintenance on the site.
 - (1) Inspections and maintenance must be documented and readily available for review. Inspections are required as follows:
 - a. Once every 7 days on exposed soil areas.
 - b. Within 24 hours after a one-half inch rain event over 24 hours.
 - c. Once every 30 days on stabilized areas.
 - d. As soon as runoff occurs or prior to resuming construction on frozen ground.
 - (2) Maintenance is required as follows:
 - a. When sediment reaches $\frac{1}{2}$ the height of the BMP on perimeter control devices, sediment must be removed within 48 hours.
 - b. If the perimeter control device is not functional it must be repaired or replaced within 48 hours. (Ord. No. 5628, §1(m), 1-8-08)
 - c. Temporary sediment basins shall be maintained when sediment reaches $\frac{1}{2}$ the outlet height or $\frac{1}{2}$ the basin storage volume. Basin must be drained or sediment removed within 72 hours.
 - d. Construction site vehicle entrance and exit locations sediment must be removed from paved surfaces within 24 hours of discovery.
 - e. Immediate maintenance may be required by the Administrative Authority if the conditions of the site are a public hazard or has the potential to cause environmental damage or pollution. (Ord. No. 5628, §1(m), 1-8-08)

- (b) Public responsibilities:
- (1) Administration - Administration of these regulations shall be by the Administrative Authority, who shall review to determine approval, disapproval or modification of stormwater management plans as provided herein.
 - (2) All areas and/or structures to be dedicated to the city must be dedicated by plat or separate instrument and accepted by a formal letter from the Administrative Authority.
 - (3) Operation and maintenance of publicly-owned facilities - The Administrative Authority shall be responsible after written approval and acceptance for the operation and maintenance of all drainage structures and improved courses which are part of the drainage structures and improved courses which are part of the stormwater runoff management system under public ownership and which are not constructed and maintained by or under the jurisdiction of any state or federal agency.
- (c) Private responsibilities:
- (1) Each developer of land within the corporate limits of the city has a responsibility to provide on the developer's property all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's property both during and after construction of such facilities.
 - (2) Each developer, owner or property owners association has a responsibility and duty before and after construction to properly operate and maintain any on-site stormwater runoff control facility which has not been accepted for maintenance by the public. Such responsibility is to be transmitted to subsequent owners through appropriate covenants.
 - (3) All private systems not dedicated to the city shall have adequate easement to permit the Administrative Authority to inspect and, if necessary, to take corrective action should the responsible entity fail to properly maintain the system.
 - (4) All private stormwater facilities shall be maintained in proper condition consistent with the performance standards for which they were originally designed.
 - (5) All private systems must be designed to discharge at pre-developed rates unless approved by the Administrative Authority. New stormwater drainage systems cannot tie into existing systems of lesser capacity. In other words, a larger pipe cannot discharge into a smaller pipe of lesser capacity. See Article II, Section 4 for detention plan requirements.
- (d) Maintenance Agreement (privately-owned facilities only):

- (1) A proposed inspection and maintenance agreement shall be submitted to the Administrative Authority for all private on-site stormwater discharge control facilities prior to the approval of the stormwater management plan. Such agreement shall be in a form and content acceptable to the Administrative Authority and shall be the responsibility of the private owner. Such agreement shall provide for access to the facility by virtue of a non-exclusive perpetual easement in favor of the city at reasonable times for regular inspection by the Administrative Authority. This agreement will identify who will have the maintenance responsibility. Possible arrangements for this maintenance responsibility might include the following:
 - a. Use of homeowner associations;
 - b. Arrangements to pay the city for maintenance;
 - c. Private maintenance by development owner(s), or contracts with private maintenance companies.

- (2) All maintenance agreements shall contain or uphold, without limitation, the following provisions:
 - a. A description of the property on which the stormwater management facility is located and all easements from the site to the facility;
 - b. Size and configuration of the facility;
 - c. A statement that properties which will be served by the facility are granted rights to construct, use, reconstruct, repair and maintain access to the facility;
 - d. A statement that each lot served by the facility is responsible for repairs and maintenance of the facility and any unpaid ad valorem taxes, public assessments for improvements, and unsafe building and public nuisance abatement liens charged against the facility, including all interest charges together with attorney fees, costs and expenses of collection. If an association is delegated these responsibilities, then membership into the association shall be mandatory for each parcel served by the facility and any successive buyer. The association shall have the power to levy assessments for these obligations, and that all unpaid assessments levied by the association shall become a lien on the individual parcel;
 - e. All stormwater facilities must be designed to minimize the need for maintenance, to provide easy vehicle and personnel access for maintenance purposes, and be structurally sound. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the facilities for inspection or maintenance;

- f. All settled materials from ponds, sumps, grit chambers and other devices, including settled solids, shall be removed and properly disposed of as needed to insure the proper functioning of the stormwater facility as per its design capacity.

15-13-1.12. Inspection authority.

Inspections will be performed by the Administrative Authority on a regular basis during construction to ensure that the stormwater management plan measures are properly installed and maintained. The Administrative Authority shall inspect all stormwater facilities during the first year of operation, and at least once every five years thereafter. In all cases the inspectors will attempt to work with the applicant or developer to maintain proper stormwater management.

15-13-1.13. Bonds, maintenance assurances and final approval.

(a) Maintenance agreement. A maintenance agreement approved by the Administrative Authority assuring perpetual maintenance of stormwater management improvements shall be agreed upon by the Administrative Authority and the applicant.

(b) Maintenance of detention ponds (wet type) shall be the responsibility of the owner of record and/or the property owners' association.

(c) Maintenance of detention basins (dry type) shall be the responsibility of the owner of record and/or property owners' association. The owner of record and/or property owners' association shall be responsible for all other maintenance, plantings, reseeding, or resodding. The owner shall also be responsible for removing and replacing any landscaping, playground equipment or other facilities within the basin.

(d) Maintenance bond. A one year maintenance bond against defects in workmanship shall be required by the Administrative Authority for any portion of the stormwater management improvements dedicated to the public, said maintenance bond to be provided by cashiers check, irrevocable letter of credit or acceptable surety authorized to do business in the State of Arkansas. All forms of maintenance bonds shall be subject to approval by the Administrative Authority and the City Attorney. The value of bond shall be an amount equal to 100% of the value of the stormwater system improvements.

ARTICLE IV. MISCELLANEOUS PROVISIONS**15-13-1.14. Variances and appeals.**

- (a) Variances from requirements.
 - (1) The Administrative Authority may grant on a case-by-case basis a variance from the requirements of this ordinance if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of the ordinance will result in unnecessary hardship and not fulfill the intent of the ordinance.

- (2) An applicant may include in the application a request for a variance. No variance shall be granted unless applicant demonstrates and the Administrative Authority finds that all of the following conditions are present:
- a. Enforcement of the standards set forth in this ordinance will result in unnecessary hardship to the landowner.
 - b. The hardship is due to exceptional physical conditions unique to the property.
 - c. Granting the variance will not adversely affect the public health, safety or welfare, nor be contrary to the spirit, purpose and intent of this ordinance.
 - d. The project will have no adverse impact upon any of the stated purposes of this ordinance.
 - e. The applicant has proposed an alternative to the requirement from which the variance is sought that will provide equivalent protection of the public health, safety and welfare, the environment and public and private property.
 - f. The net cumulative effect of the variance will not impact downstream conditions.
 - g. Existing regional facilities are shown to meet the performance standards of this ordinance.
- (3) If all of the conditions of paragraph (2) are met, a variance may only be granted to the minimum extent necessary to afford relief from the unnecessary hardship with primary consideration given to water quality.
- (4) The content of a variance shall be specific and shall not affect other approved provisions of a SWPPP.
- (5) Economic hardship is not sufficient reason for granting a variance.
- (6) A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, for the granting. The request shall include descriptions, drawings, calculations and any other information that is necessary to evaluate the proposed variance.
- (7) Any substantial variance from the stormwater management plan shall be referred to all agencies which reviewed the original plan.

- (b) Appeals.
- (1) Any person aggrieved by a decision of the Administrative Authority (including any decision with reference to the granting or denial of a variance from the terms of this ordinance) may appeal same by filing a written notice of appeal with the Administrative Authority within thirty (30) calendar days of the issuance of said decision by the Administrative Authority. The Administrative Authority can then reverse his/her decision or send this notice to the Board of Directors with comments. A notice of appeal shall state the specific reasons why the decision of the Administrative Authority should be reconsidered and the Administrative Authority shall prepare and send to the Board of Directors and Appellant, with fifteen (15) days of receipt of the notice of appeal, a written response to said notice of appeal.
 - (2) All such appeals shall be heard by the Board of Directors which is hereby granted specific authority to hear and determine such appeals in a quasi-judicial capacity. Said appeal shall be heard by the Board of Directors at its next regularly scheduled meeting date, not to exceed thirty (30) days after receipt of the notice of appeal, or at such other time as may be mutually agreed upon in writing by the Appellant and the Chairperson of the Board of Directors. The Board of Directors will then render a decision within fifteen (15) days after the appeal has been heard.
 - (3) The Board of Directors may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and shall have all the powers of the officer from whom the appeal is taken.
 - (4) The concurring vote of a majority of the Board of Directors shall be necessary to reverse the decision of the Administrative Authority.
 - (5) Each party to the appeal shall be entitled to a hearing before the Board of Directors under judicial forms of procedure, at which hearing each party shall have the right to present evidence and sworn testimony of witnesses, to cross-examine witnesses, and to cause a transcription of the proceeding to be prepared.
 - (6) Should either party be dissatisfied with the decision of the Board of Directors, any appeal of said decision may be appealed to a court of competent jurisdiction in accordance with the laws of Garland County and the State of Arkansas.

15-13-1.15. Alternative methods.

(a) Alternatives to on-site detention. Where on-site detention is deemed inappropriate due to local topographical or other physical conditions, alternate methods for accommodating increases in stormwater runoff may at the Administrative Authority's discretion be considered. The methods may include:

- (1) Off-site detention or comparable drainage improvements.

- (2) In-lieu monetary contributions to be specifically used for channel or drainage system improvements, or off-site detention improvements by the city within the same watershed. Channel improvements shall only be used if they are an integral part of a detailed watershed study.
 - (b) In-lieu contributions to regional or sub-regional detention. An owner or developer may contribute to the construction of a regional or sub-regional detention site constructed or to be constructed in lieu of constructing on-site detention. However, no in-lieu contributions are allowed when existing flooding occurs downstream from the development, or if the development will cause downstream flooding.
 - (c) In-lieu fees. The in-lieu fee contribution shall be based upon an amount of \$10,000 per-acre-foot of stormwater storage.
 - (d) Watershed facility improvement funds. In-lieu contributions paid to the city shall be budgeted by contributing to a "Watershed Facility Improvement Fund." Said funds shall be appropriated only for planning, design and construction for correction of existent drainage problems within the watershed from which the contribution is generated.
 - (e) Regional or sub-regional detention sites. The acquisition of regional or sub-regional detention sites and construction of facilities thereon will be financed by the city. Monies contributed by the owners as above provided shall be used for regional and sub-regional detention site studies, land acquisition and facility construction thereof in the watershed in which the development is located.
 - (f) Watershed boundaries. The boundaries of watersheds and priority in construction of detention facilities and drainage improvement construction shall be as established by the Administrative Authority and approved by the Board of Directors.

15-13-1.16. Violations.

(a) Violations and penalties. A site grading permit may be suspended or revoked by the Administrative Authority if one or more of the following violations have been committed:

- (1) Violation(s) of the conditions of the stormwater management plan approval.
- (2) Construction not in accordance with the intent of the approved plans.
- (3) Non-compliance with correction notice(s) or stop work order(s).
- (4) The existence of an immediate danger in a downstream area in the judgement of the Administrative Authority.

(b) If one or more of these conditions is found, a written notice of violation(s) shall be served upon the owner or authorized representative and an immediate stop-work order may be issued. The notice shall set forth the measures necessary to achieve compliance with the plan. Correction of these violations must be started immediately and completed within 7 working days of original notification or the owner shall be deemed in violation of this ordinance.

(c) The City Attorney may institute injunctive, mandamus, or other action or proceedings at law or equity for the enforcement of this ordinance or to correct violations of this ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

(d) It shall be a violation of this ordinance for any owner, operator or contractor to commence any soil disturbance activity that requires permit coverage without prior approval from the Administrative Authority. Failure to obtain approval may result in enforcement fees, citations, court cost and/or fines. (Ord. No. 5628, §1(n), 1-8-08)

(e) Enforcement/Stop work order. Whenever the Administrative Authority finds any noncompliance with the provisions of this ordinance, the Administrative Authority shall attempt to communicate with the owner or person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the owner or person performing the work is not readily available or if that person refuses to voluntarily comply immediately or the noncompliance presents an imminent danger or will cause or threatens to cause bodily injury or damage to off-site property including, but not limited to, off-site run-off, the Administrative Authority shall post in a conspicuous place on the premises, a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until noncompliance is corrected.

(f) The stop work order shall provide the following information: Date of issuance, project name and permit number and reason for issuance and the signature of the inspector that issues the order.

(g) It shall be a violation of the ordinance for the unauthorized removal of the stop work order from the premises when posted on the project site.

(h) In addition to posting a stop work order, the local approval authority shall provide notification to the owner or contractor by personal service, written notice by certified mail, or facsimile transmission. The permittee, landowner and contractor shall have 72 hours from the time and date of notification by the Administrative Authority to correct any noncompliance with the plan.

(i) Inspection. The Administrative Authority shall be responsible for determining whether the stormwater management plan is in conformance with the requirements specified by the city's Stormwater Management Manual. Also, the Administrative Authority shall be responsible for determining whether the development site is proceeding in accordance with the approved drainage plan. Periodic inspection of the development site shall be made the Administrative Authority. Through such periodic inspections, the Administrative Authority shall ensure that the stormwater management plan is properly implemented and that the improvements are maintained.

(j) Remedial work. If it is determined through inspection that the development is not proceeding in accordance with the approved stormwater management plan and drainage and/or building permit, the Administrative Authority shall immediately issue written notice to the permittee concerning the alleged noncompliance, accompanied by documentary evidence demonstrating noncompliance and specifying what remedial work is necessary to bring the project into compliance. The permittee, upon notification, shall immediately, unless weather conditions

or other factors beyond the control of the permittee prevent immediate remedial action, commence the recommended remedial action and shall complete the remedial work within 72 hours or within a reasonable time as determined in advance by the Administrative Authority. Upon satisfactory completion of remedial work, the Administrative Authority shall issue a notice of compliance and the development may proceed.

(k) Enforcement fee. Where code enforcement action is needed to bring a site into compliance with the Clean Water Act, fees will be charged to the permit holder and or the property owner. The enforcement fee shall be established by resolution of the Board of Directors.

15-13-1.17. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

15-13-1.18. Conflict resolution and interpretation.

(a) Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(b) Conflict with other laws. Whenever the provision of this ordinance impose more restrictive standards than are required in or under any other ordinance, the regulations herein contained shall prevail. Whenever the provisions of any other ordinance require more restrictive standards than are required herein, the requirements of such shall prevail.

15-13-1.19. Disclaimer of liability.

(a) The performance standards and design criteria set forth herein and in the Stormwater Management Manual establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the city or its officers and employees of the adequacy or safety of any stormwater management structure or use of the land. Nor shall the approval of the stormwater management plan imply that the land uses that are permitted will be free from damages caused by stormwater runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by man-made or natural causes. These regulations, therefore, shall not create liability on the part of the city or any officer or employee with respect to any legislative or administrative decision lawfully made hereunder.

(b) Neither approval of a plan under the provisions of this ordinance nor the compliance with the provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law.

15-13-1.20. Amendments.

For the purpose of providing for the public health, safety and general welfare, the Board of Directors may, from time to time, amend the provisions of these regulations. This ordinance may be amended in the manner as prescribed by law for its original adoption. Before the Board of Directors considers an amendment to this ordinance, it must seek the advice of the Administrative Authority who will make a recommendation for each amendment within thirty (30) days of this request.

15-13-2. Pre-existing projects.

Any applicant or owner of a parcel of land within the jurisdiction of the City of Hot Springs who has constructed a required stormwater management facility or who is in the application process shall be held to the requirements in effect at the time the permit was approved.

15-13-3. Severability.

The provisions of this ordinance are severable. If any term, requirement or provision of this ordinance or the application thereof to any person or circumstance shall, to any extent, be found invalid or unenforceable, the remainder of this ordinance or the application of such terms, requirements and provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term, requirement or provision of this ordinance shall be valid and be enforced to the fullest extent permitted by law. The City hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application found to be unlawful or invalid.

(Ord. No. 5378, §§ 1-3, 9-6-05)

DIVISION II. STORMWATER FEES

ARTICLE I. PERMIT FEE SCHEDULE

15-13-4. Stormwater management - Fee schedule.

The following fee schedule is hereby adopted:

STORMWATER MANAGEMENT ORDINANCE FEE SCHEDULE(a) *Permit Fees*

Single family dwelling or part of larger common plan	\$25.00
Multiple family dwelling (4 units or less)	\$100.00
Multiple family dwelling (5 units or more)	\$250.00
Commercial & industrial buildings:	
(Less than 10,000 sq. ft.)	\$100.00
(10,000 sq. ft. or larger)	\$250.00
Commercial & industrial building additions:	
(Less than 10,000 sq. ft.)	\$50.00
(10,000 sq. ft. or larger)	\$100.00
Parking lots (Less than 4,000 sq. ft.)	\$50.00
Parking lots (4,000 sq. ft. - 9,999 sq. ft.)	\$75.00
Parking lots (10,000 sq. ft. or more)	\$100.00
Subdivisions (up to 5 lots)	\$100.00
Subdivisions (6 to 12 lots)	\$200.00
Subdivisions (13 or more lots)	\$400.00
Land disturbance only (1 to 5 acres)	\$100.00
Land disturbance only (more than 5 acres)	\$150.00
Any activity with the potential to pollute (adjacent to a water body)	\$75.00

(b) *Enforcement Fees.*

Administration Enforcement fee for monitoring and processing violation compliance (1 hr. minimum)	\$50.00/hr.
Street Sweeper (minimum)	\$100.00
Other equipment or action (minimum)	\$100.00

Triple Fee Penalty (Triple the original cost of the stormwater permit for starting construction before permitting if the site was required to meet compliance with stormwater requirements).

(Res. No. 6826, §1, 4-7-08)

Editor's note - §15-13-4 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.

ARTICLE II. STORMWATER UTILITY FUND

15-13-5. Stormwater utility fund.**15-13-5.1. Creation.**

There is hereby created a fund to be entitled the “Stormwater Utility Fund” and all revenues generated by or on behalf of the stormwater drainage utility fees shall be deposited in said Stormwater Utility Fund and shall be used exclusively for the operation of the City of Hot Springs Stormwater Management Program and other storm-related equipment, construction, materials, supplies or services, including, but not limited to, storm-related disaster recovery and emergency preparedness provided to the community.

15-13-5.2. Stormwater utility fee.

From and after the effective date of this ordinance, there shall be added to each municipal utility account (water, wastewater and/or sanitation), within the corporate limits of the city, a stormwater utility fee as follows:

- (a) City Commercial and industrial accounts \$ 6.00 per month; and
- (b) City Residential accounts ... \$ 3.00 per month.

15-13-5.3. Billing and collection.

For purposes of billing and collection, the stormwater utility fee shall be considered a municipal utility fee and shall be billed and collected in the same manner and subject to the same procedures as all other municipal utilities (water, wastewater and sanitation) pursuant to the Uniform Municipal Utility Billing Procedure Ordinance.

15-13-5.4. Effective date.

The stormwater utility fee, authorized in §15-13-5.2 hereof, shall be effective on all municipal utility bills rendered from and after March 1, 2008.

(Ord. No. 5629, §1-4, 1-8-08)

DIVISION III. HOT SPRINGS CREEK TUNNEL REGULATIONS

15-13-6. Hot Springs Creek Tunnel Regulations.

The following regulations are hereby adopted and shall govern the location, installation and maintenance of certain facilities located within the Hot Springs Creek Tunnel.

15-13-6.1. Short title.

This Ordinance shall be known and cited as the Hot Springs Creek Tunnel Regulations.

15-13-6.2. Purpose and scope.

The primary purpose of the Hot Springs Creek Tunnel is to provide stormwater drainage and flood control. In this regard, no facilities, utility lines, structures or obstacles of any kind or nature whatsoever shall be placed within the tunnel except as permitted by this ordinance. This ordinance shall govern the location, installation and maintenance of all facilities permitted to be located within the tunnel. Any thermal water collection lines and facilities as installed and maintained by the National Park Service and within that portion of the tunnel within the federally exclusive jurisdiction and boundary of Hot Springs National Park are hereby exempt from the requirements of this ordinance.

15-13-6.3. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Administrative authority: such employees of the city as designated by the city manager with the authority and responsibility to administer this ordinance.

Applicant: the person, firm or corporation submitting a permit application pursuant to the provisions of this ordinance.

City: the municipal corporation known as the City of Hot Springs, Arkansas. The words “the city” or “this city” shall be construed as if the words “of Hot Springs, Arkansas” follow and shall extend to and include its several officers, board of directors, agents and employees.

City engineer: the employee of the city designated by the city manager as the city engineer or acting in the capacity of the city engineer.

Permittee: the person, firm or corporation to whom a permit has been issued pursuant to the requirements of this ordinance and who has installed facilities within the tunnel.

Facilities: such piping, lines, supports and materials installed, or proposed to be installed, within the tunnel for provision of a given utility.

Tunnel: that portion of Hot Springs Creek and its tributaries as contained within and flowing through man-made structures, located within public rights-of-way and private and public property commencing on Park Avenue (east branch - 1560 feet in length) and Whittington Avenue (west branch – 750 feet in length), and following underneath and adjacent to Central Avenue, Malvern Avenue and Broadway Street and terminating in the 100 block of Broadway Terrace (4,620 feet in length) and including a tributary within the Fountain Street right-of-way approximately 504 feet in length running northeast from Central Avenue.

Utility: the piping, lines, supports and ancillary equipment of such public and private utilities (natural gas, telephone, electricity, water, wastewater and thermal water) that may now or hereinafter exist within the tunnel.

Utility company or Owner: such person, firm or corporation as may own, maintain or otherwise be responsible for facilities placed within the tunnel.

15-13-6.4. Permit applications.

Any applicant desiring to place facilities within the tunnel, access the tunnel for repairs, maintenance, or inspection or otherwise enter the tunnel shall make application with the administrative authority on such forms as may be prescribed by the administrative authority. The application forms for tunnel access shall include the following information together with such other information as the administrative authority may require including name and contact information for all persons to be entering the tunnel, the purpose of their entry and the expected duration. Applications for placement of new facilities or replacement of existing facilities shall, in addition, include such information as the administrative authority shall deem necessary to ascertain the purpose of the facilities and compliance with the requirements of this ordinance.

15-13-6.5. Access notification required.

Any person entering the tunnel, for any purpose whatsoever, shall obtain a confined space entry permit from the Hot Springs Fire Department not less than twenty-four (24) hours prior to entering the tunnel. On the date of entry, the permit holder shall notify the fire department not less than one hour prior to their anticipated entry time. The permit holder will state the number of persons entering the tunnel and the anticipated duration of each entry. The permit holder shall notify the fire department immediately upon exiting the tunnel. If the entry includes any sections within the federally exclusive jurisdiction and boundary of Hot Springs National Park, such person(s) shall also notify the Superintendent of Hot Springs National Park. The administrative authority shall provide copies of any construction permit applications to the Fire Department and Superintendent of Hot Springs National Park when entry is anticipated.

15-13-6.6. Construction permit required.

A construction permit, issued by the administrative authority, shall be obtained prior to constructing, repairing, or otherwise placing or maintaining any facilities within the tunnel or entering the tunnel for any purpose. All construction, maintenance or repair commenced pursuant to a construction permit shall be accomplished in accordance with the requirements of this ordinance. Should the administrative authority detect any construction deficiencies, the owner shall be given a reasonable time to correct such deficiencies. Failure to do so will result in the removal of any deficient facilities from the tunnel by the city.

15-13-6.7. Other permits.

The applicant shall, in addition, obtain such other permits and authorizations as may be required for activities within the boundary of Hot Springs National Park.

15-13-6.8. Facility permit required.

Once facilities are constructed and installed by the owner and inspected and approved as meeting the requirements of this ordinance by the administrative authority, a permanent facility permit shall be granted. Facilities may not be located or maintained within the tunnel without a valid facility permit issued by the administrative authority. A permitted facility is hereby considered to be conditional from year-to-year and, therefore, subject to annual renewal and inspection by the administrative authority. The administrative authority shall maintain a record of all such facility permits on such forms and in such manner as the administrative authority may prescribe. It is the permittee's responsibility to keep their contact and permit information current.

15-13-6.9. Maintenance required.

All facilities shall be maintained in good working order by the owner at all times. The administrative authority shall inspect the tunnel not less than annually and shall provide to the owner a "notice of repair" if any deficiencies are found. The owner shall accomplish all required repairs within ninety (90) days of such notification. Failure to make necessary repairs will result in such facilities being declared abandoned and subject to removal by the city.

15-13-6.10. Additional facilities.

Additional facilities shall not be added to the tunnel unless an existing facility is removed or utilized for such additional facility. Provided, however, additional facilities may be permitted in the main tunnel and tributary branches after the tunnel capacity has been determined by the city engineer to have available capacity and the installation thereof is approved by the board of directors.

15-13-6.11. Required materials.

The following materials and construction methods shall apply to all facilities placed within the tunnel after the effective date of this ordinance.

- (a) Facility materials shall be of a type that will not promote additional maintenance due to excessive corrosion or calcification of pipe cross sectional area as approved by the city engineer. Prohibited pipe materials are black steel, clay, concrete, and any other material not approved by the city engineer
- (b) Thermal water utility pipe shall have the minimum necessary thermal insulation, when needed, with a hard continuous smooth cover with no loose joints that could inhibit the stormwater flow and with the ability to stay intact under stormwater conditions as approved by the city engineer for permitted use.

- (c) Facility attachments to the tunnel wall should be located in a manner that does not block any stormwater pipe outfall into the tunnel, provides the least obstruction to stormwater flow with no protruding pipe hangers and a solid connection to the upper tunnel wall section as approved by the city engineer.
- (d) Facility attachments may be located in the tunnel arch section against reinforced concrete material but not attached to the stone-arched sections.
- (e) All facilities shall have the smallest cross section area as possible to serve the intended use.

15-13-6.12. Abandoned facilities.

Any facilities determined by the administrative authority to be abandoned may be removed by the city not less than thirty (30) days after issuance of a “notice of removal.” For purposes of this section, abandoned facilities includes the following:

- (a) any facility determined as not being in active service for a period of one year or longer; or
- (b) any facility which is not repaired within ninety (90) days after a “notification to repair” has been issued by the administrative authority; or
- (c) any facility for which the annual permit has not been renewed within three months of the expiration thereof.

15-13-6.13. Training required.

Any persons entering the tunnel must be properly trained in the safety procedures of working in an underground environment, defined by OSHA as a “confined space” or in the company of such duly trained person(s).

15-13-6.14. Pre-existing facilities.

Facilities existing within the tunnel prior to the effective date of this ordinance (pre-existing facilities) shall be inspected and granted a facility permit. The owners of such facilities shall be notified of any needed repairs. Such repairs shall be made within ninety (90) days of such notification, or such facilities shall be considered abandoned. Pre-existing facilities will not be required to meet the material standards as required by the ordinance except and unless such facilities are replaced. Pre-existing facilities shall otherwise be subject to the provisions of this ordinance.

15-13-6.15. Notice.

All notices as required herein shall be in writing to the address of record on the facility permit. Notice of repair shall be by regular first-class mail. Notice of removal shall be by certified mail, return receipt requested. Should written notice not be accepted or otherwise accomplished by mail, a legal notice shall be placed in a newspaper of general circulation.

15-13-6.16. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause of the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5683, §1, 10-7-08)