

MOTION BY COUNCILMEMBER \_\_\_\_\_

I hereby move that Council Document No. \_\_\_\_\_, Current Series, be amended in the whole by deleting the Ordinance in its entirety and substituting in lieu thereof the attached Ordinance.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY

  
\_\_\_\_\_  
DATE

8.20.08

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE to amend Chapters 32 and 53 of the Omaha Municipal Code: to amend Section  
2 32-3 to provide an additional definition; to amend Section 32-122 to establish a new minimum  
3 requirement for Post-Construction Storm Water Management Plans; to amend Section 53-6  
4 to require that Post-Construction Storm Water Management Plans be submitted as part of the  
5 preliminary plat application; to repeal sections 32-3, 32-122 and 53-6 of the Omaha Municipal  
6 Code as heretofore existing, and to provide for the effective date hereof.

7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

8 Section 1. That Section 32-3 of the Omaha Municipal Code is amended to read as follows:

9 **Sec. 32-3. Definitions**

10 The following words, phrases and terms as used in this chapter shall have the meanings ascribed to  
11 them in this chapter.

12 **Best Management Practices (BMP)** shall mean pollution control practices designed and carried out  
13 to reduce the pollutants contained in discharges, including Low Impact Development techniques.

14 **Building Drain** means that part of the lowest horizontal piping of a wastewater drainage system that  
15 receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the  
16 building sewer, beginning two feet outside the inner face of the building wall.

17 **City shall** mean City of Omaha.

18 **Combined Sewer** shall mean a sewer receiving, by designation of the director, both runoff water and  
19 sanitary sewage.

20 **Clean Water Act** shall mean the Federal Water Pollution Control Act, which was enacted in 1972 to  
21 prohibit the discharge of pollutants to receiving waters of the United States and later amended in 1987,  
22 to establish a framework for regulating municipal, industrial, a construction stormwater discharges  
23 under the NPDES Program.

24 **Commercial Activity** means any public or private activity not defined as an industrial activity in 40  
25 Code of Federal Regulations (CFR) 122.26(b)(14) as of the date of this ordinance, involved in the

1 storage, transportation, distribution, exchange or sale of goods and/or commodities or providing  
2 professional and/or nonprofessional services.

3 **Construction Activity** means any clearing, grading, or excavation that results in soil disturbance.  
4 Construction activity also includes, but is not limited to, construction, repairs, dewatering, remodeling,  
5 building, and emergency construction activities required to immediately protect public health and  
6 safety.

7 **Director** means the Director of Public Works Department for the City of Omaha or his/her  
8 authorized agent or representative.

9 **Discharge** means any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-  
10 solid, or solid substance to the municipal storm sewer system.

11 **Hazardous Substance** means any substance designated under 40 CFR Part 116 pursuant to section  
12 311 of the Clean Water Act.

13 **Illicit Connection** means any human made conveyance that is directly or indirectly connected to the  
14 municipal separate storm sewer system and allows for an illicit discharge.

15 **Illicit Discharge** means any discharge to the municipal separate storm sewer system that is prohibited  
16 under local, state, or federal statutes, ordinances, codes, or regulations. Illicit discharges include all  
17 non-storm water discharges except discharges pursuant to a NPDES permit or conditionally exempted  
18 by ordinance and include those prohibited in Sections Sec. 32-21 and Sec. 32-22 below.

19 **Illicit Disposal** means any disposal, either intentional or unintentional, of material(s), substance(s), or  
20 waste(s) that has the potential to pollute runoff unless otherwise allowed by law.

21 **Industrial Activity** means any public or private activity which is associated with any other of the 11  
22 categories of activities defined in 40 CFR 122.26(b)(14), as of the date of this ordinance.

23 **Low Impact Development (LID)** means de-centralized management of precipitation that would  
24 otherwise be stormwater runoff, utilizing design techniques that infiltrate, filter, store, evaporate, or  
25 temporarily detain stormwater.

26 **Municipal Storm Sewer System** means any inlet, pipe, ditch or gully, or system of pipes, ditches, or  
27 gullies, that is owned or operated by the City and used for collecting and conveying stormwater. This  
28 system includes both separate storm sewers and combined storm sewers.

1 **Maximum Extent Practicable** means a standard for implementation of stormwater management  
2 programs to reduce pollutants in stormwater. It is the maximum extent possible taking into account  
3 equitable consideration of competing factors, including, but not limited to the seriousness of the  
4 problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory  
5 compliance, ability to implement, cost and technical feasibility.

6 **New development** means land disturbing activities; structural development, including construction or  
7 installation of a building or structure, the creation of impervious surfaces; and land subdivision.

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

12 **Non-stormwater Runoff** means any discharge to the municipal storm sewer system that is not  
13 composed entirely of stormwater.

14 **Nuisance** means Public Nuisance as provided in Chapter 18 and also as defined in this section.

15 **Pollutant** means the same as defined in section 502(6) of the Clean Water Act including, but is not  
16 limited to the following, but does not include uncontaminated stormwater, potable water,  
17 groundwater, or reclaimed water by a lawfully permitted water treatment facility:

- 18 (1) Materials (including but not limited to fuels, solvents, chemical, detergents, plastic, pellets,  
19 hazardous substances, radioactive wastes, fertilizers, pesticides, paints, soot, slag, ash, sludge);
- 20 (2) Metals and nonmetals both soluble and insoluble (including but not limited to cadmium, lead,  
21 zinc, copper, silver, nickel, chromium, chlorine, phosphorous, and arsenic);
- 22 (3) Petroleum hydrocarbons (including but not limited to fuels, oils, lubricants, surfactants, waste  
23 oils, solvents, coolants, and grease);
- 24 (4) Eroded soils, sediment, and particulate materials in amounts, which may adversely affect the  
25 beneficial use of the receiving waters, flora, or fauna of the state;
- 26 (5) Animal wastes (including but not limited to discharge from confinement facilities, kennels,  
27 pens, recreational facilities, and stables);
- 28 (6) Substances having acidic or corrosive characteristics, unusual coloration or turbidity;
- 29 (7) Any domestic or industrial wastewater;

1 (8) Any hazardous substance.

2 **Private Stormwater Conveyance System** shall mean a stormwater conveyance system that is not  
3 owned or maintained by a government agency including any instrumentality that drains or conveys  
4 water from a building or from/through one or more properties to the environment or the City's storm  
5 water system.

6 **Public Nuisance** means any discharge in violation of the provisions of this chapter, a wastewater  
7 discharge permit, or an order of the City Council.

8 **Receiving Waters** means all surface water bodies, including all streams, lakes, ponds, impounding  
9 reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation ditches, gullies or  
10 channels, drainage systems, and all other bodies or accumulation of water, natural or artificial, public or  
11 private, situated wholly or partly within or bordering upon the extraterritorial jurisdiction of the City of  
12 Omaha.

13 **Runoff** means any discharges from a drainage area that enters the municipal storm sewer system.

14 **Sanitary Sewage** means liquid and water-carried industrial or domestic wastes from dwellings,  
15 commercial buildings, industrial facilities and institutions.

16 **Separate Storm Sewer** means pipe or conduit, which by designation of the Director, carries only  
17 stormwater runoff, discharges pursuant to a NPDES permit or discharges conditionally exempted by  
18 ordinance.

19 **Significant redevelopment** means land-disturbing activity that results in the creation, addition or  
20 replacement of at least five thousand (5,000) square feet of impervious surface area on an already  
21 developed site. Redevelopment includes, but is not limited to the following activities that meet the  
22 minimum standards set forth in this definition:

- 23 (1) The expansion of a building footprint;
- 24 (2) Addition or replacement of a structure;
- 25 (3) Replacement of impervious surface that that is not part of a routine maintenance  
26 activity; and
- 27 (4) Land disturbing activities related to structural or impervious surfaces.

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

4 **Standard Industrial Classification** (SIC) means a classification pursuant to the current edition of the  
5 Standard Industrial Classification Manual issued by the Executive Office of the President of the  
6 United States, Office of Management and Budget.

7 **Stormwater Pollution Prevention Plan** (SWPPP) means a plan required by the State of Nebraska  
8 under either the General Permit for Stormwater Discharges or an individual NPDES permit, which  
9 includes requirements for stormwater discharges associated with either industrial or construction  
10 activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of  
11 stormwater discharges from a site and to describe and ensure the implementation of practices to  
12 reduce pollutants in stormwater discharges.

13 **Stormwater Runoff** means that part of natural precipitation (rainfall or snowmelt, including that of  
14 any frozen precipitation), which travels via flow across any surface to the municipal storm sewer  
15 system.

16 **Street Wash Water** means the water and the associated debris resulting from the washing of streets  
17 and/or sidewalks.

18 **Urban Runoff** means any stormwater and non-stormwater runoff from developed land in, or adjacent  
19 to, any municipality.

20 **U.S. EPA** means the United States Environmental Protection Agency.

21  
22 Section 2. That Section 32-122 of the Omaha Municipal Code is amended to read as follows:

23 **Sec. 32-122. Post-construction storm water management plan**

24 The post-construction storm water management plan shall be submitted to the planning department  
25 for transmittal to the director, on a form or format specified by the director, as part of any preliminary  
26 plat application required under Sec. 53-6. If not already submitted as part of a preliminary plat  
27 process, a post-construction storm water management plan shall be submitted to the director for any  
28 activity requiring a permit under Sec. 32-101, at the same time the application for a City of Omaha  
29 grading permit is submitted. For any significant redevelopment that does not require a permit under

1 Sec. 32-101, a post-construction storm water management plan shall be submitted along with the  
2 permit application for any activity requiring a building permit under Sec. 43-71

3 TheFor all developments that have not had a preliminary plat approved by the City Council prior to  
4 July 1, 2008, the post-construction storm water management plan, at a minimum, shall include Low  
5 Impact Development (LID) BMPs to provide for water quality control of the first one-half inch of  
6 runoff from the site. The director may also require this minimum control level for replats that  
7 significantly increase the amount of impervious area in a preliminarily platted subdivision, which was  
8 approved by the City Council prior to July 1, 2008.

9 For all developments with plats preliminarily approved by the City Council prior to July 1, 2008 and  
10 for any sites requiring a permit under Sec. 32-101 and for significant redevelopment projects, the post-  
11 construction storm water management plan, at a minimum, shall and include the BMP or BMPs  
12 selected, the BMP design, schedules and procedures for inspection and maintenance of the BMPs, and  
13 for any sites requiring a permit under Sec. 32-101 and where it is reasonably practicable, include BMPs  
14 for water quality control of the first one-half inch of runoff from the site. Provisions for BMPs are set  
15 forth in the Omaha Regional Stormwater Design Manual. For significant redevelopment projects that  
16 do not require a permit under Sec. 32-101 or that involve replacement of building structures without  
17 significant disturbance of existing parking or other pervious areas, BMPs for water quality control of  
18 the first one-half inch of runoff from the site shall not be required. For significant redevelopment  
19 projects involving an outlot parcel that is part of a greater existing development, the calculation of the  
20 area requiring control of the first one-half inch of runoff shall be based only on the impervious area of  
21 the project site that is being added or disturbed within the outlot parcel.

22 Section 3. That Section 53-6 of the Omaha Municipal Code is amended to read as follows:

23 **Sec. 53-6. Preliminary Plat.**  
24

25 (1) Following the pre-application review on the proposed subdivision, as provided in Section  
26 53-5, the subdivider may prepare and submit a preliminary plat to the Planning Department.  
27 A preliminary plat together with an application form and receipt for the platting fee, will be  
28 accepted for processing when all required information listed in subsections (2)(a) through (c)  
29 below, and any other necessary supplementary information required by this chapter, is  
30 provided.  
31

1 (2) Twenty-four copies of the preliminary plat, on an engineer's scale of not less than one inch  
2 equals 100 feet, shall contain or be supplemented by the following information:  
3

4 (a) *Plat Identification.*

- 5 1. Proposed name of the subdivision, which shall not duplicate previously filed plat names.  
6 2. Location of boundary lines in relation to land monuments, including a legal description of  
7 the property.  
8 3. Names and addresses of the developer and engineer, and the surveyor or land planner  
9 preparing the plat.  
10 4. North point (which shall be directed to the top or right side of the plat), scale and date.  
11 5. Existing zoning on all lots within the platted area and on abutting property.  
12 6. A small-scale key or vicinity map oriented to the plat and adequately covering the area  
13 within a half-mile radius of the subdivision, showing the relation of the plat to major streets,  
14 parks, and schools.  
15

16 (b) *Existing Conditions.*

- 17 1. Location, size, and identity of existing platted streets within the proposed subdivision and  
18 within 250 feet thereof; other public ways, private ways, or courts; special purpose, railroad, or  
19 utility rights-of-way or easements; parks and other open spaces within the proposed  
20 subdivision; permanent buildings within the subdivision and within 50 feet thereof; and  
21 permanent buildings in the projected alignment of streets outside the proposed subdivision  
22 within 250 feet of the proposed subdivision.  
23 2. All existing storm sewers, culverts and other underground installations within the proposed  
24 subdivision or immediately adjacent thereto, and the location of the nearest available public  
25 utilities.  
26 3. Existing contours at no greater than five-foot intervals to portray existing grades, referred to  
27 city datum or USGS.  
28 4. The locations of watercourses, bridges, wooded areas and such other topographic features  
29 as may be pertinent to the subdivision.  
30

31 (c) *Proposed Improvements.*

- 32  
33 1. The location and width of proposed pedestrian ways, easements, and rights-of-way for  
34 streets, roadways, private ways, courts, and alleys.  
35 2. The general location, size, and character of proposed sanitary sewer facilities and storm  
36 drainage, including sanitary and storm drainage computations when required by the city  
37 engineer.  
38 3. Description of proposed utility systems (gas, water, electricity), with a statement of estimated  
39 cost compiled from an engineer's computation and consultation with the public utility having  
40 jurisdiction.  
41 4. Layout, numbers and approximate dimensions of lots. Such numbers shall be carried  
42 forward to the final plat or any phased final plat.  
43 5. Location and size of any proposed school sites, parks, or other public lands to be considered  
44 for sale or dedication to public use. In those cases when schools, parks, or public lands are  
45 specifically identified in the city master plan, consideration may be given to such proposed uses  
46 in the proposed plat.



- 1 6. Three copies of tentative center line profiles showing the existing street and/or private way
- 2 grades and proposed approximate grades of all streets and private ways.
- 3 7. A proposed grading plan, including provisions for erosion and sediment control, with
- 4 contours at not greater than five-foot intervals.
- 5 8. Five copies of a proposed Post-Construction Storm Water Management Plan, as provided in
- 6 Section 32-122, with a proposed implementation schedule or sequence of phased construction.
- 7

8 (d) *Supplemental Information*

- 9 1. A traffic impact analysis may be required at the discretion of the city traffic engineer. It shall
- 10 be prepared by a licensed professional engineer experienced in transportation engineering and
- 11 shall conform to the guidelines on file in the traffic engineering office.
- 12 2. If the project is to be phased, a phasing schedule for both construction and costs.
- 13 3. Financial data showing the source and use of funds to cover the cost of public
- 14 improvements, including a tentative schedule for the expenditure of funds. This will be used
- 15 for determining cost feasibility based on financial criteria established by the Finance
- 16 Department.
- 17 4. Three copies of proposed covenants, if a homeowner's association or other property
- 18 owner's association is to be formed, for the control and maintenance of common facilities or
- 19 land.
- 20 5. A statement of any proposed exceptions to the language of the standard form subdivision or
- 21 development agreement.
- 22 6. A zoning plan showing proposed zoning on each lot and parcel in the subdivision.
- 23 7. A statement of estimated cost and financial assumptions for any possible S.I.D. connection
- 24 fees.
- 25

26 (3) The Planning Department shall transmit copies of the preliminary plat for review and  
27 comment to the Public Works Department; the Parks, Recreation, and Public Property  
28 Department; the Finance Department; the Public Safety Department; the City-County Health  
29 Department; the County Engineer; each company or agency furnishing water, electric,  
30 telephone, gas or cable television service; school districts; and such other official body,  
31 company or agency as may be directed by the Planning Board.

32  
33 (4) The preliminary plat, with the Planning director's recommendation and the  
34 recommendation of the City Engineer, the Finance Director, and the Parks, Recreation, and  
35 Public Property Director, shall be submitted to the Planning Board for its consideration.

36  
37 (5) The Planning Board shall hold a public hearing on the preliminary plat, and thereafter may  
38 approve the preliminary plat. Such approval may include conditions or recommendations to  
39 waive provisions of this chapter. The Planning Board may waive the procedural requirements  
40 of this chapter in order to allow consideration of a revised preliminary plat.  
41

1 (6) The Planning Director, the Finance Director, and the City Engineer shall transmit their  
 2 recommendations, along with the recommendation for approval by the Planning Board, to the  
 3 City Council. The City Council shall hold a public hearing on the preliminary plat to consider  
 4 a resolution accepting the plat and authorizing the preparation of the final plat. Acceptance of  
 5 the preliminary plat shall be tentative and not constitute final acceptance of the plat for filing  
 6 or transfer of ownership.

7  
 8 (7) All preliminary plats shall become void two years after City Council acceptance. Revised  
 9 preliminary plats may be required prior to that time if, in the opinion of the Planning Director,  
 10 adopted changes to this chapter would affect the plat.

11  
 12 (8) Preliminary and Final plats may be reviewed and processed concurrently as minor  
 13 subdivisions if all requirements for both plats have been satisfied prior to forwarding to the  
 14 City Council for approval. The Planning Director may waive the requirements for existing and  
 15 proposed contours, streets and sewers, and the grading plan, on the preliminary plat  
 16 application if no site preparation work is necessary before building development.

17  
 18 Section 4. That section 32-3, 32-122 and 53-6 of the Omaha Municipal Code, as heretofore  
 19 existing are hereby repealed.

20 Section 5. That this Ordinance shall be in full force and take effect fifteen (15) days from and  
 21 after the date of its passage.

INTRODUCED BY COUNCILMEMBER

\_\_\_\_\_

APPROVED BY:

\_\_\_\_\_  
MAYOR OF THE CITY OF OMAHA DATE

PASSED \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF OMAHA DATE

 8-20-08  
 \_\_\_\_\_  
 CITY ATTORNEY DATE