

ORDINANCE NO. 3455
COUNCIL BILL NO. 12-1026

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING CHAPTERS 13.30, 13.32 AND 13.35 AND ADOPTING NEW CHAPTERS 13.30, 13.32 AND 13.35 TO ESTABLISH STORMWATER MANAGEMENT REGULATIONS, CONTROL ILLICIT DISCHARGE AND ESTABLISH A DRAINAGE UTILITY; PROVIDING DEFINITIONS AND PURPOSE STATEMENTS; REQUIRING STORMWATER MANAGEMENT PLANS; ESTABLISHING PERFORMANCE STANDARDS AND DESIGN CRITERIA; REQUIRING A GUARANTEE OF STORMWATER SYSTEM INSTALLATION AND REQUIRING INSPECTIONS; AUTHORIZING ADOPTION OF ADDITIONAL POLICIES, PROCEDURES, BEST MANAGEMENT PRACTICES AND OTHER SUPPLEMENTAL MATERIALS; REQUIRING SYSTEM MAINTENANCE; ESTABLISHING REGULATIONS GOVERNING DISCHARGE TO THE DRAINAGE SYSTEM AND PROHIBITING ILLICIT CONNECTIONS AND DISCHARGES TO THE DRAINAGE SYSTEM; AUTHORIZING ACCESS TO REGULATED FACILITIES; REQUIRING NOTIFICATION OF SPILLS; ESTABLISHING A DRAINAGE SYSTEM UTILITY AND APPROVING ADMINISTRATION OF THE UTILITY; AUTHORIZING A DRAINAGE SYSTEM UTILITY FEE AND ESTABLISHING A PROCESS TO APPEAL THE AMOUNT OF FEE; REQUIRING THAT DRAINAGE SYSTEM FEES BE SEGREGATED FROM THE GENERAL FUND AND ONLY EXPENDED ON DRAINAGE SYSTEM COSTS; ESTABLISHING ENFORCEMENT PROVISIONS AND PENALTIES FOR NON-PAYMENT OF FEES; PROVIDING THAT VIOLATIONS OF THE STORMWATER MANAGEMENT AND ILLICIT DISCHARGE AND DRAINAGE SYSTEM CONNECTION ORDINANCES ARE MISDEMEANORS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000 DOLLARS OR BY IMPRISONMENT NOT TO EXCEED 180 DAYS OR BOTH; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

WHEREAS, after public hearing on the hereinafter provided amendments, the Mayor and City Council make the following findings;

A. Authority.

The city has authority to:

1. Make and enforce sanitary and other regulations within the City that are not in conflict with the general laws of the state.
2. Prevent the flooding of the city or to secure its drainage, to assess the cost thereof to the property benefited, and for such purpose make any improvement or perform any labor on any stream or waterway, either within or without the city limits, when necessary to protect the safety of life and property of the city.

3. Operate and maintain a stormwater drainage system and to prescribe and collect rates, fees, tolls or charges, including the levy or assessment of such rates, fees, tolls or charges against governmental units, departments or agencies, including the state of Idaho and its subdivisions, for the services, and facilities furnished by the drainage system and to provide methods of collections and penalties, including denial of service for nonpayment of such rates, fees, tolls or charges.
4. Construct, acquire, improve, equip, maintain custody, operate and maintain a drainage system and to collect revenues for the service rendered thereby.
5. Issue bonds, when necessary, under authority of the Idaho Revenue Bond Act, and to prescribe and collect reasonable rates, fees, tolls or charges for the services and facilities furnished by the drainage system and shall revise such rates, fees, tolls or charges from time to time, to provide that the drainage system shall be and always remain self-supporting.
6. Incorporate the State of Idaho's ground water quality protection plan into the city's programs provided that the implementation is consistent with the ground water protection plan.
7. Exercise all powers and perform all functions of local self-government as are not specifically prohibited by or in conflict with the general laws or the constitution of the State of Idaho.
8. Impose fees for those services provided by the City that would otherwise be funded by property tax revenue so long as the fees are reasonably related, and do not exceed, the cost of providing the service.

B. MS4 Permit Compliance.

1. In order to manage and protect the persons and property within the city's boundaries the city has constructed various drainage appurtenances which are a part of its drainage system. Private property owners have been allowed to connect to this system for drainage services. A portion of the system drains to outfalls which discharge into the receiving waters of the United States (Lake Coeur d'Alene and the Spokane River) and other associated waters of the United States within the Coeur d'Alene urbanized area.
2. In compliance with the provisions of the Clean Water Act, 33 USC section 1251 et seq., as amended by the Water Quality Act of 1987, PL 100-4 (the "act"), Region 10 of the Environmental Protection Agency (EPA) has authorized the city to discharge from its drainage system (municipal separate storm sewer system or MS4) into the receiving waters of the United States in accordance with the conditions and requirements of the permit. These conditions and requirements are a regulatory cost associated with the city's provision of drainage services to its customers.
3. The permit has many requirements, which include:

- a. Develop, implement and enforce a stormwater management program which is to include best management practices (BMPs), system design, engineering methods, and other provisions appropriate to control discharges of pollutants from the city's drainage system;
- b. Develop, implement and report on public education and involvement programs concerning the impacts of stormwater discharges on city water bodies including steps that citizens and businesses can take to reduce pollutants in stormwater runoff;
- c. Develop and implement a plan to detect and eliminate illicit discharges into the city's drainage system, including roadways and associated ditches, pipes, culverts, catch basins, retention ponds, and any other drainage facilities in the city's jurisdiction;
- d. Develop and implement ordinances or other regulatory mechanisms to prohibit non-stormwater discharges into the city's drainage system including the implementation of appropriate enforcement procedures and actions, including a written policy of enforcement escalation procedures for recalcitrant or repeat offenders;
- e. Map the city's drainage system;
- f. Implement dry weather field screening and testing of all the city's drainage outfalls for non-stormwater flows;
- g. Inventory and report to the EPA all industrial facilities that discharge directly to the city's drainage system or directly to waters of the United States located within the city's jurisdiction;
- h. Implement and enforce a program to reduce pollutants from construction activities in any stormwater runoff to the city's drainage system;
- i. Implement and enforce programs to address and regulate post-construction stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre;
- j. Develop and implement an operation and maintenance program intended to prevent or reduce pollutant runoff from city operations;
- k. Conduct discharge monitoring and reporting for the city's drainage system; and
- l. Develop and implement the monitoring, recordkeeping, reporting, training and education requirements of the permit.

4. Failure by the city to comply with the requirements of the permit subject the city to civil and criminal penalties under federal law which would place the city's resources and staff at financial and criminal risk and subject the taxpayers to additional tax burdens.

C. Compliance with Idaho statutes and administrative requirements for discharging stormwater over the Spokane Valley - Rathdrum Prairie Aquifer.

1. A portion of the city's drainage system drains stormwater leaving individual properties in the city into a system of curbs, gutters ditches, swales, dry wells and other appurtenances that disposes the drainage over the Spokane Valley - Rathdrum Prairie Aquifer (Aquifer).
2. The aquifer is the sole source of drinking water for residents of the city.
3. The Idaho Department of Environmental Quality (IDEQ) and Idaho Department of Water Resources (IDWR) regulate stormwater drainage over the aquifer.
4. Under the Ground Water Quality Rule (IDAPA 58.01.11), the aquifer is designated a Sensitive Resource, which is the highest level of protection under the groundwater quality rule. Discharges into a Sensitive Resource are subject to numerical limits established by IDEQ as well as a narrative standard that the aquifer not be degraded as a result of point source or non-point source activity.
5. Under the Ground Water Quality Rule, drainage of stormwater over the aquifer must comply with Best Management Practices and Best Available Methods to prevent degradation of the aquifer.
6. Additionally, IDWR has adopted Rules and Minimum Standards for the Construction and Use of Injection Wells (IDAPA 37.03.03), which regulates the use of dry wells and shallow injection wells for disposing of stormwater below ground surface via artificial openings or excavations.
7. Failure of the city to comply with the requirements of the Ground Water Quality Rule or the Rules and Minimum Standards for the Construction and Use of Injection Wells will subject the city to potential for enforcement proceedings which would place the city's resources at risk and subject the taxpayers to additional tax burdens.

E. The Lewiston Case.

1. In November 2011, the Idaho Supreme Court issued a decision in *Lewiston Independent School Dist. et al v. City of Lewiston*, 151 Id 800, 264 P.3d 907 (2011), which struck down a stormwater utility created by the City of Lewiston. The Supreme Court found that because the stormwater utility created by the City of Lewiston was primarily a revenue generating enterprise, rather than a regulatory enterprise, the fee charged by the city was a tax that must be legislatively authorized.
2. In reaching its decision the Court noted that:
 - a. Lewiston charged a fee to all properties with impervious surface regardless of whether they actually drained to the city's system;
 - b. It was unclear whether Lewiston adopted a distinct utility structure other than the Street Maintenance Department;

- c. Lewiston commingled the monies generated by its stormwater fee with its general fund;
- d. Lewiston paid for street maintenance/repair with stormwater fees;
- e. Lewiston's ordinance, by its own terms, was for revenue generation and did not contain any regulation;
- f. Determination of how to spend stormwater funds was left to the discretion of the Streets Maintenance Manager leaving no control over how stormwater revenue was spent; and
- g. Lewiston did not proceed under the Revenue Bond Act; as such the Court did not address the act and the other potential sources of legislative authority because those statutes were not supported by argument.

3. To address the concerns raised by the Court in the Lewiston Case, the proposed ordinance does the following:

- a. The fee proposed by the ordinance only applies to properties actually draining to the city's drainage system and provides for an administrative appeal process for customers to challenge their connection to the system or their rate;
- b. The fee proposed by the ordinance is calculated to recover costs to the city in providing the drainage service including the costs of maintaining the system and complying with all applicable regulations;
- c. Establishes a distinct utility structure under the direction of the city administration on par with the other city utilities;
- d. Prohibits commingling drainage system fees with the general fund;
- e. Prohibits using the drainage system fee for non-drainage system functions and uses;
- f. Establishes that the Drainage System Utility is a regulatory enterprise charged with administering and enforcing the city's Stormwater Management and Illicit Discharge and Drainage System Connection ordinances;
- g. Provides for specific guidance for how drainage system fees are expended and approved;
- h. Relies on the authority contained in the Idaho Revenue Bond Act, and the other sources of authority cited herein, to provide constitutional and statutory authority for the fee authorized by the proposed ordinance.

WHEREAS, based on the findings made above, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that the following amendments be adopted; NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

SECTION 1. *That Coeur d'Alene Municipal Code Chapters 13.30, 13.32 and 13.35 are hereby repealed.*

SECTION 2. *That a new Chapter 13.30, entitled Stormwater Management Ordinance, is hereby added to the Coeur d'Alene Municipal Code as follows:*

13.30.010: TITLE AND PURPOSE:

- A. Title and Intent: This chapter will be known as the STORMWATER MANAGEMENT ORDINANCE. The intent of these regulations is to require implementation of stormwater management techniques, which rely upon natural on site treatment, and recycling of stormwater as opposed to collection and conveyance of untreated stormwater into groundwater sources or into surface bodies of water.
- B. Purpose: The underlying purposes to be achieved by implementation of these regulations include:
- a. The protection of groundwater quality through pretreatment of stormwater prior to infiltration;
 - b. The protection of surface and subsurface water resources from the effects of contaminants, erosion, sedimentation, and construction waste from land disturbing activities;
 - c. The provision of adequate drainage of stormwater;
 - d. The protection of properties from increased runoff and flooding;
 - e. The provision of stormwater drainage at the lowest possible cost;
 - f. The creation of a stormwater management system and a drainage system utility.

13.30.020: DEFINITIONS:

Unless a provision states otherwise, the following terms and phrases used in this chapter, have the following meanings:

ADMINISTRATOR or DRAINAGE UTILITY ADMINISTRATOR: The person appointed by the city to serve as the Drainage Utility administrator under chapter 35 of this title or his or her designee (See section 13.35.030).

AS BUILT DRAWINGS: Design plans that have been revised to reflect all changes to the plans that occurred during construction. These plans must be signed and stamped by the responsible qualified, licensed professional.

BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater collection systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CITY: The City of Coeur d'Alene.

CLEAN WATER ACT: The federal Water Pollution Control Act (33 USC section 1251 et seq.), and any subsequent amendments thereto.

CLEARING: The removal of vegetation, trees, structures, pavement, etc., by manual, mechanical, or chemical methods.

CONVEYANCE: A mechanism for transporting water from one point to another, including pipes, ditches, and channels.

CONVEYANCE SYSTEM: The drainage facilities, both natural and manmade, which collect, contain, and provide for the flow of stormwater.

DESIGN STORM: A rainfall event of specific return frequency and duration that is used to calculate the runoff volume and peak discharge rate.

DETENTION: A temporary storage of storm runoff in a BMP, which is used to control the peak discharge rates, and which provides for gravity settling of pollutants and sediments.

DISCHARGE: Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the drainage system, waters of the state, or into waters of the United States.

DISCHARGER: Any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any operator of a construction site or industrial facility.

DRAINAGE SYSTEM OR SYSTEM: The drainage utility maintained system of ditches, channels, creeks, ponds, intake structures, curbs, gutters, diversion structures, levies, storm sewers, pump stations, force mains, buildings, easements, machinery, equipment, connections and all other appurtenances necessary, useful or convenient for the collection, treatment and disposal of any surface runoff or stormwater.

EROSION: The wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep.

EROSION/SEDIMENT CONTROL: Any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation.

GROUNDWATER: Water in a saturated zone or stratum beneath the land surface or a surface water body.

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

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

ILLCIT DISCHARGE: Any discharge to a storm drain that is not composed entirely of stormwater except discharges pursuant to an NPDES permit.

IMPERVIOUS SURFACE: Has the same meaning as that given at subsection 17.02.070A of this code.

INDUSTRIAL ACTIVITY: Activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

INFILTRATION: The downward movement of water through the soil. Infiltration capacity is expressed in terms of inches per hour.

INFILTRATION BASIN: Depressions created by excavation or berms to provide for short term ponding of surface runoff until it percolates into the soil through the basin's floor and sides.

INTERMITTENT STREAM: A stream or portion of a stream that flows only seasonally. Typically it is dry for several months of a year.

LAND DISTURBING ACTIVITY: Any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing topography. Land disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling, and excavation.

NPDES (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT): A permit issued by the U.S. EPA, in compliance with the federal Clean Water Act for the discharge of pollutants from any point source into the waters of the United States.

NON-STORMWATER DISCHARGE: Any discharge that is not entirely composed of stormwater.

NUTRIENTS: Essential chemicals needed by plants or animals for growth. Excessive amounts of nutrients can lead to degradation of water quality and algae blooms. Some nutrients can be toxic at high concentrations.

POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind or as defined by the federal Water Pollution Control Act (also known as the Clean Water Act).

QUALIFIED, LICENSED PROFESSIONAL: A registered civil engineer or registered landscape architect who is licensed in the state of Idaho.

RETENTION: The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

RUNOFF: Stormwater that does not infiltrate into the soil, but remains on the surface and travels over land to either natural or manmade collection facilities.

SECURITY: A surety bond, cash deposit or escrow account, assignment of savings, irrevocable letter of credit or other means acceptable to or required by the city to guarantee that work is completed in compliance with the project's drainage plan and in compliance with all local government requirements.

SEDIMENT: Material that originates from weathering and erosion of rocks or unconsolidated deposits, and is transported by, suspended in, or deposited by water.

SEDIMENTATION: The deposition of sediment usually in basins or watercourses.

STORM FREQUENCY: The time interval between storms of predetermined intensity, e.g., a 2-year, 25-year, or 100-year storm.

STORMWATER: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER MANAGEMENT PLAN: A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, the drainage system and/or receiving waters to the maximum extent practicable.

SWALE: A shallow infiltration basin with relatively gentle side slopes.

TREATMENT AND DETENTION BMP: A BMP that is intended to detain runoff and remove pollutants from stormwater. A few examples of treatment and detention BMPs are detention ponds, oil/water separators, bio-filtration swales, and constructed wetlands.

UNDEVELOPED STATE: The natural soils and vegetation in place prior to the start of any construction or clearing activity on the site.

13.30.030: APPLICABILITY AND ADMINISTRATION:

A. Unless otherwise exempted under this chapter, this stormwater management ordinance shall apply to all land disturbing activities including, but not limited to, grading, site development, parking lot paving, or street improvement.

B. This chapter will be applied in a manner consistent with the procedures set forth in the city's subdivision, zoning, drainage system utility and building code ordinances and such other ordinances as the city may enact to regulate the use and development of land within the city pursuant to authority granted by Idaho Code title 67, chapter 65.

C. This chapter will be administered by the Drainage System Utility Administrator.

13.30.040: STORMWATER MANAGEMENT PLAN:

A. Stormwater Management Plan Required: Any activity regulated by this chapter shall require the development of a comprehensive stormwater management plan meeting the requirements of sections 13.30.050 and 13.30.060 of this chapter. Stormwater management plans shall be approved by a qualified, licensed professional and submitted to the city for review.

1. Exceptions:

a. Stormwater management plans for new single-family residential structures or additions to single-family residential structures are not required to be designed by a qualified, licensed professional unless required by the city under subsection A(1)(b) of this section.

b. The administrator may require that the stormwater management plan be signed by a registered civil engineer if he or she determines that off-site drainage or adjacent property rights are affected by the plan.

B. General Plan Requirements: Each stormwater management plan must contain the following general elements:

1. The necessary maintenance system, including an acceptable plan for sustained functioning of the collection and treatment system. Unless the plan identifies another responsible party, the parties identified in section 13.30.090 of this chapter shall be responsible for maintenance of all

elements of the stormwater collection and treatment system. Maintenance activities shall include (but not be limited to), watering, mowing and fertilizing of infiltration basins, sod renovation of infiltration basins (unless otherwise provided in this chapter), sediment and debris removal from detention basins, debris removal and cleaning of all inlets, piping, outlet structures, slope protection, etc.

2. The easements necessary to provide continued maintenance of the system.

3. Clearly identified stormwater facilities including, but not limited to, pipes, inlets, catch basins, infiltration basins, basins, and swales.

C. Required Stormwater Plan Elements: In addition to the general plan requirements required by subsection B of this section, stormwater management plans must contain the following parts:

1. Design Calculations: The plan shall present all pertinent calculations necessary to determine the required size of elements of the system. These elements include, but are not limited to, off site drainage onto the property, pre and post development runoff, infiltration basins, detention and/or retention facilities, pipes, swales, culverts, ditches, and catch basins.

2. Site Plan: The site plan shall include the following:

a. Property boundaries and all existing natural and manmade features and facilities within fifty feet (50') of the site, including streets, utilities, easements, topography, structures, and drainage channels.

b. Final contours.

c. Location of all proposed improvements, including paving, structures, utilities, landscaped areas, flat work, and stormwater control facilities.

d. Proposed drainage patterns including ridgelines and tributary drainage areas.

e. Stormwater control facilities, including invert elevations, slopes, length, cross sections, and sizes. Construction details shall be shown for infiltration basins, and/or detention/retention/construction waste facilities:

f. Existing and proposed drainage/stormwater easements.

g. Location of all BMPs, temporary and permanent.

h. Final vegetation, landscape, and permanent stabilization measures.

3. Erosion, Sediment And Construction Site Waste Control Standards: The design, testing, installation, and maintenance of erosion, sediment and construction site waste controls shall be in accordance with city approved best management practices (BMPs). An erosion, sediment and construction waste control plan shall be submitted and approved prior to initiation of any site

clearing, excavation, and grading or other development activity. Both temporary and permanent erosion, sediment and construction waste control measures shall be included. The plan shall represent the minimum requirements for the site. Additional measures may be required by the city in the event of unexpected storm occurrences, repair or maintenance of existing systems, or replacement of nonfunctioning systems.

a. The permit holder and owner of the property are responsible for maintenance and upkeep of both temporary and permanent erosion, sediment and construction waste control measures unless the erosion, sediment and construction waste control plan identifies another person or entity as the responsible party.

13.30.050: PERFORMANCE STANDARDS:

The following performance standards are applicable to all design, construction, implementation, and maintenance of stormwater management systems pursuant to this chapter:

A. All activities subject to the requirements of this chapter shall be carried out in a manner that ensures that runoff of storm or other natural surface waters shall not be accelerated, concentrated, or otherwise conveyed beyond the exterior property lines or project boundaries of the project in question. Existing and/or proposed off site public street drainage shall be detained separately from the on-site drainage. All stormwater facilities and BMPs required for the project must be constructed within the project boundary or property lines.

1. Exceptions: Runoff of storm or other surface waters may be conveyed beyond the exterior property lines or project boundaries if:

a. Done in accordance with the provisions of a joint stormwater management agreement approved in writing by the city; or

b. The downstream property received drainage prior to development. In this case, flow may not be concentrated onto downstream properties where sheet flow previously existed. In no event will there be a measurable increase in the peak rate of runoff from the site after development when compared with the runoff rate in the undeveloped state for a 25-year storm.

c. Runoff may be conveyed beyond property lines on to public rights of way where necessary to obtain site access via driveways, curb cuts or other access points.

B. Erosion, sediment, or discharge of pollutants, resulting from construction activities, which enter onto public property or private property not controlled by the permit holder, shall be eliminated to the maximum extent practicable unless otherwise permitted or exempted under this chapter.

C. All construction activity commenced pursuant to an approved stormwater management plan or site development permit must at all times comply with the conditions of the plan or permit. The permit holder is responsible for ensuring their contractor(s), subcontractor(s), utility trenching subcontractor(s), and all other persons entering the site abide by the conditions of the

permit. The permit holder's signature or that of his authorized agent on the permit shall constitute an agreement by the permit holder to accept responsibility for meeting the conditions of the permit.

D. No construction activity shall take place without a valid stormwater management plan. If a permit has been suspended or revoked, or has expired, all work covered by the plan shall cease until a new plan is issued.

E. All necessary action shall be taken to minimize the depositing and tracking of mud, dirt, sand, gravel, rock or debris on or onto the public right of way. The owner of the site of the construction activity or the permit holder with respect to the construction site shall be responsible for any cleanup of the public rights of way or private property not under the permit holder's control necessitated from any tracking or depositing of mud, dirt, sand, gravel, rock or debris, or shall reimburse the city for any expenses incurred by the city to effectuate the cleanup. At a minimum, all public rights of way shall be cleaned curb to curb on a weekly basis.

F. Construction ramps shall be constructed of material that will not erode or deteriorate under adverse conditions, and shall not be placed in a manner as to interfere with or block the passage of stormwater runoff.

G. No debris, dirt, aggregate or excavated materials, or construction supplies, shall be placed on the public right of way unless specifically permitted by the city in writing. In addition, public sidewalks shall not be removed, blocked, or otherwise rendered unusable by construction activity, equipment or materials, or portable toilets, unless a safe, usable alternate walkway, as approved by the city, is placed on the same side of the right of way by the contractor.

H. No owner or lessee of real property shall allow the property to be unoccupied, unused, vacant or undeveloped after the topsoil has been disturbed or the natural cover removed, unless control measures are undertaken to prevent mud, sand, dirt and gravel, or other material from migrating off site and entering the public right of way or a stormwater system.

I. All temporary erosion/sediment and construction waste control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within twenty one (21) days from removal of the temporary measures.

J. Channels which collect or concentrate stormwater shall be protected against erosion and contain energy dissipation measures to prevent erosion on adjoining lands. Existing unprotected channels shall be protected against further erosion in the course of site development. Any site development or construction shall preserve the existing stormwater management improvements.

K. Sediment resulting from erosion of disturbed soils shall be detained on site. Sediment shall either be stabilized on site or removed in an approved manner.

L. Any and all collected stormwater runoff shall be directed to infiltration basins or to an approved BMP. Permanent treatment of stormwater runoff shall be accomplished by directing all runoff to an infiltration basin or to an approved BMP.

1. Exceptions: Runoff may be discharged directly into dry wells or other overflow structures under the following circumstances:

a. When the increase in impervious surface, resulting from new construction or addition to existing structures, is less than three thousand (3,000) square feet.

b. Runoff from roofs.

M. When existing streets are widened or otherwise improved, runoff from the new impervious surface may be directed into existing storm drain facilities if the existing storm drain facility has sufficient capacity to accommodate the increased runoff.

13.30.060: DESIGN STANDARDS:

A. General Standards: All stormwater facilities shall incorporate the following design standards:

1. All conveyance facilities shall be designed to accommodate a 25-year storm event.
2. When on-site facilities must accommodate drainage from off-site, such conveyance facilities shall be designed to accommodate a 50-year storm event.
3. Peak flows shall be calculated by the rational method for areas ten (10) acres or less. Peak flows shall be calculated by the Soil Conservation Service (SCS) method TR-55, for areas greater than ten (10) acres. Other methods may be approved by the city.
4. The intensity-duration curves from the Idaho Transportation Department shall be used for the rational method.

B. Erosion, Sediment And Construction Site Waste Control: The design, testing, installation, and maintenance of erosion, sediment and construction site waste controls, as detailed in the stormwater management plan, shall be in accordance with city BMPs.

C. Infiltration Basins: All infiltration basins shall incorporate the following design standards:

1. Infiltration basins shall be designed either to retain and treat a volume equal to one-half inch (1/2") of runoff over the tributary impervious area, including roofs or to infiltrate a storm event of 0.1 inches per hour.
2. Infiltration basins designed to detain the treatment volume shall be a maximum of six inches (6") from the lowest point of the swale to the inlet of the overflow structure.
3. Infiltration basins shall have a minimum infiltration rate of 0.5 inches per hour.

4. Infiltration basins shall be planted and maintained with grass and/or other vegetative cover approved by the city. An encroachment permit issued by the city pursuant to title 12, chapter 12.44 of this code must be obtained before starting any landscaping work in infiltration basins located in city rights of way.

5. Infiltration basins must be renovated when they do not meet the minimum infiltration rate or when the vegetative cover dies.

6. Infiltration basins shall contain dry wells, or an equivalent approved by the city engineer, to accommodate overflow.

7. Where infiltration basins will be located between curb and sidewalk, both curb and sidewalk shall be considered an integral part of the storm management system and shall be installed with the infiltration basin.

13.30.070: GUARANTEE OF INSTALLATION:

A. No building permit, final plat approval, or other discretionary approval shall be granted until the stormwater management plan has been approved by the city.

B. Except as allowed by chapter 16.24 of this code, no building permit will be issued for new subdivisions until the stormwater management system, including infiltration basins, curb and sidewalks, has been constructed for the developed portion and will accept the flow of stormwater as designed. For all other cases, no certificate of occupancy will be issued until the stormwater management system has been installed and will accept the flow of stormwater as designed.

1. Exception: If, in the judgment of the administrator, project occupancy can be achieved without harm to the environment or potential occupants, occupancy may proceed upon receipt of an acceptable guarantee of financial surety, pursuant to section 15.08.075 of this code, to complete installation when weather conditions or other variables allow but in no event more than six (6) months after occupancy. In no case shall such guarantee be allowed if the incomplete improvements would result in increased erosion, sedimentation, or other damage to the development, public improvements, surface or subsurface waters, the proposed stormwater management system or otherwise endanger the public health or safety.

C. At any time, the city may stop work on the installation of subdivision improvements, withhold further issuance of building permits in a development, stop work on any individual building or development of any individual building site, or otherwise take steps necessary to ensure that the development meets the requirements of this chapter.

13.30.080: INSPECTIONS:

All construction activities which require a permit or have the potential to impact stormwater discharge or create a discharge to the stormwater collection system shall be subject to the inspection provisions of this section.

A. The city maintains the right to inspect any site of construction activity that has been issued a permit or is required to have a permit issued.

B. Sites shall be required to undergo and pass a city inspection upon completion of the installation of temporary erosion, sediment and construction waste controls, and upon completion of the final grading and/or the permanent drainage and erosion control facilities. The permit holder shall be responsible for scheduling these inspections through the city building department. Inspections must be requested at least forty eight (48) hours prior to the desired time of inspection. Additional inspections may also occur as deemed necessary by the city.

C. When an inspection is required under this chapter, no work shall proceed until completion of the inspection and approval from the authorized city agent conducting the inspection.

13.30.090: ADOPTION OF SUPPLEMENTAL MATERIALS AND BEST MANAGEMENT PRACTICES:

The city may, by resolution, adopt additional design standards, definitions of terminology, administrative procedures, stormwater best management practices, etc., intended to implement the general requirements and performance standards set forth in this chapter. Changes in the design standards, best management practices or other adopted materials may be accomplished by subsequently adopted resolution. Adopted design standards may be complied with in alternative ways that will contribute to rational achievement of the general requirements and performance standards set forth in this chapter.

13.30.100: MAINTENANCE RESPONSIBILITY:

A. Unless other provisions are made in the process of development review and approval, the owner of the property is responsible to maintain all stormwater system elements required for on-site stormwater collection and treatment and the owner of the abutting property is responsible for maintaining infiltration basins contained within city rights of way or drainage easements for street drainage.

B. For infiltration basins contained within city rights of way or drainage easements the maintenance responsibility created by this section shall include mowing, and otherwise maintaining the grass or other approved vegetative cover in a healthy condition capable of meeting the retention and treatment requirements of this chapter. The city's Drainage System Utility will renovate the infiltration basin upon expiration of its service life.

C. Any violation of these maintenance requirements shall constitute a violation of this chapter.

13.30.110: PROHIBITED CONDUCT:

No person shall damage, harm, fail to install, complete, or maintain, or otherwise impair the functioning of infiltration basins or the future functioning of areas designed as an infiltration basin or approved methods of transmission of stormwater to an infiltration basin or any portion of a stormwater management system installed pursuant to this chapter.

13.30.120: ENFORCEMENT:

Provisions of this chapter may be enforced in one or more of the following manners:

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter is guilty of a misdemeanor and shall be punished as provided by chapter 1.28 of this code.

1. Each such person is guilty of a separate offense for each and every day during which any violation of any provision of this chapter is committed, continued, or permitted by any such person, and he shall be punished accordingly.

B. By civil action to compel performance and completion of, or maintenance of, facilities installed pursuant to this chapter.

C. Denying, revoking, or suspending building permits or certificates of occupancy, as the case may be.

D. By any other method or remedy allowed by law.

13.30.130: VARIANCE:

A variance from the requirements of this chapter or from the design standards adopted pursuant to this chapter may be granted only upon a showing of undue hardship due to unique site characteristics. A variance may only be granted by the city council in such circumstances if the approval of the variance would not otherwise impair achievement of the standards or purposes of this chapter, would not impose an additional burden upon adjoining or downstream lands or landowners, or otherwise disrupt the scheme of stormwater management in the community. Any person requesting a variance under this section must provide data showing that the proposed alternative methods of stormwater handling will produce comparable efficacy of the stormwater management measures required by this chapter. No variance will be issued unless all elements of this section are met.

SECTION 3. *That a new Chapter 13.32, entitled Illicit Discharge and Drainage System Connection Ordinance, is hereby added to the Coeur d'Alene Municipal Code as follows:*

13.32.010: TITLE:

This chapter will be known as the ILLICIT DISCHARGE AND DRAINAGE SYSTEM CONNECTION ORDINANCE.

13.32.020: PURPOSE:

The purpose of this chapter is to comply with the requirements of the city's national pollutant discharge elimination system (NPDES) permit, the federal Clean Water Act, and to provide for the health, safety, and general welfare of the citizens of Coeur d'Alene through the regulation of

non-stormwater discharges to the drainage system as required by federal and state law. This chapter establishes methods to control the introduction of pollutants into the drainage system in order to meet the following objectives:

- A. To regulate the contribution of pollutants to the drainage system by stormwater discharges by any user.
- B. To prohibit illicit connections and discharges to the drainage system.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance of this chapter.
- D. To establish penalties associated with violations of this chapter.

13.32.030: DEFINITIONS:

Unless a provision states otherwise, the following terms and phrases used in this chapter have the provided meanings. In the event of a dispute or discrepancy regarding the definition of a term used in this chapter, the definition contained in the federal water pollution control act (33 USC section 1251 et seq.), also known as the clean water act, and any subsequent amendments thereto, are the controlling authority.

ADMINISTRATOR or UTILITY ADMINISTRATOR: The person appointed by the city to serve as the Drainage Utility administrator under chapter 35 of this title or his or her designee (See section 13.35.030).

AS BUILT DRAWINGS: Has the same meaning as that given at subsection 13.30.020 of this code.

BEST MANAGEMENT PRACTICES (BMPs): Has the same meaning as that given at subsection 13.30.020 of this code.

CITY: Has the same meaning as that given at subsection 13.30.020 of this code.

CLEAN WATER ACT: Has the same meaning as that given at subsection 13.30.020 of this code.

CONVEYANCE: Has the same meaning as that given at subsection 13.30.020 of this code

CONVEYANCE SYSTEM: Has the same meaning as that given at subsection 13.30.020 of this code.

DISCHARGE: Has the same meaning as that given at subsection 13.30.020.

DISCHARGER: Has the same meaning as that given at subsection 13.30.020 of this code.

DRAINAGE SYSTEM OR SYSTEM: Has the same meaning as that given at subsection 13.30.020 of this code.

HAZARDOUS MATERIALS: Has the same meaning as that given at subsection 13.30.020 of this code.

ILLICIT CONNECTION: Has the same meaning as that given at subsection 13.30.020 of this code.

ILLICIT DISCHARGE: Has the same meaning as that given at subsection 13.30.020 of this code.

INDUSTRIAL ACTIVITY: Has the same meaning as that given at subsection 13.30.020 of this code.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): Those portions of the city drainage system that discharge to the waters of the United States and are subject to the city's NPDES stormwater discharge permit.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: Has the same meaning as that given at subsection 13.30.020 of this code.

NON-STORMWATER DISCHARGE: Has the same meaning as that given at subsection 13.30.020 of this code.

NOTICE OF INTENT (NOI): Electronic or written notice completed under provisions of the federal construction general permit and filed with the EPA in accordance with current requirements.

PERSON: Any individual, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

POLLUTANT: Has the same meaning as that given at subsection 13.30.020 of this code.

POLLUTANTS OF CONCERN: Objects and materials identified in the Clean Water Act 303(d) are: sediment, oil and grease, coliform bacteria (*E. coli*), nitrogen, phosphorus, metals and temperatures.

PREMISES: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORMWATER: Has the same meaning as that given at subsection 13.30.020 of this code.

STORMWATER MANAGEMENT: The process of collection, conveyance, storage, treatment, and disposal of stormwater to ensure control of the magnitude and frequency of runoff and to

minimize the hazards associated with flooding. Also includes implementing controls to reduce the discharge of pollutants including management practices, control techniques and systems, design and engineering methods.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP): A document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

WASTEWATER: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATERCOURSE: Any natural or artificially managed channel through which water flows on a regular or routine basis.

WATERS OF THE UNITED STATES: Those waters described in the context of wetlands and interstate commerce described at 33 CFR 328.

13.32.040: APPLICABILITY:

This chapter applies to all water directly or indirectly entering the drainage system that is generated on any developed or undeveloped lands unless explicitly exempted by the city or an authorized enforcement agency.

13.32.050: ADMINISTRATION:

The administrator will administer, implement, and enforce the provisions of this chapter.

13.32.060: DISCLAIMER:

The standards established by this chapter are minimum standards. As such compliance by any person with this chapter does not guarantee that there will be no contamination, pollution, or unauthorized discharge of pollutants. This chapter does not create liability on the part of the city, any agent or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

13.32.070: DISCHARGE REGULATIONS:

No person shall directly or indirectly discharge non-stormwater to the drainage system except where such discharges satisfy one of the following three (3) conditions:

A. The non-stormwater discharges are in compliance with a separate NPDES permit, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the city for any discharge to the storm drain system.

B. The non-stormwater discharges result from a spill and are the result of an unusual and severe weather event where reasonable and prudent measures have been taken to minimize the impact of such discharge; or consist of emergency discharges required to prevent imminent threat to human health or severe property damage, provided that reasonable and prudent measures have been taken to minimize the impact of such discharges.

C. The non-stormwater discharges satisfy all of the following conditions:

1. The discharges consist of uncontaminated water line flushing; potable water sources; landscape irrigation (provided all pesticides, herbicides and fertilizer have been applied in accordance with the manufacturer's instructions); flows from riparian habitats and wetlands; diverted stream flows; springs; rising groundwater; uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers; uncontaminated pumped groundwater or spring water; foundation and footing drains (where flows are not contaminated with process materials such as solvents); uncontaminated air conditioning or compressor condensate; water from crawl space pumps; individual residential car washing; dechlorinated swimming pool discharges; routine external building wash down which does not use detergents; street and pavement wash waters, where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed); fire hydrant flushing; dye testing; or flows from emergency firefighting activities; and

2. The discharges are not sources of pollution to waters of the United States, as described in IDAPA 58.01.02.200. For purposes of this provision, a discharge is considered a source of pollution to waters of the United States if it:

a. Contains hazardous materials in concentrations found to be of public health significance or to impair beneficial uses in receiving waters. (Hazardous materials are those that are harmful to humans and animals from exposure, but not necessarily ingestion.);

b. Contains toxic substances in concentrations that impair designated beneficial uses in receiving waters. (Toxic substances are those that can cause disease, malignancy, genetic mutation, death, or similar consequences.);

c. Contains deleterious materials in concentrations that impair designated beneficial uses in receiving waters. (Deleterious materials are generally substances that taint edible species of fish, cause taste in drinking waters, or cause harm to fish or other aquatic life.);

d. Contains radioactive materials or radioactivity at levels exceeding the values listed in 10 CFR part 20 in receiving waters;

e. Contains floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or in concentrations that may impair designated beneficial uses in receiving waters;

f. Contains excessive nutrients that can cause visible slime growths or other nuisance aquatic growths that impair designated beneficial uses in receiving waters;

g. Contains oxygen demanding materials in concentrations that would result in anaerobic water conditions in receiving waters; or

h. Contains sediment above quantities specified in IDAPA 58.01.02.250.02(e) or in the absence of specific sediment criteria, above quantities that impair beneficial uses in receiving waters; or

i. Contains material in concentrations that exceed applicable natural background conditions in receiving waters (IDAPA 58.01.02.200.09). Temperature levels may be increased above natural background conditions when allowed under IDAPA 58.01.02.401.

13.32.080: PROHIBITION OF ILLICIT CONNECTIONS:

A. The construction, use, maintenance or continued existence of illicit connections to the drainage system is prohibited.

B. This prohibition expressly includes, without limitation, illicit connections made prior to the enactment of this chapter, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

C. A person is considered to be in violation of this chapter if the person connects a line conveying sewage or other non-stormwater discharges to the drainage system, or allows such a connection to continue, without written approval from the city.

13.32.090: SUSPENSION OF MUNICIPAL SEPARATE STORM SEWER SYSTEM ACCESS:

A. Suspension Due to Illicit Discharges in Emergency Situations: The city may, without prior notice, suspend drainage system access to a person or entity when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the drainage system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the drainage system or waters of the United States, or to minimize danger to persons.

B. Termination Due to the Detection of Illicit Discharge: Any person discharging to the drainage system in violation of this chapter may have their drainage system access terminated if such termination would abate or reduce an illicit discharge. The city will notify the violator of the proposed termination of its drainage system access. Notification will be made in writing by certified mail to the owner of the property from which the illicit discharge is being made at the last known mailing address of said property owner on record with the Kootenai County assessor. The notice will include a description of the violation and set forth the time allowed for compliance.

C. Written Approval Required For Reinstatement: Written approval from the city must be obtained prior to reinstating or reconnecting any access to the drainage system that was terminated as authorized under this section.

13.32.100: INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES:

Any person subject to an industrial or construction activity NPDES stormwater discharge permit must comply with all provisions of such permit. Proof of compliance with the permit may be required by the city prior to allowing of discharges to the drainage system.

13.32.110: MONITORING OF DISCHARGES:

A. Applicability: This section applies to all facilities that have stormwater discharges associated with commercial, industrial activity and/or construction activity.

B. Access to Facilities:

1. The administrator must be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger must make the necessary arrangements to allow access to the administrator.
2. Facility operators must allow the administrator ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law related to said discharges.
3. The city has the right to set up on any permitted facility such devices as are necessary in the opinion of the administrator to conduct monitoring and/or sampling of the facility's stormwater discharge.
4. The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment must be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality must be calibrated as required by the manufacturer's operation manual to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled must be promptly removed by the operator at the written or oral request of the administrator and may not be replaced. The costs of clearing such access will be borne by the operator.
6. Unreasonable delays in allowing the administrator access to a permitted facility is a violation of a stormwater discharge permit and of this chapter.

7. If the administrator has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, he or she may seek issuance of a search warrant from any court of competent jurisdiction.

13.32.120: NOTIFICATION OF SPILLS:

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the drainage system or waters of the U.S., that person must take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials that person must immediately notify emergency response agencies and the Idaho Department of Environmental Quality of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person must notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city engineer within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of the establishment must also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records must be retained for at least three (3) years from the date of the discharge.

13.32.130: VIOLATIONS CONSTITUTE MISDEMEANORS:

The knowing violation of any provision or failure to comply with any requirement of this chapter shall constitute a misdemeanor punishable as provided in chapter 1.28 of this code.

13.32.140: ACTS RESULTING IN VIOLATION OF FEDERAL LAWS AND REGULATIONS:

Any person who violates any provision of this chapter, or discharges any pollutant or causes pollution, may also be in violation of federal laws or regulations, and may be subject to the sanctions of those laws or regulations, including civil or criminal penalties, notwithstanding any legal action taken by the city.

SECTION 4. *That a new Chapter 13.35, entitled Drainage System Utility, is hereby added to the Coeur d'Alene Municipal Code as follows:*

13.35.010: AUTHORIZATION:

This chapter is enacted pursuant to the authority vested in the city by Article XII, Section 2 of the Idaho Constitution, the Idaho Revenue Bond Act (I.C. 50-1027 – 50-1042) and Idaho Code Sections 50-301, 50-333 and 63-1311.

13.35.020: PURPOSE:

The purposes of this chapter are:

1. To equitably allocate the operation and maintenance expenses of the drainage system to those served by the system in relation to the service received from the system, including meeting all mandated retention and treatment standards for stormwater.
2. To provide for the establishment of system service fees and charges and provide that the fees and charges collected are set aside and designated solely for use for the maintenance, operations, improvements, regulatory requirements, and program costs of the system.
3. To provide that all services mandated or authorized by this chapter be furnished at the lowest possible cost.
4. To establish and enforce regulations and implement programs necessary and/or convenient to comply with the requirements of the city's NPDES discharge permit as well as the rules governing collection, treatment, detention and disposal of stormwater over the Spokane Valley - Rathdrum Prairie Aquifer.
5. To establish a drainage system utility to operate and maintain the city's drainage system and to regulate stormwater and drainage issues within the city.

13.35.030: DEFINITIONS:

For purposes of this chapter the following terms and acronyms shall have the meaning herein set forth unless the text of the use of the term clearly requires otherwise:

ADMINISTRATOR or DRAINAGE UTILITY ADMINISTATOR: The person serving under the direction of the deputy city administrator who is charged with supervising and overseeing the drainage system utility and its regulatory functions.

DRAINAGE SYSTEM or SYSTEM: Has the same meaning as that given at subsection 13.30.020 of this code.

IMPERVIOUS SURFACE: has the same meaning as that given at subsection 17.02.070A of this code.

PERMIT: The current national pollutant discharge elimination system (NPDES) permit issued to the city by the environmental protection agency in compliance with the provisions of the clean water act, 33 USC section 1251 et seq., as amended by the water quality act of 1987, PL 100-4, for stormwater discharges from small municipal separate storm sewer systems also known and referred to as an MS4 permit.

UTILITY: The drainage system utility created by this chapter.

13.35.040: APPLICABILITY:

All property within the corporate limits of the city containing impervious surfaces that drains stormwater into the city's drainage system is subject to this chapter.

13.35.050: DRAINAGE SYSTEM UTILITY CREATED:

A. Utility Created: There is hereby created and established a drainage system utility for the city. The utility will have regulatory authority and responsibility for planning, design, construction, maintenance, administration, operation of and the services provided by the city's drainage system.

B. Utility's Regulatory Functions: The drainage system utility is charged with administering and enforcing the city's Stormwater Management (Municipal Code Chapter 13.30) and Illicit Discharge and Drainage System Connection (Municipal Code Chapter 13.32) ordinances, which should be referenced in conjunction with this chapter.

13.35.060: UTILITY ADMINISTRATION:

A. Drainage System Utility Administration: The utility shall be administered under the direction of the city administration. The drainage system utility will be administered in a manner consistent with the city's water and wastewater utilities.

B. Utility Administrator: The utility shall be under the supervision of the drainage system utility administrator who shall serve in such capacity under the direction of the deputy city administrator.

C. Annual Reports: In order for the city council to exercise its authority under I.C. 50-1031, the utility shall provide the city council with an annual report of the activities of the utility during the preceding year and a projection of the upcoming year's priorities.

13.35.070: POLICIES AND PROCEDURES:

The administrator is authorized to establish and update, from time to time, written policies and procedures to implement the provisions of this chapter.

13.35.080: UTILITY FEE:

A. Drainage System Utility Fee: The city may establish a system of periodic utility fees and charges proportionate to the costs of providing services to a property in accordance with the costs of the operation and maintenance of the city's system, including administrative, regulation, and enforcement costs and for any redemption of bonds that are used to finance any system improvement.

B. Fee Established by Resolution: The fee authorized by this chapter will be set by resolution of the city council.

C. Basis of Fee: The fee authorized by this chapter will be based on the service a drainage system utility customer receives. Such service shall be determined by the contribution of stormwater runoff into the drainage system. Contribution to the system will be determined by stormwater runoff from any impervious surface area on the property that drains into the city's drainage system.

D. Exemption from Fee: Properties that retain all stormwater runoff on site or that do not receive any drainage services from the system are exempt from the fee authorized by this chapter.

E. Additional Development of Property: The utility will recalculate the fee for each property, including reviewing whether the property is exempt, each time additional development occurs on the property that would either increase or decrease the amount of the fee. The recalculation of the fee will be triggered by application for a building or site development permit.

F. Request to Recalculate Fee: A person subject to the drainage system fee who believes that a particular assigned fee is based on an incorrect calculation, that the subject property does not receive any drainage services from the system or is included in an incorrect fee zone or category, may submit a written request that the utility recalculate the fee within thirty (30) days after the fee is established or increased. The request must identify the basis for disagreement with the assessed fee and be accompanied by relevant supporting documentation. The utility shall recalculate the fee and notify the requestor, in writing, no later than thirty (30) calendar days following receipt of the completed written request for recalculation whether the fee will be adjusted.

G. Appeal of Fee Recalculation: A person dissatisfied with the utility's recalculation of their fee allowed under subsection F of this section may appeal the utility's determination to the city council by submitting a written appeal to the city clerk within thirty (30) calendar days after the utility issues its decision. The request must identify the error(s) committed by the utility in recalculating the fee and any other basis for claim of incorrect calculation and be accompanied by relevant supporting documentation. The city council will not hold a public hearing on the appeal but will meet and review all submitted information during a properly noticed public meeting and make a determination on the appeal. A final written decision from the council will be issued by the city council no later than thirty (30) calendar days following receipt of the completed written request for recalculation unless the appellant agrees to an extension.

H. Refund of Overpayment: The city will refund any drainage system fee overpayment within thirty (30) calendar days if either the utility or the City Council determines that a drainage system fee was improperly calculated as allowed by this section.

13.35.090: UTILITY BILLING:

All billings for utility charges assessed under the provisions of this chapter will be billed and collected in the same manner as sewer charges under chapter 13.08 of this code as it relates to utility billing, payment, delinquency and penalty provisions.

13.35.100: DRAINAGE SYSTEM UTILITY FUND AND EXPENDITURES:

- A. Segregation of Funds: All fees and charges received and collected under authority of this chapter shall be deposited and credited to a special fund to be designated as the drainage system fund.
- B. Accounting of Receipts and Expenditures: The accounts of the fund created by this section shall show all receipts and expenditures for the maintenance, construction, operation, upkeep and repair of the city's drainage system, including the payment of any system bonds issued by the city, which, from time to time, may be outstanding.
- C. Expenditure on System Expenses Only: All funds generated by this chapter will only be expended on the operation, maintenance and other expenses, including regulatory compliance, of the drainage system. No general street maintenance such as filling potholes, repaving, striping, winter sanding or other general fund expenditures may be charged to the drainage system fund. However, repair and replacement of curbs and gutters and removal of pollutants from the drainage system via sweeping or other methods is authorized in order to maintain the integrity of the drainage system and comply with applicable regulations. The drainage system administrator and the finance director are charged with adopting additional policies and guidelines to ensure that drainage system funds are only spent on valid drainage system expenses.
- D. Availability of Deposited Funds: As provided by law, when budgeted and appropriated, the funds and credits to the account of the drainage system utility fund shall be available for the payment of the requirements for the maintenance, operation, repairs, and upkeep of the system, compliance with the permit, and to the extent legally available for payment into a sinking fund established for the payment of the principal of and interest of any general obligation system bonds which shall from time to time be outstanding.
- E. Independence from the General Fund: The drainage system utility shall operate independently of the city's general fund and shall have the same relationship to the city as other city utilities. Upon creation of the utility, the city's drainage facilities and assets, other than streets, shall be transferred to the utility in accordance with governmental accounting standards board (GASB) financial reporting principles.

SECTION 5. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

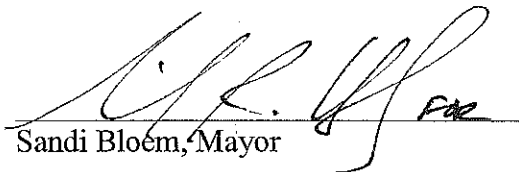
SECTION 6. Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

SECTION 7. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

SECTION 8. After its passage and adoption, a summary of this Ordinance, under the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Coeur d'Alene, and upon such publication shall be in full force and effect.

Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an ordinance of the City of Coeur d'Alene at a regular meeting of the City Council on December 4, 2012.

APPROVED, ADOPTED and SIGNED this 4th day of December, 2012.



Sandi Bloem, Mayor

ATTEST:


Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. 3455
Title 13.30 Stormwater Management Ordinance

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING CHAPTERS 13.30, 13.32 AND 13.35 AND ADOPTING NEW CHAPTERS 13.30, 13.32 AND 13.35 TO ESTABLISH STORMWATER MANAGEMENT REGULATIONS, CONTROL ILLICIT DISCHARGE AND ESTABLISH A DRAINAGE UTILITY; PROVIDING DEFINITIONS AND PURPOSE STATEMENTS; REQUIRING STORMWATER MANAGEMENT PLANS; ESTABLISHING PERFORMANCE STANDARDS AND DESIGN CRITERIA; REQUIRING A GUARANTEE OF STORMWATER SYSTEM INSTALLATION AND REQUIRING INSPECTIONS; AUTHORIZING ADOPTION OF ADDITIONAL POLICIES, PROCEDURES, BEST MANAGEMENT PRACTICES AND OTHER SUPPLEMENTAL MATERIALS; REQUIRING SYSTEM MAINTENANCE; ESTABLISHING REGULATIONS GOVERNING DISCHARGE TO THE DRAINAGE SYSTEM AND PROHIBITING ILLICIT CONNECTIONS AND DISCHARGES TO THE DRAINAGE SYSTEM; AUTHORIZING ACCESS TO REGULATED FACILITIES; REQUIRING NOTIFICATION OF SPILLS; ESTABLISHING A DRAINAGE SYSTEM UTILITY AND APPROVING ADMINISTRATION OF THE UTILITY; AUTHORIZING A DRAINAGE SYSTEM UTILITY FEE AND ESTABLISHING A PROCESS TO APPEAL THE AMOUNT OF FEE; REQUIRING THAT DRAINAGE SYSTEM FEES BE SEGREGATED FROM THE GENERAL FUND AND ONLY EXPENDED ON DRAINAGE SYSTEM COSTS; ESTABLISHING ENFORCEMENT PROVISIONS AND PENALTIES FOR NON-PAYMENT OF FEES; PROVIDING THAT VIOLATIONS OF THE STORMWATER MANAGEMENT AND ILLICIT DISCHARGE AND DRAINAGE SYSTEM CONNECTION ORDINANCES ARE MISDEMEANORS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000 DOLLARS OR BY IMPRISONMENT NOT TO EXCEED 180 DAYS OR BOTH; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE. THE ORDINANCE SHALL BE EFFECTIVE UPON PUBLICATION OF THIS SUMMARY. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. 3455 IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.



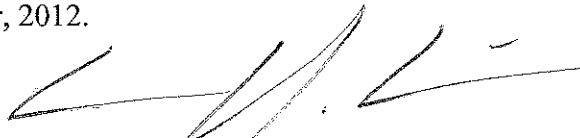
Susan K. Weathers, City Clerk

Publish December 12, 2012

STATEMENT OF LEGAL ADVISOR

I, Warren J. Wilson, am a Deputy City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. 3455, Title 13.30 Stormwater Management Ordinance, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this 4th day of December, 2012.



Warren J. Wilson, Chief Deputy City Attorney