

## Chapter 21

### STORMWATER MANAGEMENT\*

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**\*Editor's note**—This chapter is included as part of the Land Development Code adopted in § 17.5-17 which combines and compiles all land development regulations into a single land development code.

**Related law references**—Drainage, Art. VII; excavations, Art. IX.

**Cross references**—Building and construction regulations, Ch. 5; flood damage control, § 5-401 et seq.; landscaping, tree removal and site clearing, Ch. 13; affordable housing, sustainability, and concurrency management system, Ch. 17.5; concurrency management system, § 17.5-41 et seq.; property maintenance and structural standards, Ch. 19; signs, § 19-96 et seq.; public improvements, Ch. 20; streets and sidewalks, Ch. 22; subdivision procedures, § 27-153.1 et seq.; private drainage improvements in subdivisions, § 27-155.3.2; drainage easements in subdivisions, § 27-155.3.7(a); transportation, Ch. 25; utilities, Ch. 26; water, § 26-66 et seq.; sanitary sewers, § 26-116 et seq.; zoning and land development, Ch. 27.

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**ARTICLE I. ADMINISTRATIVE  
PROVISIONS\***

DIVISION 1. GENERAL PROVISIONS;  
ADMINISTRATIVE AUTHORITY;  
DEFINITIONS

**Sec. 21-1. Title.**

This chapter shall be known and may be cited as the "City of Tampa Stormwater Management Ordinance."

(Ord. No. 89-249, § 2(46-1), 9-28-89)

**Sec. 21-2. Legislative findings, intent, and purpose.**

(a) The purposes of this chapter are to:

- (1) Protect the health, safety, and welfare of the general public through the administration and regulation of earthwork and drainage;
- (2) Provide procedures and standards for the imposition of stormwater charges under the constitutional and statutory power of the city;
- (3) Authorize a procedure for the funding of stormwater management services and stormwater charges within a stormwater service area;
- (4) Provide procedures and standards for the funding of stormwater improvements within a stormwater improvement area; and
- (5) Provide procedures and standards to determine the fair, equitable, and reasonable charge for the stormwater fees charged to government property to fund the regulation of stormwater management services provided to such property.

(b) The stormwater utility, the stormwater management services and the stormwater improvements provide a special benefit to assessed property or government property based upon the following legislative findings:

- (1) The stormwater utility possesses a logical relationship to the use and enjoyment of

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\***Cross reference**—Administration, Ch. 2.

all developed property by treating and controlling contaminated stormwater generated by improvements constructed on developed property, which resulted in the alteration of such property from its natural state.

- (2) The special benefit received or burden created by assessed property or the reasonable relationship to the benefit received or burden created by government property is the collection, storage, control, management, treatment, and conveyance of the stormwater burden generated by the improvements on developed property.
- (3) Substantially all of the stormwater burden managed, controlled and treated by the stormwater utility is generated by developed property and the amount of stormwater generated by property in its natural state that is managed, controlled and treated by the stormwater utility is inconsequential.
- (4) The stormwater fee as authorized to be calculated herein and charged to government property bears a reasonable relationship to the cost of providing stormwater management services, including of stormwater generated by government property as developed property.
- (5) The whereas clauses are hereby incorporated herein by reference.

(Ord. No. 89-249, § 2(46-2), 9-28-89; Ord. No. 2003-200, § 1, 8-7-03)

**Sec. 21-3. Applicability.**

The provisions of this chapter shall apply to all land and improvements within the corporate limits of the city unless they are expressly exempted herein or by any other applicable law.

(Ord. No. 89-249, § 2(46-3), 9-28-89; Ord. No. 2010-93, § 1, 7-29-2010)

**Sec. 21-4. Definitions.**

For the purpose of this chapter, certain abbreviations, terms, phrases, words and their derivatives shall have the following meanings:

*Annual stormwater resolution* means the resolution described in section 21-129 hereof, approving a stormwater roll for one (1) or more fiscal years.

*Assessed property* means all parcels of real property included on the stormwater roll that receive a special benefit from the stormwater improvements and stormwater management services identified in a final or annual stormwater resolution.

*Borrow pits* means the excavation and off-site hauling (to the site of another property owner) of sand, soil, peat, clay, stone, shell and the like in quantities of more than ten thousand (10,000) cubic yards.

*Capital cost* means the cost associated with the construction, acquisition, installation, reconstruction, renewal or replacement of stormwater improvements including without limitation: (a) the cost of physical construction, reconstruction, renewal, replacement or completion; (b) the costs of acquisition and installation; (c) the cost of all labor, materials, machinery and equipment, including costs associated with the acquisition thereof; (d) the cost of all lands and interest therein, property rights, and easements of any nature whatsoever, including costs associated with the acquisition thereof; (e) the cost of any indemnity or surety bonds and premiums for insurance during construction; (f) the cost of construction plans and specifications, surveys and estimates of costs; (g) the cost of engineering, legal and other consultant services; (h) reasonable contingencies for construction cost increases and change orders; and (i) all other expenses that are properly attributable to such acquisition or construction under generally accepted accounting principles; and including reimbursement to the city or to a landowner or developer as authorized by any other city ordinance for any moneys heretofore or hereafter advanced for capital cost and interest on any interfund loan for such purposes.

*Clerk* means the city clerk, or such other person as may be duly authorized to act on such person's behalf.

*Comprehensive plan* means the comprehensive plan adopted by the city pursuant to F.S. ch. 163, pt. II.

*Department* means the public works department having jurisdiction and cognizance over the stormwater management division therein and its

matters relating to the use, management, operation and maintenance of the stormwater services and system.

*Department of revenue (DOR) code* means those Florida Department of Revenue codes classifying land use as defined by Rule 12D-8-008(2)(a) F.A.C., as may be amended from time to time.

*Detention pond* means a stormwater facility designed to capture and limit stormwater flow (by releasing it at a reduced rate) in order to reduce downstream impacts or improve its quality.

*Developed property* means property that has been developed with impervious area.

*Director* means the director of the department who shall be responsible for the management of the affairs of the department, or his designee.

*Drainage system* means the surface and sub-surface system for the removal of water from or control of water on the land, including both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and manmade elements which include culverts, ditches, channels, piping and storage facilities. The storm sewer system may be referred to as stormwater management facilities, conveyance system, etc.

*Dwelling unit* means a room or group of rooms forming a single independent habitable unit used for or intended to be used for living, sleeping, sanitation, cooking and eating purposes by one (1) family only; for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary and sleeping facilities.

*ESFIA* means "equivalent square footage of impervious surface," (also known as an "ESU" or an "equivalent stormwater unit") the standard unit used to express the stormwater burden expected to be generated by each parcel of property, after taking into consideration any approved mitigation credits.

*Excavation* means the action or process of creating a depression or hole in the ground of two (2) feet or greater in depth by moving and/or removing the soil.

*Final stormwater resolution* means the resolution described in section 21-128 hereof, which shall confirm, modify or repeal the initial stormwater resolution and which shall be the final proceeding for the imposition of the initial stormwater charges.

*Fiscal year* means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the city.

*Government property* means property owned by the United States of America, the State of Florida, a sovereign state or nation, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

*Grading* means the action or process of changing the elevation contour of property.

*Impervious area* means hard surfaced areas which either prevent or severely restrict the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly affect the natural infiltration or runoff patterns which existed prior to development.

*Initial stormwater resolution* means the resolution described in section 21-124 hereof, which shall be the initial proceeding for the imposition of the stormwater charges.

*Mine* means a pit or excavation in the earth from which minerals or earthen products are taken for use elsewhere.

*Mitigation credit* means a credit applied to a stormwater charge for a developed property in consideration of the on-site management of the stormwater burden as a consequence of the location of a mitigation facility or in consideration of discharge to a non-city stormwater system or for the conveyance and/or treatment of city stormwater.

*Mitigation facility* means a manmade facility or structure on the site of a developed property

which, by its design and function, retains stormwater on-site and thus generates less volume of stormwater from the site or produces stormwater runoff at a lower rate or with less pollutants than would be the case in the absence of such facilities or structure.

*Obligations* means a series of bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligations of the city issued or incurred to finance any portion of the capital cost of a stormwater improvement and secured, in whole or in part, by proceeds of the stormwater improvement assessments.

*Official* means the mayor of the city or his or her designee.

*Owner, tenant, occupant* shall include the heirs, personal representatives, successors and assigns of the person referred to, and the covenants and agreements contained in any contract between the department and its consumers should be binding upon and inure to the benefit of the heirs, personal representatives, successors or assigns of the respective persons thereto.

*Pledged revenue* means as to any series of obligations: (a) the proceeds of such obligations, including investment earnings; (b) proceeds of the stormwater improvement assessments pledged to secure the payment of such obligations; and (c) any other legally available non-ad valorem revenue pledged to secure the payment of such obligations, as specified by the resolution authorizing such obligations.

*Project cost* means: (a) the capital cost of a stormwater improvement which may or may not include the following; (b) the transaction cost associated with the obligations to finance the stormwater improvement; (c) interest accruing on such obligations for such period of time as the city deems appropriate; (d) the debt service reserve fund or account, if any, established for the obligations which financed the stormwater improvement; and (e) any other costs or expenses related thereto.

*Property appraiser* means the Hillsborough County Property Appraiser.

*Public drainage system* means drainage systems located in and/or draining water from public rights-of-way or easements.

*Retention pond* means a stormwater facility that has no structural outfall and the discharge from which is limited to percolation, evaporation, and evapo-transpiration.

*Retention storage* means storm runoff collected and stored with no release other than evaporation or infiltration to the ground.

*Service area* means the corporate limits of the city.

*Stockpile, permanent* means the storage of soil or earthen products as a business function, unrelated to any one (1) special site and with no foreseen end in accordance with a site earthwork and drainage plan.

*Stockpile, temporary* means the short-term storage of soil or earthen products during construction activities of a specific site in accordance with a site earthwork and drainage plan.

*Stormwater* means the flow of water which results from, and which occurs following, a rainfall event.

*Stormwater assessment* means either a stormwater improvement assessment, a stormwater service assessment, or both.

*Stormwater basin* means a part of the earth's surface that contributes stormwater runoff to a drainage system, which consists of diffuse surface waters, together with all natural or artificial tributary surface streams and/or bodies of impounded surface water.

*Stormwater basin plan* means a policy document that is adopted by the council for each stormwater basin or hydrologic subarea thereof in which stormwater improvements are proposed and that provides for implementation of the stormwater master plan.

*Stormwater charge* means the stormwater assessments and/or the stormwater fee.

*Stormwater fee* means a fee reasonably related to service provided by the city to government property to fund all or any portion of the stormwater

service cost for government property at a just, fair, reasonable, and equitable rate based upon such property's stormwater burden, the reasonable relationship to benefits received, and the reasonable cost of providing stormwater management services to such property. The stormwater fee imposed against government property is not a special assessment; it is a regulatory fee imposed for the stormwater management service provided to government property as developed property by the city's stormwater utility.

*Stormwater improvement* means land, capital facilities and improvements acquired or provided to detain, retain, convey or treat stormwater.

*Stormwater improvement area* means one (1) or more stormwater basins, or any portion or portions thereof, as identified in the initial stormwater resolution, encompassing those parcels of property specially benefited by the construction, reconstruction or installation of all or any portion of a stormwater improvement that removes, detains, retains or treats, in whole or in part, the stormwater burden expected to be generated by the physical characteristics and use of the assessed property. Each stormwater improvement area will include either: (a) the property which is hydrologically connected, directly or indirectly, to a stormwater improvement; or (b) all property located within a hydrologically defined area in which the city constructs one (1) or more stormwater improvements pursuant to a stormwater basin plan to correct existing deficiencies with respect to a specific level of service and provide a consistent level of stormwater management.

*Stormwater improvement assessment* means a special assessment imposed by the city within a stormwater improvement area to fund the capital cost or the debt service and related cost of obligations issued to finance the project cost of a stormwater improvement.

*Stormwater management service* means: (a) management and administration of the city's stormwater utility; (b) stormwater program engineering; (c) stormwater basin planning; (d) stormwater improvements to be acquired or constructed during a single fiscal year without the issuance of any obligations, except that budgeted

and funded projects may overlap fiscal years; (e) operating and maintaining the city's capital facilities for stormwater management, including extraordinary maintenance and scheduled replacement of such facilities; (f) billing and collection of stormwater charges, including customer information services and reserves for statutory discounts; (g) permitting, inspecting and reviewing of plans; and (h) legal, engineering and other consultant services.

*Stormwater roll* means the roll created that includes all parcels within the city and their assigned stormwater charge relating to stormwater improvements or stormwater management services approved by a final stormwater resolution or each subsequent annual stormwater resolution pursuant to sections 21-128 and 21-129 hereof.

*Stormwater service area* means the geographic area described in the initial stormwater resolution that encompasses all parcels within the city which specially benefit from the stormwater management service and all parcels to which stormwater management services are provided.

*Stormwater service assessment* means a special assessment imposed by the city within the stormwater service area to fund the stormwater service cost.

*Stormwater service cost* means the estimated amount for any fiscal year (or for more than one (1) fiscal year upon approval of council pursuant to section 21-129(b) hereof) of all expenditures and reasonable reserves that are properly attributable to the stormwater management service provided within the stormwater service area under generally accepted accounting principles.

*Stormwater system* means the appurtenances, facilities, equipment and services necessary for the collection, treatment, storage and conveyance of storm and surface waters.

*Stormwater utility* means the entity established by section 21-117 hereof to implement the stormwater management program of the city.

*Tax collector* means the Hillsborough County Tax Collector.

*Tax roll* means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.

*Transaction cost* means the costs, fees and expenses incurred by the city in connection with the issuance and sale of any series of obligations, including but not limited to: (a) rating agency and other financing fees; (b) the fees and disbursements of bond counsel; (c) the underwriters' discount; (4) the fees and disbursements of the city's financial advisor; (d) the costs of preparing or printing the obligations and the documentation supporting issuance of the obligations; (e) the fees payable in respect of any municipal bond insurance policy; and (f) any other costs of a similar nature incurred in connection with issuance of such obligations.

*Uniform Assessment Collection Act* means F.S. § 197.3632 and 197.3635, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

*Year* means calendar year from January 1 to December 31.

(Ord. No. 89-249, § 2(46-4), 9-28-89; Ord. No. 2003-200, § 2, 8-7-03; Ord. No. 2010-93, § 1, 7-29-2010)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

## **Sec. 21-5. Administrative authority.**

The provisions of this chapter shall be administered and enforced by the official. For purposes of administration of the provisions of this chapter, the official's designee shall be the director. This article shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This article, being

necessary for the welfare of the inhabitants of the city, shall be liberally construed to effect the purposes hereof.

(Ord. No. 89-249, § 2(46-5), 9-28-89; Ord. No. 2003-200, § 3, 8-7-03; Ord. No. 2010-93, § 1, 7-29-2010)

**Cross references**—Administrative authority of the official, § 1-13; delegation of administrative authority, § 1-14.

**Sec. 21-6. Alternate materials and methods of construction.**

The provisions of this chapter are not intended to prevent the use of any material or method of construction not specifically prescribed by this chapter, provided any such alternate has been approved by the official. The official shall approve any such alternate, provided he finds that the alternate for the purpose intended is at least the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire resistance, durability and safety. The official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate. If these criteria are not met, the official shall deny the request.

(Ord. No. 89-249, § 2(46-6), 9-28-89)

**Sec. 21-7. Borrow pits, mines.**

Borrow pits and mines are expressly prohibited, unless a development plan relating to these activities has been received and approved by the city and a special excavation and earthwork permit is obtained from the city prior to engaging in the construction of a borrow pit or mine.

(Ord. No. 89-249, § 2(46-7), 9-28-89)

**Sec. 21-8. Drainage patterns not to be changed to the detriment of neighboring properties.**

It is unlawful for any person, notwithstanding the issuance of a permit by the city, to stockpile material or to grade, fill, excavate, construct or do any other act affecting drainage which results in the alteration of the surface or subsurface drainage patterns to the detriment of neighboring properties or public rights-of-way.

(Ord. No. 89-249, § 2(46-8), 9-28-89)

**Sec. 21-9. Protection of public drainage systems.**

It is unlawful to introduce any foreign matter (including, but not limited to, trash, leaves, grass clippings, debris, garbage, fill, construction materials, organic or inorganic pollutants, acids, and petroleum products), whether by action or inaction, to any public drainage system including but not limited to streets. It is a public nuisance for any person to damage, obstruct or interfere with the operation of any public drainage system, whether by action or inaction.

(Ord. No. 89-249, § 2(46-9), 9-28-89; Ord. No. 2003-200, § 4, 8-7-03)

**Cross references**—Dumping or discharging oil, etc., into sewers, § 14-238; placing or permitting offensive matter on streets, vacant lots, streams, etc., § 19-53; placing solid waste on streets, vacant lots, streams, etc., § 26-149.

**Secs. 21-10—21-25. Reserved.**

**DIVISION 2. CERTIFICATES; DOCUMENTS; REQUIREMENTS; ETC.**

**Sec. 21-26. Applications, documentation.**

(a) Any person legally entitled to apply for and receive a permit under the provisions of this chapter shall make such application in writing to the city on forms provided for that purpose. Every applicant for a permit shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith. The city may require plans, specifications or drawings and such other information as it may deem necessary and pertinent prior to the granting of a permit. If the city determines that the plans, specifications, drawings, descriptions or other information furnished by the applicant are in compliance with this chapter, the rules and regulations of any other department having jurisdiction and any other laws, rules and regulations pertaining to work proposed to be done, it shall issue the permit applied for upon payment of the required fee.

(b) The order, sequence and prerequisites for making applications for service shall be as designated by the official.

(Ord. No. 89-249, § 2(46-31), 9-28-89)

**Sec. 21-27. Permit requirements.**

(a) A drainage and earthwork permit must be obtained from the city prior to engaging in excavating, grading, filling or stockpiling activities, otherwise, each activity shall be unlawful.

(b) In order to qualify for issuance of a drainage and earthwork permit, the applicant must submit an application in conformance with the department's technical standards manual. Such manual identifies requirements which must be satisfied so that the applicant's permit may be approved.

(c) Such permit shall be valid for six (6) months from the date of issuance only, unless (i) a building construction permit has been issued and remains viable, or (ii) an extension is requested and granted. The city may deny an extension if, upon inspection by the city, the site is determined to be in noncompliance with this chapter. An extension fee or a reissuance fee shall be charged and shall be the same for the applicable drainage and earthwork permit fee.

(d) Such permit may be issued to the property owner or his agent.  
(Ord. No. 89-249, § 2(46-32), 9-28-89)

**Secs. 21-28—21-45. Reserved.**

DIVISION 3. FEE AUTHORITY AND TYPES;  
PERMITS; INSPECTIONS

**Sec. 21-46. Fees and assessments—City council to establish.**

The city council shall have the authority to set fees and assessments by resolution. The city council may follow the provisions set forth in F.S. § 197.3632, as may be amended from time to time, to establish assessments by resolution.  
(Ord. No. 89-249, § 2(46-41), 9-28-89; Ord. No. 2003-200, § 5, 8-7-03)

**Sec. 21-47. Same—Types enumerated.**

(a) Fees may be charged for the following:

- (1) Residential drainage and earthwork permit fee;

- (2) Commercial drainage and earthwork permit fee;
- (3) Miscellaneous drainage and earthwork permit fee;
- (4) Special excavation and earthwork fee;
- (5) Inspection fee;
- (6) Re-inspection fee;
- (7) Culvert design fee;
- (8) Stormwater fees for government property;

(b) Stormwater assessments may be charged for the following:

- (1) Non-government developed property.  
(Ord. No. 89-249, § 2(46-42), 9-28-89; Ord. No. 2003-200, § 6, 8-7-03)

**Sec. 21-48. Failure to obtain a permit.**

Any person who shall commence any work without first obtaining a permit therefor shall, if subsequently authorized to obtain a permit, pay double the fees prescribed for this work; provided, however, that this section shall not apply to emergency work when failure to commence the same immediately would clearly have placed life or property in imminent danger, but in all such cases a permit must be obtained as soon as practicable and, if there is any unreasonable delay in obtaining such permit, a double fee shall be charged. The payment of a double fee shall not preclude nor be deemed to be a substitute for prosecution for commencing work without first obtaining a permit.

(Ord. No. 89-249, § 2(46-43), 9-28-89)

**Sec. 21-49. Operation and maintenance inspection fee.**

A fee shall be charged for each regularly scheduled periodic inspection made by an authorized city representative to ensure the proper operation and maintenance of private drainage facilities. The charge for subsequent inspections to verify correction of any operation and maintenance deficiencies shall be the same as for a reinspection.  
(Ord. No. 89-249, § 2(46-44), 9-28-89)

**Cross reference**—Inspections generally, § 1-27.

**Sec. 21-50. Permit types.**

(a) *Residential or commercial drainage and earthwork permit.*

- (1) *Required for:* Excavating, grading, filling or stockpiling in conjunction with a residential or commercial building permit for construction, expansion or paving.
- (2) *May be issued to:* Property owner or his agent.
- (3) *Scope of work:* The permittee is authorized to excavate, grade, fill or stockpile at a construction site in accordance with the approved plans, this Code and the stormwater management technical manual.

(b) *Miscellaneous drainage and earthwork permit.*

- (1) *Required for:* Excavating, grading, filling or stockpiling not in conjunction with a commercial building permit for construction, expansion or paving.
- (2) *May be issued to:* Property owner or his agent.
- (3) *Scope of work:* The permittee is authorized to excavate, grade, fill or stockpile at a construction site in accordance with the approved plans, this Code and the stormwater management technical manual.

(c) *Special excavation and earthwork permit.*

- (1) *Required for:* Excavating a borrow pit or mine.
- (2) *May be issued to:* Property owner or his agent.
- (3) *Scope of work:* The permittee is authorized to excavate, grade, fill or stockpile at a construction site in accordance with the approved plans, this Code and the stormwater management technical manual.

(Ord. No. 89-249, § 2(46-45), 9-28-89)

**Sec. 21-51. No changes in plans; certificate of construction.**

(a) All work shall be completed in accordance with plans approved for issuance of a permit. No changes shall be made in the plans or construction unless modified plans are submitted to the city and such modified plans are approved and the necessary permits are amended or reissued.

(b) The engineer of record shall certify to the city that all work was completed in accordance with the approved plans. No certificate of occupancy will be issued unless and until this certification has been received by the city.  
(Ord. No. 89-249, § 2(46-46), 9-28-89)

**Sec. 21-52. Revocation of permit.**

(a) The official may revoke all permits issued without notice if it reasonably appears that the work in progress constitutes an immediate threat and danger to the health, welfare and safety of the public.

(b) The official may, in accordance with the applicable provisions of this Code, revoke permits issued by him upon finding that:

- (1) The permit was issued by mistake of law or fact;
- (2) The permit is for work which violates the provisions of this chapter;
- (3) The permit was issued upon a false statement or misrepresentation by the applicant;
- (4) The permit violates any ordinance of the city or any state or federal law, rule or regulation;
- (5) The work is not being performed in accordance with the provisions of this chapter;
- (6) The certificate of competency or license of the permittee has become invalid by reason of expiration, suspension, revocation or otherwise;
- (7) The work is not being performed under the supervision of the holder of the certificate or license upon which the same was issued;

- (8) The work is not being done in accordance with the terms of the permit, the plans or the application upon which the same was issued;
  - (9) Payment of the permit fees was not effected due to insufficient funds or any other reason;
  - (10) The work performed under that permit is threatening or interfering with public welfare and safety.
- (Ord. No. 89-249, § 2(46-47), 9-28-89)

**Sec. 21-53. Inspections, other approvals.**

All construction, maintenance, improvements or changes to drainage and/or earthwork regulated by this chapter shall be subject to inspection by the city. The official may require documents, drawings or certificates necessary to effect approval of such work.  
(Ord. No. 89-249, § 2(46-48), 9-28-89)

**Cross reference**—Inspections generally, § 1-27.

**Sec. 21-54. Performance security.**

In order to receive final construction approval if work performed under a stormwater permit is not complete, not in accordance with approved plans or is in violation of this chapter, the official, at his discretion, may accept sufficient full performance security guaranteeing the installation and approval of all permitted work. Such performance security shall: Comply with all statutory requirements; be satisfactory in form to the city attorney and appropriate city staff; be in an amount equal to one hundred twenty-five (125) percent of the permittee's contract for the work, subject to approval of the appropriate city staff.  
(Ord. No. 89-249, § 2(46-49), 9-28-89)

**Cross reference**—Sureties of persons dealing with city to be licensed by the state, § 2-231.

**Secs. 21-55—21-70. Reserved.**

**ARTICLE II. SANCTIONS; APPEALS;  
BOARDS**

**DIVISION 1. GENERALLY**

**Secs. 21-71—21-80. Reserved.**

**DIVISION 2. ACTION AUTHORIZED TO  
MITIGATE VIOLATIONS**

**Sec. 21-81. Stop work and emergency orders.**

Upon notice from the official, work on any system that is being done contrary to the provisions of this chapter or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, his agent or the person doing the work or posted at the job site and shall state the conditions under which work may be resumed. Where an emergency exists, verbal notice by the official shall be sufficient to require the stoppage of work.

(Ord. No. 89-249, § 2(46-61), 9-28-89)

**Sec. 21-82. Violations—General.**

Violations of the provisions of this chapter and/or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of a variance or special exceptions, shall be considered a public nuisance.

(Ord. No. 89-249, § 2(46-62), 9-28-89)

**Sec. 21-83. Same—Construction, operation and maintenance violations.**

It is unlawful and hereby declared a public nuisance for any person to construct or add to or operate and maintain any stormwater management facility in a manner which causes and/or allows conditions which, in the opinion of the official, are dangerous, unsafe, unsanitary and/or are a menace to life, health, safety and welfare and/or property.

(Ord. No. 89-249, § 2(46-63), 9-28-89)

**Sec. 21-84. Same—Abatement; notice.**

Where a condition exists which could constitute, in the opinion of the official, an imminent threat to the life, health, safety, property and/or welfare of the public, the official may abate the condition by the use of city forces or by contract, and, in this case of emergency, verbal notice to the

owner, his agent, representative, contractor or the person who committed the violation will be sufficient notice under the law.

(Ord. No. 89-249, § 2(46-64), 9-28-89)

**Cross reference**—Abatement of violation by city forces, § 1-20.

**Sec. 21-85. Same—Each day an offense.**

Each day that the public nuisance, as stated in this division, continues shall be considered a separate offense.

(Ord. No. 89-249, § 2(46-65), 9-28-89)

**Secs. 21-86—21-100. Reserved.**

**ARTICLE III. TECHNICAL PROVISIONS**

DIVISION 1. AUTHORITY TO ESTABLISH/PUBLISH TECHNICAL STANDARDS

**Sec. 21-101. Technical standards may be established.**

The official may establish technical standards setting forth: Administrative guidelines governing the enforcement of this chapter; requirements not specifically addressed in this chapter but necessary to the effective pursuit of the purpose of this chapter; and any other information needed for the uniform and orderly administration of this chapter. Such standards are to be published in a technical manual, which manual shall be on file in the office of the city clerk at least seven (7) days prior to the adoption thereof and shall be made available to the public for inspection and for duplication at cost.

(Ord. No. 89-249, § 2(46-101), 9-28-89)

**Cross reference**—Requirements not covered by Code may be required by the official, § 1-17.

**Secs. 21-102—21-115. Reserved.**

DIVISION 2. ADOPTION OF STANDARDS BY REFERENCE

**Sec. 21-116. Technical standards adopted.**

The technical standards set forth in the sanitary sewer department's Stormwater Manage-

ment Technical Manual(s), 1989 edition, on file in the office of the city clerk, are herein adopted by reference and, therefore, have the force and effect of law.

(Ord. No. 89-249, § 2(46-106), 9-28-89; Ord. No. 90-24, § 1, 2-8-90)

**ARTICLE IV. CREATION OF STORMWATER UTILITY, IMPOSITION AND COLLECTION OF STORMWATER CHARGES**

DIVISION 1. CREATION OF STORMWATER UTILITY

**Sec. 21-116.1. Stormwater technical standards manual for private development adopted.**

The 1996 edition of the Stormwater Technical Standards for Private Development is hereby adopted by reference, as it may be amended from time to time, and it, therefore, has the forward effect of law.

(Ord. No. 2012-125, §§ 1, 2, 11-1-2012)

**Sec. 21-117. Creation of stormwater utility.**

There is hereby established a stormwater utility, which shall be a portion of the operational means of implementing and performing the functional requirements of the city's stormwater management system to construct or acquire stormwater improvements and provide stormwater management services. The stormwater utility shall provide administration and management services in: the operation and maintenance of stormwater management services; the preparation of stormwater studies and the implementation of the stormwater utility; the regulation of stormwater basins; and the repair, replacement, improvement and extension, of the city's capital facilities for stormwater management.

(Ord. No. 2003-200, § 7, 8-7-03)

**Sec. 21-118. Stormwater utility fund.**

There shall be established a stormwater utility fund as a "special revenue fund" because a periodic determination of revenues earned and ex-

penses incurred in connection with the provision of services and capital facilities for stormwater management will enhance accountability and management control of the city's stormwater utility. Proceeds of the stormwater service assessment and stormwater fees shall be used for payment of stormwater management services.  
(Ord. No. 2003-200, § 7, 8-7-03)



## DIVISION 2. IMPOSITION OF STORMWATER CHARGES

### **Sec. 21-119. Stormwater charges.**

Stormwater charges are composed of stormwater assessments, (which includes stormwater service assessments and/or stormwater improvement assessments) and stormwater fees.

(Ord. No. 2003-200, § 7, 8-7-03)

### **Sec. 21-120. Imposition of stormwater service assessments.**

(a) The stormwater service cost may be assessed against developed property located within the stormwater service area at a rate of assessment based upon the special benefit accruing to such property from the stormwater management service provided by the city, measured by the number of ESFIAs attributable to each parcel or classification of property.

(b) Notwithstanding the foregoing, if the council specifically determines that any portion of the stormwater service area receives a distinct special benefit from any component of the stormwater management service that is materially different in kind or degree from the special benefit received by other portions of the stormwater service area, the stormwater service cost related to such component shall be assessed against the portion of the stormwater service area receiving the distinct special benefit.

(Ord. No. 2003-200, § 7, 8-7-03)

### **Sec. 21-121. Imposition of stormwater improvement assessments.**

(a) Stormwater improvement assessments may be imposed to fund all or any portion of the capital cost or the debt service and related cost of obligations issued to finance the project cost of a stormwater improvement identified in any stormwater basin plan. Stormwater improvement assessments to fund the capital cost or the debt service and related cost of obligations issued to finance the project cost of each stormwater improvement may be imposed against all parcels of property within the stormwater improvement area at a rate of assessment based upon the special benefit accruing to such property from the

stormwater improvement, measured by the number of ESFIAs attributable to each parcel or classification of property.

(b) If stormwater improvement assessments are imposed to fund the debt service and related cost of obligations issued to finance the project cost of a stormwater improvement, the stormwater improvement assessment may include the amount required to fund any amounts withdrawn during the prior fiscal year from any debt service reserve account established for obligations and the amount of any principal of and interest on obligations that has become due and remains unpaid.

(Ord. No. 2003-200, § 7, 8-7-03)

### **Sec. 21-122. Imposition of stormwater fees.**

A stormwater fee may be levied on and collected from all government property that is developed property within the stormwater service area to fund all or any portion of the stormwater service cost for government property at a just, fair, reasonable, and equitable rate based upon such property's stormwater burden and the reasonable cost of providing stormwater management services to such property. The rate of the stormwater fee for each classification of government property shall be determined based upon each property's individual number of ESFIAs based upon that property's amount of impervious area.

(Ord. No. 2003-200, § 7, 8-7-03)

### **Sec. 21-123. Mitigation Credit.**

The council may, by separate resolution, or in any initial stormwater resolution or any annual stormwater resolution, establish a Mitigation Credit for a stormwater charge. The calculation of a Mitigation Credit may be based upon, but not limited to, the following factors: onsite mitigation facilities; discharge to a system other than the city's; and the receipt, treatment and collection of city stormwater. In order to qualify for a Mitigation Credit the property owner shall provide the city with an engineering study that demonstrates the extent of the mitigation within sixty (60) days of when the property owner receives notice of the proposed assessment or fee. Any reduction which

may be necessary after the stormwater roll has been adopted will be refunded to the property owner.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**DIVISION 3. PROCEDURES FOR ADOPTION AND COLLECTION OF STORMWATER CHARGES**

**Sec. 21-124. Initial stormwater resolution.**

The initial proceeding for imposition of the stormwater charges may be the council's adoption of an initial stormwater resolution. The initial stormwater resolution shall: (a) describe the stormwater improvement or stormwater management service proposed for funding from the proceeds of the stormwater assessments and stormwater fees; (b) estimate the capital cost or stormwater service cost; (c) describe with particularity the proposed method of apportioning the capital cost or stormwater service cost among the parcels of property located within the stormwater improvement area or stormwater service area, as applicable, such that the owner of any parcel of property can objectively determine the amount of the stormwater assessments, based upon its value, use or physical characteristics; (d) include specific legislative findings that recognize the equity provided by the apportionment methodology and specific legislative findings that recognize the special benefit provided by the stormwater improvement or stormwater management service; (e) describe with particularity the proposed method of determining the amount each parcel of government property located within the stormwater service area should be charged as a stormwater fee based upon such property's stormwater burden and the reasonable cost of providing stormwater management services to such property; and (f) include specific legislative findings that recognize the fairness, equity and reasonableness of the stormwater fee. At its option, the council may adopt separate initial stormwater resolutions for the stormwater service assessment, each stormwater improvement assessment, and the stormwater fee. The initial stormwater

resolution need only be adopted once for each stormwater service assessment, stormwater improvement assessment and stormwater fee.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-125. Stormwater roll.**

(a) Each fiscal year, the official shall prepare, or direct the preparation of, a stormwater roll that contains the following information:

- (1) A summary description of each parcel of property (conforming to the description contained on the tax roll) subject to the stormwater assessment and a summary description of each parcel of government property to be charged a stormwater fee for service;
- (2) The name of the owner of record of each parcel as shown on the tax roll;
- (3) The number of ESFIAs attributable to each parcel;
- (4) The estimated maximum stormwater assessment to become due in the ensuing fiscal year for each ESFIA;
- (5) The estimated maximum stormwater assessment to become due in any fiscal year for each parcel;
- (6) The estimated maximum stormwater fee to become due in the ensuing fiscal year for each parcel of government property; and

(b) Copies of the initial stormwater resolution, the final stormwater resolution and the stormwater roll shall be on file in the city clerk's office and open to public inspection and copying pursuant to the Public Records Act. The foregoing shall not be construed to require that the stormwater roll be in printed form if the data for each parcel can be determined by use of a computer available to the public.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-126. Notice by publication.**

After filing the stormwater roll in the office of the city clerk, as required by section 21-125

hereof, the official shall cause to be published once in a newspaper of general circulation within the county a notice stating that a public hearing of the council will be held on a certain day and hour, not earlier than twenty (20) calendar days from such publication, at which hearing the council will receive written comments and hear testimony from all interested persons regarding adoption of the final stormwater resolution and approval of the stormwater roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act for purposes of the stormwater assessments. Publication of the notice of public hearing need only be done in the event that a public hearing will be held by council based on its election pursuant to section 21-129(b) hereof and resulting requirements of the Uniform Assessment Collection Act.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-127. Notice by mail.**

In addition to the published notice required by section 21-126, the official shall provide notice of the proposed stormwater charges by first class mail to the owner of each parcel of property subject to the stormwater charges. For purposes of the stormwater assessments, the mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least twenty (20) calendar days prior to the hearing to each property owner at such address as is shown on the tax roll on the twentieth calendar day prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The official shall provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the stormwater roll nor release or discharge any obligation for the payment of a stormwater charge imposed by the council pursuant to this article. Notice of the public hearing need only be mailed in the event that a public hearing will be held by council based on its election pursuant to section 21-129(b) hereof and resulting requirements of the Uniform Assessment Collection Act.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-128. Final stormwater resolution.**

At the time named in such notice, or such time to which an adjournment or continuance may be taken, the council shall receive written objections and hear testimony of interested persons and may then adopt the final stormwater resolution prior to the adjournment of said hearing which shall: (a) confirm, modify or repeal the initial stormwater resolution with such amendments, if any, as may be deemed appropriate by the council; (b) approve the stormwater roll, with such amendments as it deems just and right; and (c) determine the method of collection. All objections to adoption of the final stormwater resolution shall be made in writing, and filed with the clerk at or before the time or adjourned time of such hearing. No person who has received timely notice and has failed to object to the final stormwater resolution shall have standing to challenge the imposition of the stormwater charges described in such final stormwater resolution, provided this provision is contained in such timely notice. The final stormwater resolution need only be adopted once for each stormwater service assessment, stormwater improvement assessment and stormwater fee.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-129. Annual stormwater resolution.**

(a) During its budget adoption process, the council may adopt an annual stormwater resolution for each fiscal year following adoption of the final stormwater resolution. The final stormwater resolution shall constitute the annual stormwater resolution for the initial fiscal year. The annual stormwater resolution, if adopted, shall approve the stormwater roll for such fiscal year. The stormwater roll shall be prepared in accordance with the initial stormwater resolution, if adopted, as confirmed or amended by the final stormwater resolution.

(b) In the event council elects to budget the stormwater service cost for more than one (1) fiscal year, then in such an event:

- (1) For the first fiscal year, the notices provided pursuant to sections 21-126 and 21-127 hereof shall contain statements

specifying the period for which the stormwater charges will be imposed and for subsequent fiscal years, the notices provided pursuant to sections 21-126 and 21-127 hereof are not necessary unless otherwise required by the Uniform Assessment Collection Act; and

- (2) For the first fiscal year, an annual stormwater resolution shall be adopted and shall specify: (a) the period for which the stormwater charges are to be imposed, and (b) the parcel data work to be conducted by the department and the adjustments to the stormwater roll, if any, that are permitted during such period; and
- (3) For subsequent fiscal years, no annual stormwater resolution shall be required and the official shall cause the stormwater roll to be certified to the tax collector in compliance with the Uniform Assessment Collection Act.

(c) Notwithstanding the above, if the proposed stormwater charge for any parcel of developed property exceeds the maximum amount established in the final stormwater resolution or if a stormwater charge is imposed against property not previously subject thereto, the council shall provide notice to the owner of such property in accordance with sections 21-126 and 21-127 hereof and conduct a public hearing prior to adoption of the annual stormwater resolution. Failure to adopt an annual stormwater resolution during the budget adoption process for a fiscal year may be cured at any time.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-130. Effect of stormwater resolutions.**

The adoption of the final stormwater resolution or any subsequent annual stormwater resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of the fee for service to government property, the rate of assessment, the adoption of the stormwater roll and the

levy and lien of the stormwater charges), unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of council adoption of the final stormwater resolution. The stormwater charges for each applicable fiscal year shall be established upon adoption of the annual stormwater resolution. The stormwater roll, as approved by the final stormwater resolution or any subsequent annual stormwater resolution, shall be delivered to the tax collector, or such other official as the council, by resolution, deems appropriate.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-131. Lien of stormwater assessments.**

Upon adoption of the annual stormwater resolution, stormwater assessments to be collected under the Uniform Assessment Collection Act shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the council of each annual stormwater resolution and shall attach to the property included on the stormwater roll as of the prior January 1, the lien date for ad valorem taxes.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-132. Method of collection of stormwater assessments.**

Unless directed otherwise by the council, stormwater assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the city shall comply with all applicable provisions thereof. Any hearing or notice required by this article may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

(Ord. No. 2003-200, § 7, 8-7-03)

**Sec. 21-133. Method of collection of stormwater fees charged to government property.**

(a) Unless directed otherwise by the council, stormwater fee bills will be mailed by first class mail to the owner of each affected parcel of

government property. The bill or accompanying explanatory material shall include: (1) a brief explanation of the stormwater fee; (2) a description of the ESFIAs used to determine the amount of the stormwater fee; (3) the number of ESFIAs attributed to the parcel; (4) the total amount of the parcel's stormwater fee for the appropriate period; (5) the location at which payment will be accepted; and (6) the date on which the stormwater fee is due.

(b) A stormwater fee shall become delinquent if it is not paid within thirty (30) days from the date any installment is due. The city shall notify the owner of any government property that is delinquent in payment of its stormwater fee within sixty (60) days from the date the stormwater fee was due. Such notice shall state in effect that the city will initiate a mandamus or other appropriate judicial action to compel payment.

(c) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city, including reasonable attorney fees, in collection of such delinquent stormwater fees and any other costs incurred by the city as a result of such delinquent stormwater fees including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**Sec. 21-134. Responsibility for enforcement.**

The city and its agent, if any, shall maintain the duty to enforce the prompt collection of stormwater charges by any and all legal means. The duties related to collection of stormwater assessments may be enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

(Ord. No. 2003-200, § 7, 8-7-03)

**Sec. 21-135. Revisions to stormwater charges.**

If any stormwater charge made under the provisions of this article is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the council is satisfied that any such stormwater charge is so irregular or defective that the same cannot be enforced or collected, or if the council has failed to include any property on the stormwater roll that should have been so included, the council may take all necessary steps to impose a new stormwater charge against any such property, following as nearly as may be practicable, the provisions of this article and in case such second stormwater charge is annulled, the council may obtain and impose other stormwater charges until a valid stormwater charge is imposed.

(Ord. No. 2003-200, § 7, 8-7-03)

**Sec. 21-136. Procedural irregularities.**

Any irregularity in the proceedings in connection with the levy of any stormwater charge under the provisions of this article shall not affect the validity of the same after the approval thereof, and any stormwater charge as finally approved shall be competent and sufficient evidence that such stormwater charge was duly levied, that the stormwater charge was duly made and adopted, and that all other proceedings adequate to such stormwater charge were duly had, taken and performed as required by this article; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section 21-136, any party objecting to a stormwater charge imposed pursuant to this article must file an objection with a court of competent jurisdiction within the time periods prescribed in section 21-130 of this article.

(Ord. No. 2003-200, § 7, 8-7-03)

**Sec. 21-137. Correction of errors and omissions.**

(a) No act of error or omission on the part of the council, official, property appraiser, tax collector, clerk, or their respective deputies, employees

or designees, shall operate to release or discharge any obligation for payment of any stormwater charge imposed by the council under the provisions of this article.

(b) The official may correct the number of ESFIAs or mitigation credit attributed to a parcel of property at any time. Any such correction which reduces a stormwater charge shall be considered valid from the date on which the stormwater charge was imposed and shall in no way affect the enforcement of the stormwater charge imposed under the provisions of this article. Any such correction which increases a stormwater charge or imposes a stormwater charge on omitted property shall first require notice to the affected owner in the manner described in section 21-127 hereof, providing the date, time and place that the council will consider confirming the correction and offering the owner an opportunity to be heard.

(c) After the stormwater roll has been delivered to the tax collector in the case of stormwater assessments, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes. (Ord. No. 2003-200, § 7, 8-7-03; Ord. No. 2010-93, § 2, 7-29-2010)

**DIVISION 4. ISSUANCE OF OBLIGATIONS**

**Sec. 21-138. General authority.**

Upon adoption of the final stormwater resolution imposing stormwater improvement assessments or at any time thereafter, the council shall have the power and is hereby authorized to provide by ordinance or resolution, at one (1) time or from time to time in series, for the issuance of obligations of the city to fund the project cost thereof and any amounts to be paid or accrued in connection with issuance of such obligations, including, but not limited to capitalized interest, transaction costs and reserve account deposits. (Ord. No. 2003-200, § 7, 8-7-03)

**Sec. 21-139. Taxing power not pledged.**

Obligations issued under the provisions of this article shall not be deemed to constitute a pledge

of the faith and credit of the city, but such obligations shall be payable only from pledged revenue and, if applicable, proceeds of the stormwater assessments, in the manner provided herein and by the ordinance or resolution authorizing the obligations. The issuance of obligations under the provisions of this article shall not directly or indirectly obligate the city to levy or to pledge any form of ad valorem taxation whatever therefor. No holder of any such obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the city to pay any such obligations or the interest thereon or to enforce payment of such obligations or the interest thereon against any property of the city, nor shall such obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city, except the pledged revenue. (Ord. No. 2003-200, § 7, 8-7-03)

**ARTICLE V. REGULATION OF THE USE AND SALE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS\***

**Sec. 21-140. Purpose and intent.**

This article regulates the proper use of fertilizers by any applicator and requires proper training of commercial and institutional fertilizer applicators and landscape maintenance companies. The article requires the use of best management practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on the City of Tampa's natural and artificial stormwater and drainage conveyances, rivers, lakes, canals, estuaries, interior freshwater wetlands, and Tampa Bay. Collectively, these water bodies are an asset

\***Note**—It is the intent that Ordinance 2011-74 adopted June 23, 2011, remains valid and enforceable with the adoption of the amendments proposed herein in compliance with F.S. §§ 570.07(41)(b) and 576.181(5)(b). In the event that a court of competent jurisdiction determines that the amendments contained herein in any way render Ordinance 2011-74 unenforceable, it is the city's intent that these amendments be stricken so that Ordinance 2011-74 remains in effect and enforceable.

critical to the environmental, recreational, cultural and economic well-being of the City of Tampa and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and artificial stormwater and drainage conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality. (Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012)

### **Sec. 21-141. Definitions.**

For this article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

*Application* or *apply* means the actual physical deposit of fertilizer to turf or landscape plants.

*Applicator* means any person who applies fertilizer on turf and/or landscape plants in the City of Tampa.

*Article* means Chapter 21, Article V of the City of Tampa Code of Ordinances, as amended, unless otherwise specified.

*Best management practices* or *BMP* means turf and landscape practices which minimize the negative environmental impacts of installation and maintenance of landscapes.

*Code enforcement officer, official, or inspector* means any employee or agent of the City of Tampa who has been designated to enforce codes and ordinances enacted by the City of Tampa City Council.

*Commercial fertilizer applicator* means any person or an agent or employee of a commercial lawn or landscaping or commercial fertilizer company who applies fertilizer on turf and/or landscape plants in the City of Tampa in exchange for money; goods, services or other valuable consideration.

*Fertilize, fertilizing, or fertilization* means the act of applying fertilizer to turf, specialized turf, or landscape plants.

*Fertilizer* means any substance or mixture of substances that contains one or more recognized

plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

*Fruit and vegetable garden* means an area dedicated to the cultivation of edible plants.

*Granular* means composed of small grains or particles.

*Institutional applicator* means any person, other than a non-commercial or commercial applicator, that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators shall include, but shall not be limited to, owners and managers of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

*Impervious surface* means a surface that has been compacted or covered with a layer of material so that it is highly resistant or prevents infiltration by stormwater. It includes roofed areas and surfaces such as compacted sand, limerock, or clay, as well as conventionally surfaced streets, sidewalks, parking lots, and other similar surfaces.

*Landscape plant* means any native or exotic tree, shrub, or groundcover (excluding turf).

*Landscape maintenance* means activities carried out to manage and maintain landscape plants including but not limited to mowing, edging, and trimming.

*Person* means any human being, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

*Restricted season* means June 1 through September 30.

*Saturated soil* means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

*Site supervisor* means the direct supervisor of landscape maintenance personnel.

*Slow or controlled release fertilizer* means a fertilizer containing a plant nutrient in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant significantly longer than a referenced "rapidly available nutrient fertilizer."

*Specialized turf* means areas of grass used for athletic fields, golf course practice and play areas, and other similar activities.

*Specialized turf manager* means a person responsible for fertilizing or directing the fertilization of specialized turf.

*Surface water* means fresh, brackish, saline or tidal waters, including but not limited to bays, rivers, lakes, streams, wetlands, springs, impoundments, as well as canals and other artificial water bodies.

*Turf, sod, or lawn* means a piece of grass-covered soil held together by the roots of the grass.  
(Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012)

**Sec. 21-142. Applicability and implementation.**

The provisions of this article shall govern any and all applicators of fertilizer and areas of application of fertilizer within the City of Tampa unless such applicator or activity is specifically exempted by the terms of this article from the regulatory provisions of this article as indicated herein. The provisions of this article shall be implemented as of June 1, 2012 and no person shall act in a manner inconsistent with this article after such date.  
(Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012)

**Sec. 21-143. Weather and seasonal restrictions.**

(a) No applicator shall apply fertilizers containing nitrogen and/or phosphorous to turf and/or landscape plants during the restricted season from June 1 through September 30 unless subject to an exemption indicated in this article.

(b) No commercial fertilizer applicator shall apply fertilizers containing nitrogen and/or phosphorous to turf and/or landscape plants during the restricted season from June 1 through September 30 unless subject to an exemption indicated in this article.  
(Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012)

**Sec. 21-144. Fertilizer content and application rate.**

(a) No fertilizer containing phosphorus shall be applied to turf and/or landscape plants in the City of Tampa, except where phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida-certified laboratory. Any person who obtains such a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall mail a copy of the test results to City of Tampa Department of Public Works, Stormwater Division: 306 E. Jackson Street, Tampa, FL 33602 prior to the application of phosphorous.

(b) Granular fertilizers containing nitrogen applied to turf and/or landscape plants within the City of Tampa shall contain no less than fifty (50) percent slow release nitrogen per guaranteed analysis label.  
(Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012)

**Sec. 21-145. Exemptions.**

The provisions set forth above in sections 21-143 and 21-144 of this article shall not apply to:

- (a) *Golf courses.* For all golf courses, the provisions of the Florida Department of Environmental Protection (FDEP) document, "BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007," are required and shall be followed when applying fertilizer to golf courses.
- (b) *Specialized turf.* Specialized turf managers are required to follow the Best Management Practices embodied in the "Flor-

ida Friendly Best Management Practices for Protection of Water Resources by the Green Industries," December 2008.

- (c) Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14.
- (d) Fruit and vegetable gardens, owned by individual property owners or a community, provided that fertilizer application rates do not exceed UF IFAS recommendations per SP 103 Florida Vegetable Gardening Guide, December 2008.
- (e) Yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.
- (f) Tree trunk injection fertilization treatments that are performed by a certified arborist.
- (g) Theme park or entertainment complex as defined in F.S. § 509.13 that: operates pursuant to a National Pollution Discharge Elimination System (NPDES) permit; complies with the requirements of the "Best Management Practices identified in the "Florida Friendly Best Management Practices for the Protection of Water Resources by the Green Industries," dated December 2008 and as revised or amended thereafter and whose applicators are certified pursuant to this article.
- (h) Retail or wholesale fertilizer sellers may sell products containing nitrogen and/or phosphorus to specialized turf managers, theme parks or entertainment complexes as defined in F.S. § 509.13 and (g) above or to operators of bona fide farms operations during the restricted period for use only on specialized turf, within theme parks or entertainment complexes, or for use at bona fide farm operations, respectively.

(Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012)

#### **Sec. 21-146. Certification and training.**

(a) All commercial applicators and their supervisors, as well as government and institutional applicators, site supervisors and managers of

professional landscape maintenance companies, government and institutional landscape supervisors, and any employee of a lawn and landscape maintenance company performing fertilizer application shall comply with the Rule Chapter 1-15 of the EPCHC. To be in compliance with the provisions of this article, a copy of the appropriate certificate indicating the completion of the training and certification as required by Chapter 1-15 referenced herein shall be with an applicator at all times and provided to the City of Tampa representative such as a code enforcement officer or public works department stormwater division staff upon request.

(b) A vehicle decal issued by the EPCHC executive director or other authorized organization indicating that the company is in compliance with the training and certification requirements of Chapter 1-15 of the EPCHC shall be affixed and maintained on the exterior of all vehicles used by the company in connection with landscape maintenance activities and/or the application of fertilizer within the area regulated by this article. (Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012)

#### **Sec. 21-147. Retail sale of fertilizer containing nitrogen or phosphorous.**

No person, firm, corporation, franchise, or commercial establishment shall sell, at retail, any lawn or landscape fertilizer, liquid or granular, within the City of Tampa that contains any amount of nitrogen or phosphorous during the restricted season from June 1 through September 30 unless subject to an exemption indicated in this article.

- (a) Granular fertilizers containing nitrogen sold at retail within the City of Tampa shall contain no less than fifty (50) percent slow release nitrogen per guaranteed analysis label.
- (b) Displays of lawn and landscape fertilizers containing nitrogen or phosphorous shall not be allowed on the sales area of the retail store during the restricted season.
- (c) Retailers shall post a notice provided by the city stating that the use of lawn and

landscape fertilizers in the City of Tampa is restricted in accordance with this article.

- (d) Fertilizers sold within the City of Tampa shall meet the requirements set forth in Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements For Urban Turf Fertilizers.

(Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012)

**Sec. 21-148. Enforcement and penalty.**

(a) Violations of this article may be enforced as provided for in chapter 1, section 1-6 and subdivision procedures set forth in chapter 27, section 23.5-5 of the City of Tampa Code of Ordinances.

(b) A violation of this article is deemed an irreversible or irreparable violation and will result in an immediate civil citation or notice to appear.

(Ord. No. 2011-74, § 1, 6-23-2011; Ord. No. 2012-48, § 1, 5-3-2012; Ord. No. 2013-67, § 5, 5-16-2013)