

THE VILLAGE CITY CODE

CHAPTER 9

CITY OF THE VILLAGE, OKLAHOMA  
FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

**SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Oklahoma has in (statutes) 82 O.S. §§1601-1618, as amended, Chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City of The Village, Oklahoma, ordains the following:

**SECTION B. FINDINGS OF FACT**

(1) The flood hazard areas of the City of The Village are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;

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5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

### **SECTION D. METHODS OF REDUCING FLOOD LOSSES**

1. In order to accomplish its purposes, this ordinance uses the following methods:
  - a) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
  - b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
  - d) Control filling, grading, dredging and other development which may increase flood damage;
  - e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

## **ARTICLE II**

### **DEFINITIONS**

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

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**ACCESSORY STRUCTURE** - Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

**AREA OF SPECIAL FLOOD HAZARD** - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map (FIRM). After detailed ratemaking has been completed in preparation for publication of the FIRM for The Village, Zone A is refined into Zones A and AE.

**BASE FLOOD** - means the flood having a one percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION** - means the elevation in feet above mean sea level of the Base Flood or 1% chance flood.

**BASEMENT** - means any area of the building having its floor sub-grade (below ground level) on all sides.

**BOARD** - means the Oklahoma Water Resources Board.

**CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**DEVELOPMENT** - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** - means a non-basement building built, in the case of a building in Zones A, AE and X, to have the top of the elevated floor adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A, AE and X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**EXISTING CONSTRUCTION** - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

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**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION**- means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the floodway width, section area and mean velocity.

**FLOODPLAIN ADMINISTRATOR** - means a person accredited by the Board and designated by a City Council, to administer and implement laws and regulations relating to the management of the floodplains.

**FLOODPLAIN OR FLOOD-PRONE AREA** - means any land area susceptible to being inundated by water from any source (see definition of flooding).

**FLOODPLAIN MANAGEMENT** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose

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ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD PROTECTION SYSTEM** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY (REGULATORY FLOODWAY)** - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FUNCTIONALLY DEPENDENT USE** - means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

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3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior or;
  - b. Directly by the Secretary of the Interior in states without approved programs.

**LEEVE** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**LEEVE SYSTEM** - means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**MANUFACTURED HOME** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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**NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**RECREATIONAL VEHICLE** - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

**START OF CONSTRUCTION** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main

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structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

**VARIANCE** - is a grant of relief to a person from the requirement of these regulations or ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by these regulations. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

**VIOLATION** - means the failure of a structure or other development to be fully compliant with this community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10) or (d)(3) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified),

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of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### ARTICLE III GENERAL PROVISIONS

#### SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This floodplain management ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of The Village, Oklahoma.

#### SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Oklahoma County, Oklahoma and Incorporated areas dated December 18, 2009, with accompanying Flood Insurance Rate Map (FIRM) are hereby adopted by reference and declared to be a part of this ordinance. This ordinance shall go into effect on December 18, 2009 and not before.

#### SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with the provisions of this floodplain management ordinance.

#### SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

#### SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and

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3. Deemed neither to limit nor repeal any other powers granted under State statutes.

### **SECTION G. WARNING AND DISCLAIMER OR LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

## ARTICLE IV

### ADMINISTRATION

#### **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.**

The City of The Village City Council appoints the Building Official as the Floodplain Administrator that will administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

#### **SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of these regulations.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water

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Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval are required.

5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, the Oklahoma Water Resources Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. Shall require the developer or permittee to provide the base flood elevation data when it has not been provided in accordance with Article III, Section B, in order to administer the provisions of Article V.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones AE on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** complies with 44 CFR, Chapter 1, Section 65.12.
11. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.
12. After a disaster or other type of damage occurrence to structures in the City of The Village, Oklahoma, shall determine if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

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### SECTION C. PERMIT PROCEDURES

- A. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
  2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
  3. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the floodproofing criteria of Article V, Section B (2);
  4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
  5. Maintain a record of all such information in accordance with Article IV, Section (B) (1).
- B. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of these regulations and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
  2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  3. The danger that materials may be swept onto other lands to the injury of others;
  4. The compatibility of the proposed use with existing and anticipated development;
  5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

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6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

### SECTION D. VARIANCE PROCEDURES

1. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors

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in Section C (2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article I, Section C).
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
  - a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - b) Variances shall only be issued upon:
    - 1) Showing a good and sufficient cause;
    - 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - 3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations or ordinances.
  - c) A written notice will be provided to any person granted a variance to build a structure below the base flood elevation. This notice will inform the variance applicant that the cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation.
11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

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- a) The criteria outlined in Article IV, Section D (1)-(9) are met, and
  - b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
12. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of Twenty-five Dollars (\$25.00).
13. A copy of any variance issued shall be sent to the OWRB within in fifteen (15) days of issuance.

### ARTICLE V

#### PROVISIONS FOR FLOOD HAZARD REDUCTION

##### SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

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7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### **SECTION B. SPECIFIC STANDARDS**

In all areas of special flood hazards the following provisions where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated at or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article IV, Section C (1) a., is satisfied.
2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated at or above the base flood level. The Floodplain Administrator shall maintain a record of all elevation certificates that includes the specific elevation (in relation to mean sea level) to which each structure has been elevated.
3. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b) The bottom of all openings shall be no higher than one foot above grade.
  - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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### 4. **Manufactured Homes** -

- a) Require that all manufactured homes to be placed within Zone A on the City of The Village's FIRM shall be installed using methods and practices that minimize flood damage and have the bottom of the I beam elevated at or above the base flood elevation. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces and a licensed installer shall install the home and place the required placard on the dwelling.
  - b) Require that manufactured homes that are placed or substantially improved within Zones AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the bottom of the I beam of the manufactured home is elevated at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Also, a licensed installer shall install the home.
  - c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that the bottom of the I-beam of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement support the manufactured home chassis and also installed by a licensed installer that complies with state law.
5. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A and AE on the community's FIRM either:

- a) Be on the site for fewer than 180 consecutive days,

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- b) Be fully licensed and ready for highway use, or
- b. Meet the permit requirements of Article IV, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

### **6. Accessory Structures -**

- a) Structure is low valued and represents a minimal investment.
- b) Structure shall be small and not exceed 600 square feet in size.
- c) Structure shall be unfinished on the interior.
- d) Structure can be used only for parking and limited storage.
- e) Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
- f) Service facilities such as electrical and heating equipment must be elevated to or above the BFE or flood proofed.
- g) Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
- h) Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.
- i) Structure is firmly anchored to prevent flotation, collapse, and lateral movement.
- j) Floodway requirements must be met in the construction of the structure.
- k) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.
- l) Structure is to be located so as not to cause damage to adjacent and nearby structures.

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### SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article I, Sections B, C, and D of this ordinance.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article III, Section C; Article IV, Section C; and the provisions of Article V of this ordinance.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article III, Section B or Article IV, Section B (8) of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

### SECTION D. FLOODWAYS

Floodways - located within areas of special flood hazard established in Article III, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If Article V, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

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3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community complies with all of 44 CFR Chapter 1, Section 65.12.

### **SECTION F. SEVERABILITY**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

### **PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall be punishable as a Class A Offense, subject to a fine up to \$750 and/or up to 60 days in jail. Nothing herein contained shall prevent the City Council of City of The Village or the City Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

### **CERTIFICATION**

It is hereby found and declared by the City of The Village City Council that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with the minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective on December 18, 2009 and not before.

(Ord. 647, §1, 10-20-2009)

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ARTICLE VI

DIVISION 1. NON-STORM WATER DISCHARGES TO  
THE STORM DRAINAGE SYSTEM

**Sec. 9-200. Purpose/Intent.**

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of The Village through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user.
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Article.

**Sec. 9-201. Definitions.**

For the purposes of this Article, the following shall mean:

*Authorized Enforcement Agency.* The employees or designees of the director of the municipal agency designated to enforce this Article.

*Best Management Practices (BMPs).* The schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance 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.

*Clean Water Act.* The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

*Construction Activity.* Activities subject to NPDES Construction Permits include construction projects resulting in land disturbance of five (5) acres or

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more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*Hazardous Materials.* 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.

*Illegal Discharge.* Any direct or indirect non-storm water discharge to the storm drain system, except as may be otherwise exempted by this Article.

*Illicit Connections.* An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, processed wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

*Industrial Activity.* Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

*MS4* means a municipal separate storm sewer system.

*National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit* means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

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

*Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

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*Pollutant* means anything, which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous 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.

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

*Storm Drainage System.* Publicly owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

*Storm Water.* Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*Storm Water Pollution Prevention 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 storm water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

*Wastewater.* Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **Sec. 9-202. Applicability.**

This Article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **Sec. 9-203. Responsibility for Administration.**

The Director of Public Works shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

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### **Sec. 9-204. Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### **Sec. 9-205. Discharge Prohibitions.**

#### a) Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

The following discharges are exempt from discharge prohibitions established by this Article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

1. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
2. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
3. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, 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 for any discharge to the storm drain system.

#### b) Prohibition of Illicit Connections.

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1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this Article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

### **Sec. 9-206. Suspension of MS4 Access.**

#### a) Suspension due to Illicit Discharges in Emergency Situations.

The Director of Public Works may, without prior notice, suspend MS4 discharge access to a person 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 MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

#### b) Suspension due to the Detection of Illicit Discharge.

Any person discharging to the MS4 in violation of this Article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

### **Sec. 9-207. Industrial or Construction Activity Discharges.**

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Works prior to the allowing of discharges to the MS4.

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### Sec. 9-208. Monitoring of Discharges.

#### a) Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

#### b) Access to Facilities.

The Public Works Director or his designee shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

1. Facility operators shall allow the Director of Public Works or his designee 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 storm water, and the performance of any additional duties as defined by state and federal law.
2. The Director of Public Works shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
3. The Director of Public Works has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Director of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the operator.
5. Unreasonable delays in allowing the Director of Public Works access to a permitted facility is a violation of a storm water discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency

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reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.

6. If the Director of Public Works has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, 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 Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

### **Sec. 9-209. Requirements to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.**

The Director of Public Works will adopt requirements identifying Best Management Practices for any activity, operation, or facility, which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

### **Sec. 9-210. Watercourse Protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

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### **Sec. 9-211. 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 storm water, the storm drain system, or waters of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall 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 Director of Public Works within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

### **Sec. 9-212. Enforcement.**

#### a) Notice of Violation.

Whenever the Director of Public Works finds that a person has violated a prohibition or failed to meet a requirement of this Article, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- 1) The performance of monitoring, analyses, and reporting;
- 2) The elimination of illicit connections or discharges;
- 3) That violating discharges, practices, or operations shall cease and desist;
- 4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- 5) Payment of a fine to cover administrative and remediation costs; and
- 6) The implementation of source control or treatment BMPs.

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If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

### **Sec. 9-213. Appeal of Notice of Violation.**

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within ten (10) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

### **Sec. 9-214. Enforcement Measures after Appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

### **Sec. 9-215. Cost of Abatement of the Violation.**

Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

### **Sec. 9-216. Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or

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continues to violate the provisions of this Article, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities, which would create further violations or compelling the person to perform abatement or remediation of the violation.

### **Sec. 9-217. Appeal of Notice of Violation.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the authorized enforcement agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

### **Sec. 9-218. Violations Deemed A Public Nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

### **Sec. 9-219. Criminal Prosecution.**

Any person that has violated or continues to violate this Article shall be guilty of a Class A Offense and shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of Seven Hundred and Fifty (\$750.00) dollars per violation per day and/or imprisonment for a period of time not to exceed sixty (60) days.

The authorized enforcement agency may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

### **Sec. 9-220. Remedies Not Exclusive.**

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. No. 578, §1, 10-1-02)

### **Secs. 9-221–9-249 Reserved.**

## **DIVISION 2. EROSION AND SEDIMENT CONTROL.**

### **Sec. 9-250. Introduction/Purpose.**

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1. During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.
2. As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in The Village. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth or land in The Village.

### **Sec. 9-251. Definitions.**

*Certified Contractor* means a person who has received training and is licensed by The City of The Village to inspect and maintain erosion and sediment control practices.

*Clearing* means any activity that removes the vegetative surface cover.

*Drainage Way* means any channel that conveys surface runoff throughout the site.

*Erosion Control* means a measure that prevents erosion.

*Erosion and Sediment Control Plan* means a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

*Grading* means the excavation or fill of material, including the resulting conditions thereof.

*Perimeter Control* means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

*Phasing* means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

*Sediment Control* means measures that prevent eroded sediment from leaving the site.

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*Site* means a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

*Site Development* means a permit issued by the municipality for the construction or alteration of ground.

*Permit* means improvements and structures for the control of erosion, runoff, and grading.

*Stabilization* means the use of practices that prevent exposed soil from eroding.

*Start of Construction* means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

*Watercourse* means any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by The Village.

*Waterway* means a channel that directs surface runoff to a watercourse or to the public storm drain.

### **Sec. 9-252. Permits.**

- A) No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of 43,560 or more square feet without the approval of an Erosion and Sediment Control Plan by the City of The Village.
- B) No site development permit is required for the following activities:
  - 1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - 2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- C) Each application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee in the amount of two-hundred and fifty (\$250.00) dollars.

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- D) Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a certified contractor shall be on site on all days when construction or grading activity takes place.
- E) The applicant will be required to file with the City of The Village a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the City of The Village, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

### **Sec. 9-253. Review and approval.**

- A) The City of The Village will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, the City of The Village shall, in writing:
  - 1) Approve the permit application;
  - 2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
  - 3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- B) Failure of the City of The Village to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of The Village. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City of The Village.

### **Sec. 9-254. Erosion and Sediment Control Plan.**

- A) The Erosion and Sediment Control Plan shall include the following:
  - i. A natural resources map identifying soils, forest cover, and resources protected under other chapters of this code.

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- ii. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
  - iii. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
  - iv. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
  - v. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- B) Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 9-253 of this chapter, and may be authorized by the City of The Village by written authorization to the permittee, and shall include:
- i. Major amendments of the erosion and sediment control plan as submitted to the City of The Village.
  - ii. Field modifications of a minor nature.

### **Sec. 9-255. Design Requirements.**

- A) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of *The Village Erosion and Sediment Control Manual*, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City of The Village. Cut and fill slopes shall be no greater than 2:1, except as approved by the City of The Village to meet other community or environmental objectives.

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- B) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns, as described in *The Village Erosion and Sediment Control Manual*, shall be used to the satisfaction of the City of The Village.
- C) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- D) Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the City of The Village.
- E) Erosion control requirements shall include the following:
  - 1) Soil stabilization shall be completed within five days of clearing or inactivity in construction.
  - 2) If seeding or another vegetative erosion control method is used, it shall become established within two weeks or the City of The Village may require the site to be reseeded or a non-vegetative option employed.
  - 3) Special techniques that meet the design criteria outlined in *The Village Erosion and Sediment Control Manual*, on steep slopes or in drainage ways shall be used to ensure stabilization.
  - 4) Soil stockpiles must be stabilized or covered at the end of each workday.
  - 5) The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
  - 6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
  - 7) Techniques that divert upland runoff past disturbed slopes shall be employed.
- F) Sediment controls requirements shall include:

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- 1) Settling basins, sediment traps, or tanks and perimeter controls.
  - 2) Settling basins that are designed in a manner that allows adaptation to provide long-term storm water management, if required by the City of The Village.
  - 3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- G) Waterway and watercourse protection requirements shall include:
- 1) A temporary stream crossing installed and approved by the City of The Village if a wet watercourse will be crossed regularly during construction.
  - 2) Stabilization of the watercourse channel before, during, and after any in-channel work.
  - 3) All on-site storm water conveyance channels designed according to the criteria outlined in *The Village Erosion and Sediment Control Manual*.
  - 4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels
- H) Construction site access requirements shall include:
- 1) Temporary access road provided at all sites.
  - 2) Other measures required by the City of The Village in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

### **Sec. 9-256. Inspection.**

- A) The City of The Village or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City of The Village shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City of The Village at least two working days before the following:

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- 1) Start of construction
  - 2) Installation of sediment and erosion measures
  - 3) Completion of site clearing
  - 4) Completion of rough grading
  - 5) Completion of final grading
  - 6) Close of the construction season
  - 7) Completion of final landscaping
- B) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City of The Village at the time interval specified in the approved permit.
- C) The City of The Village or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section B.

### Sec. 9-257. Enforcement.

- 1) **Stop-Work Order; Revocation of Permit.** In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of The Village may suspend or revoke the site development permit.
- 2) **Violation and Penalties.** No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be guilty of a Class A Offense punishable by a fine of not more than \$750.00 and or sixty days in jail or both such fine and incarceration. Each day that a violation occurs shall be deemed a separate offense. In addition to any other penalty authorized by this section, any person, partnership,

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or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

### **Sec. 9-258. Severability**

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

**Sec. 9-259. Repealer.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

### **Sec. 9-260. Emergency.**

Whereas, it being necessary for the preservation of the public health, peace and safety of the City of The Village, Oklahoma, an emergency is declared to exist and by reason thereof this ordinance shall take full force from and after its adoption.

**Secs 9-261–9-274 Reserved.**

## **DIVISION 3. POST CONSTRUCTION STORM WATER RUNOFF**

### **Sec. 9-275. General Provisions**

#### **1. Findings of Fact**

It is hereby determined that:

Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;

This storm water runoff contributes to increased quantities of water-borne pollutants, and; Storm water runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of storm water runoff from development sites.

Therefore, the City of The Village establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of storm water runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of storm water runoff discharges from land development projects and other construction activities in order to control and minimize increases in storm water runoff rates

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and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with storm water runoff is in the public interest and will prevent threats to public health and safety.

### 2. Purpose.

The purpose of this ordinance is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This ordinance seeks to meet that purpose through the following objectives:

- a) Minimize increases in storm water runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
- b) Minimize increases in non-point source pollution caused by storm water runoff from development, which would otherwise degrade local water quality.
- c) Minimize the total annual volume of surface water runoff, which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
- d) Reduce storm water runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

### 3. Applicability

This ordinance shall be applicable to all subdivision or site plan applications equal to or exceeding 43,560 square feet in area, unless eligible for an exemption or granted a waiver by the City of The Village under the specifications of Section 9-278 of this ordinance. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by local environmental protection officials to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

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To prevent the adverse impacts of storm water runoff, the City of The Village has developed a set of performance standards that must be met at new development sites. These standards apply to any construction activity disturbing 43,560 or more square feet of land. The following activities may be exempt from these storm water performance criteria:

- a) Any agricultural activity, which is consistent with an approved soil conservation plan.
- b) Additions or modifications to existing single-family structures.
- c) Developments that do not disturb more than 43,560 square feet of land, provided they are not part of a larger common development plan;
- d) Repairs to any storm water treatment practice deemed necessary by the City of The Village.

When a site development plan is submitted that qualifies as a redevelopment project as defined in Section 9-276 of this ordinance, decisions on permitting and on-site storm water requirements shall be governed by special storm water sizing criteria found in the current storm water design manual. These criteria are dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the City of The Village.

#### 4. Compatibility with Other Permit and Ordinance Requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

#### 5. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

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### 6. Development of a Storm Water Design Manual.

The City of The Village may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance and may provide such information in the form of a Storm Water Design Manual.

This manual will include a list of acceptable storm water treatment practices, including the specific design criteria and operation and maintenance requirements for each storm water practice. The manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring and local maintenance experience. Storm water treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

### Sec. 9-276. Definitions.

*“Accelerated Erosion”* means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

*“Applicant”* means a property owner or agent of a property owner who has filed an application for a storm water management permit.

*“Building”* means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

*“Channel”* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*“Dedication”* means the deliberate appropriation of property by its owner for general public use.

*“Detention”* means the temporary storage of storm runoff in a storm water management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

*“Detention Facility”* means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

*“Developer”* means a person who undertakes land disturbance activities.

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*“Drainage Easement”* means a legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.

*“Erosion and Sediment Control Plan”* means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

*“Fee in Lieu”* means a payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

*“Hotspot”* means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.

*“Hydrologic Soil Group (HSG)”* means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from "A" soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

*“Impervious Cover”* means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

*“Industrial Storm water Permit”* means a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries, which regulates the pollutant levels associated with industrial storm water discharges, or specifies on-site pollution control strategies.

*“Infiltration”* means the process of percolating storm water into the subsoil.

*“Infiltration Facility”* means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

*“Jurisdictional Wetland”* means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

*“Land Disturbance Activity”* means any activity, which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of

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vegetation, or any activity, which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

*“Landowner”* means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

*“Maintenance Agreement”* means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

*“Non-point Source Pollution”* means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

*“Offset Fee”* means a monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

*“Off-Site Facility”* means a storm water management measure located outside the subject property boundary described in the permit application for land development activity.

*“On-Site Facility”* means a storm water management measure located within the subject property boundary described in the permit application for land development activity.

*“Recharge”* means the replenishment of underground water reserves.

*“Redevelopment”* means any construction, alteration or improvement exceeding 43,560 square feet in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.

*“Stop Work Order”* means an order issued which requires that all construction activity on a site be stopped.

*“Storm Water Management”* means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

*“Storm Water Retrofit”* means a storm water management practice designed for an existing development site that previously had either no storm water management practice in place or a practice inadequate to meet the storm water management requirements of the site.

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*"Storm water Runoff"* means flow on the surface of the ground, resulting from precipitation.

*"Storm water Treatment Practices (STPs)"* means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to storm water runoff and water bodies.

*"Water Quality Volume (WQv)"* means the storage needed to capture and treat 90% of the average annual storm water runoff volume. Numerically (WQv) will vary as a function of long term rainfall statistical data.

*"Watercourse"* means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

### **Sec. 9-277. Permit Procedures and Requirements.**

#### 1. Permit Required.

No landowner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

#### 2. Application Requirements

Unless specifically excluded by this ordinance, any landowner or operator desiring a permit for a land disturbance activity shall submit to the City of The Village a permit application on a form provided for that purpose. Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered: a storm water management concept plan, a maintenance agreement, and a non-refundable permit review fee. The storm water management plan shall be prepared to meet the requirements of Section 9-279 of this ordinance, the maintenance agreement shall be prepared to meet the requirements of Section 9-283 of this ordinance, and fees shall be those established by the City of The Village.

#### 3. Application Review Fees.

The fee for review of any land development application shall be based on the amount of land to be disturbed at the site, and the fee structure shall be established by the City of The Village. All of the monetary contributions shall be credited to a local budgetary category to support local plan review, inspection

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and program administration, and shall be made prior to the issuance of any building permit for the development.

### 4. Application Procedure

- a) Applications for land disturbance activity permits must be filed with the City of The Village on any regular business day.
- b) A copy of this permit application shall be forwarded to the City of The Village for review.
- c) Permit applications shall include the following: two copies of the storm water management concept plan, two copies of the maintenance agreement, and any required review fees.
- d) Within ten (10) business days of the receipt of a complete permit application, including all documents as required by this ordinance, the City of The Village shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
- e) If the permit application, storm water management plan or maintenance agreement are disapproved, the applicant may revise the storm water management plan or agreement. If additional information is submitted, the City of The Village shall have ten (10) business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- f) If the permit application, final storm water management plan and maintenance agreement are approved by the City of The Village, all appropriate land disturbance activity permits shall be issued.

### 5. Permit Duration

Permits issued under this section shall be valid from the date of issuance through the date the City of The Village notifies the permit holder that all storm water management practices have passed the final inspection required under permit condition.

## **Sec. 9-278. Waivers to Storm water Management Requirements.**

### 1. Waivers for Providing Storm water Management.

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Every applicant shall provide for storm water management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the storm water management plan requirements shall be submitted to the City of The Village for approval.

The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

- a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
- b) Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the City of The Village and the implementation of the plan is required by local ordinance.
- c) Provisions are made to manage storm water by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the storm water practice.
- d) The City of The Village finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
- e) Non-structural practices will be used on the sites that reduce: i) the generation of storm water from the site, ii) the size and cost of storm water storage and iii) the pollutants generated at the site. These non-structural practices are explained in detail in the current design manual and the amount of credit available for using such practices shall be determined by the City of The Village.

In instances where one of the conditions above applies, the City of The Village may grant a waiver from strict compliance with these storm water management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the City of The Village that the variance will not result in the following impacts to downstream waterways:

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- a) Deterioration of existing culverts, bridges, dams, and other structures;
- b) Degradation of biological functions or habitat;
- c) Accelerated stream bank or streambed erosion or siltation;
- d) Increased threat of flood damage to public health, life, property.

Furthermore, where compliance with minimum requirements for storm water management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the jurisdictional storm water authority. Mitigation measures may include, but are not limited to, the following:

- a) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat;
- b) The creation of a storm water management facility or other drainage improvements on previously developed properties, public or private, that currently lack storm water management facilities designed and constructed in accordance with the purposes and standards of this ordinance,
- c) Monetary contributions (Fee-in-Lieu) to fund storm water management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macro-invertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of storm water management practices.

### 2. Fee in Lieu of Storm water Management Practices.

Where the City of The Village waives all or part of the minimum storm water management requirements, or where the waiver is based on the provision of adequate storm water facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City of The Village.

When an applicant obtains a waiver of the required storm water management, the monetary contribution required shall be in accordance with a

fee schedule (unless the developer and the storm water authority agree on a greater alternate contribution) established by the City of The Village, and based on the cubic feet of storage required for storm water management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

3. Dedication of land

In lieu of a monetary contribution, an applicant may obtain a waiver of the required storm water management by entering into an agreement with the City of The Village for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site storm water management facility. The agreement shall be entered into by the applicant and the City of The Village prior to the recording of plats or, if no recording of plat is required, prior to the issuance of the building permit.

**Sec. 9-279. General Performance Criteria for Storm water Management.**

Unless judged by the City of The Village to be exempt or granted a waiver, the following performance criteria shall be addressed for storm water management at all sites:

- a) All site designs shall establish storm water management practices to control the peak flow rates of storm water discharge associated with specified design storms and reduce the generation of storm water. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- b) All storm water runoff generated from new development shall not discharge untreated storm water directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City of The Village. In no case shall the impact on functional values be any less than allowed by the Army Corps of Engineers (ACE) or the (Appropriate State Agency) responsible for natural resources.
- c) Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-

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structural methods. At a minimum, annual recharge from the post development site shall mimic the annual recharge from pre-development site conditions.

- d) For new development, structural storm water treatment practices shall be designed to remove 50% of the average annual post development total suspended solids load (TSS). It is presumed that a STP complies with this performance standard if it is:
  - 1) Sized to capture the prescribed water quality volume (WQv).
  - 2) Designed according to the specific performance criteria outlined in the city's storm water design manual,
  - 3) Constructed properly, and
  - 4) Maintained regularly.
- e) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the current storm water manual.
- f) Storm water discharges to critical areas with sensitive resources (i.e., cold-water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.
- g) Certain industrial sites are required to prepare and implement a storm water pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The storm water pollution prevention plan requirement applies to both existing and new industrial sites.
- h) Storm water discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural STPs and pollution prevention practices.
- i) Prior to design, applicants are required to consult with the City of The Village to determine if they are subject to additional storm water design requirements.

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- j) The calculations for determining peak flows as found in the Storm water Design Manual shall be used for sizing all storm water management practices.

### **Sec. 9-280. Basic Storm Water Management Design Criteria.**

#### 1. Minimum Control Requirements.

All storm water management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 10 year, 100 year) as identified in the current storm water design manual are met, unless the City of The Village grants the applicant a waiver or the applicant is exempt from such requirements.

In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of The Village reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

#### 2. Site Design Feasibility.

Storm water management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

- a) Topography
- b) Maximum Drainage Area
- c) Depth to Water Table
- d) Soils
- e) Slopes
- f) Terrain
- g) Head
- h) Location in relation to environmentally sensitive features or ultra-urban areas

Applicants shall consult the Storm water Design Manual for guidance on the factors that determine site design feasibility when selecting a storm water management practice.

3. Conveyance Issues.

All storm water management practices shall be designed to convey storm water to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

- a) Maximizing of flow paths from inflow points to outflow points
- b) Protection of inlet and outfall structures
- c) Elimination of erosive flow velocities
- d) Providing of under drain systems, where applicable

The Storm water Design Manual shall provide detailed guidance on the requirements for conveyance for each of the approved storm water management practices.

4. Pretreatment Requirements.

Every storm water treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the current storm water design manual. Certain storm water treatment practices, as specified in the Storm water Design Manual, are prohibited even with pretreatment in the following circumstances:

- a) Storm water is generated from highly contaminated source areas known as “hotspots”
- b) Storm water is carried in a conveyance system that also carries contaminated, non-storm water discharges
- c) Storm water is being managed in a designated groundwater recharge area.
- d) Certain geologic conditions exist (e.g., karsts) that prohibit the proper pretreatment of storm water.

5. Treatment/Geometry Conditions.

All storm water management practices shall be designed to capture and treat storm water runoff according to the specifications outlined in the Storm

Water Design Manual. These specifications will designate the water quantity and quality treatment criteria that apply to an approved storm water management practice.

6. Landscaping Plans Required.

All storm water management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a registered landscape architect or soil conservation district.

7. Maintenance Agreements.

All storm water treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the storm water treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the storm water treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all storm water treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

8. Non-Structural Storm Water Practices.

The use of non-structural storm water treatment practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of storm water that must be managed can be earned through the use of non-structural practices that reduce the generation of storm water from the site. These non-structural practices are explained in detail in the current design manual and applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

**Sec. 9-281. Requirements for Storm Water Management Plan Approval.**

1. Storm water Management Plan Required for All Developments.

No application for development will be approved unless it includes a storm water management plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by an individual approved by the City of

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The Village and must indicate whether storm water will be managed on-site or off-site and, if on-site, the general location and type of practices.

The storm water management plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final storm water management plan. This final plan must be signed by a licensed professional engineer (PE), who will verify that the design of all storm water management practices meets the submittal requirements outlined in the Submittal Checklist found in the storm water design manual. No building, grading, or sediment control permit shall be issued until a satisfactory final storm water management plan, or a waiver thereof, shall have undergone a review and been approved by the City of The Village after determining that the plan or waiver is consistent with the requirements of this ordinance.

### 2. Storm water Management Concept Plan Requirements

A storm water management concept plan shall be required with all permit applications and will include sufficient information (e.g., maps, hydrologic calculations, etc) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. The intent of this conceptual planning process is to determine the type of storm water management measures necessary for the proposed project, and ensure adequate planning for management of storm water runoff from future development. To accomplish this goal the following information shall be included in the concept plan:

- a) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural storm water management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading; A Written description of the site plan and justification of proposed changes in natural conditions may also be required.
- b) Sufficient engineering analysis to show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications of the Storm water Design Manual.

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- c) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- d) A written description of the required maintenance burden for any proposed storm water management facility.
- e) The City of The Village may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- f) For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the storm water concept plan measures for controlling existing storm water runoff discharges from the site in accordance with the standards of this Ordinance to the maximum extent practicable.

### 3. Final Storm water Management Plan Requirements.

After review of the storm water management concept plan, and modifications to that plan as deemed necessary by the City of The Village, a final storm water management plan must be submitted for approval. The final storm water management plan, in addition to the information from the concept plan, shall include all of the information required in the Final Storm water Management Plan checklist found in the Storm water Design Manual. This includes:

- a) Contact Information: The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- b) Topographic Base Map: A 1" = 200' topographic base map of the site which extends a minimum of 50 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of

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utilities, roads, and easements; and significant natural and manmade features not otherwise shown.

- c) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this ordinance. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the Storm water Design Manual, and (ix) documentation of sources for all computation methods and field test results.
- d) Soils Information: If a storm water management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- e) Maintenance and Repair Plan: The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- f) Landscaping plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect.

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- g) **Maintenance Easements:** The applicant must ensure access to all storm water treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.
- h) **Maintenance Agreement:** The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site storm water management measure in accordance with the specifications of this ordinance.
- i) **Erosion and Sediment Control Plans for Construction of Storm water Management Measures:** The applicant must prepare an erosion and sediment control plan for all construction activities related to implementing any on-site storm water management practices.
- j) **Other Environmental Permits:** The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final storm water design plan.

#### 4. Performance Bond/Security.

The City of The Village may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the storm water practices are installed by the permit holder as required by the approved storm water management plan. The amount of the installation performance security shall be the total estimated construction cost of the storm water management practices approved under the permit, plus 25%. The performance security shall contain forfeiture provisions for failure to complete work specified in the storm water management plan.

The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer that the storm water practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of The Village will make a final inspection of the storm water practice to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the City of The Village.

**Sec. 9-282. Construction Inspection.**

1. Notice of Construction Commencement

The applicant must notify the City of The Village in advance before the commencement of construction. Regular inspections of the storm water management system construction shall be conducted by the staff of the City of The Village or certified by a professional engineer or their designee who has been approved by the jurisdictional storm water authority. All inspections shall be documented and written reports prepared that contain the following information:

- a) The date and location of the inspection;
- b) Whether construction is in compliance with the approved storm water management plan.
- c) Variations from the approved construction specifications.
- d) Any violations that exist

If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the City of The Village.

2. As Built Plans.

All applicants are required to submit actual “as built” plans for any storm water management practices located on-site after final construction is completed. The plan must show the final design specifications for all storm water management facilities and must be certified by a professional engineer. A final inspection by the City of The Village is required before the release of any performance securities can occur.

3. Landscaping and Stabilization Requirements

Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be re-vegetated within ten (10) days from the substantial completion of such clearing and construction. The following criteria shall apply to re-vegetation efforts:

- a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

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- b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
- c) Any area of re-vegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but also who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil conservation district, and must be approved prior to receiving a permit.

### **Sec. 9-283. Maintenance and Repair of Storm water Facilities.**

1. **Maintenance Easement.** Prior to the issuance of any permit that has a storm water management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the storm water management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City of The Village, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded by the City of The Village in the land records.
2. **Maintenance Covenants.** Maintenance of all storm water management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of The Village and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

The City of The Village, in lieu of a maintenance covenant, may accept dedication of any existing or future storm water management facility for maintenance, provided such facility meets all the requirements of this chapter

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and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

3. Requirements for Maintenance Covenants. All storm water management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the City of The Village, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water management facility.
4. Inspection of Storm water Facilities. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other storm water treatment practices.
5. Right-of-Entry for Inspection. When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the City of The Village the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.
6. Records of Installation and Maintenance Activities. Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to

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the City of The Village during inspection of the facility and at other reasonable times upon request.

7. **Failure to Maintain Practices.** If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of The Village, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the City of The Village shall notify the party responsible for maintenance of the storm water management facility in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to affect maintenance and repair of the facility in an approved manner. After proper notice, the City of The Village may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

### **Sec. 9-284. Enforcement and Penalties.**

1. **Violations.** Any development activity that is commenced or is conducted contrary to this Division may be restrained by injunction or otherwise abated in a manner provided by law.
2. **Notice of Violation.** When the City of The Village determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
  - a) the name and address of the owner or applicant;
  - b) the address when available or a description of the building, structure or land upon which the violation is occurring;
  - c) a statement specifying the nature of the violation;
  - d) a description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
  - e) a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
  - f) a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

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3. **Stop Work Orders.** Persons receiving a notice of violation will be required to halt all construction activities. This “stop work order” will be in effect until the City of The Village confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.
4. **Civil and Criminal Penalties.** In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Ordinance shall be punished by a fine of not less than Seven Hundred and Fifty Dollars (\$750.00) or by imprisonment for a period not to exceed (60) days, or both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
5. **Restoration of lands.** Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of The Village may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
6. **Holds on Occupancy Permits.** Occupancy permits will not be granted until corrections to all storm water practices have been made and accepted by the City of The Village.

### **Sec. 9-285. Repealer.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

### **Sec. 9-286. Emergency.**

Whereas, it being necessary for the preservation of the public health, peace and safety of the City of The Village, Oklahoma, an emergency is declared to exist and by reason thereof this ordinance shall take full force from and after its adoption.

## **ARTICLE VII SANITARY SEWER DISCHARGE REGULATIONS**

### **Sec. 9-300. Definitions.**

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

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BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in parts per million by weight.

Director means the director of public works or his authorized representative.

Garbage means solid food wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

Industrial waste means all water-borne solids, liquids or gaseous wastes resulting from any industrial manufacturing, restaurant, food processing operation or process, car wash, print shop, drycleaner or laundry, or from the development of any natural resource, or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.

(Ord. No. 626, §1, 04-03-2007)

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

pH means the logarithm to the base ten (10) of the reciprocal of the weight of hydrogen ions in grams per liter or solution.

Properly shredded garbage means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary sewer means a sewer, which carries sewage, and to which storm, surface, and ground waters are not intentionally admitted.

Sanitary sewer system includes all sanitary sewer trunk lines and all sewer lines connected to the city's sewer lines or treatment plants whether owned by the city or not.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.

Slug means any discharge of water, sewage, or industrial waste, which in concentration of any given constituent or in quantity of flows exceeds for any period

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of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

Suspended solids means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(Code 1976, §13-2-1)

### **Sec. 9-301. Enforcement.**

The director and the director of the health department, or their authorized representative, are vested with full authority to enforce the provisions of this division.

(Code 1976, §13-2-8)

### **Sec. 9-302. Inspections.**

The director and other duly authorized employees of the city shall be permitted to enter all properties at reasonable times for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this division.

(Code 1976, §13-2-7)

### **Sec. 9-303. Violations.**

Any person who shall violate or fail to comply with any provision of this division or any legal order or regulation made pursuant hereto, shall be guilty of a Class A offense and shall be subject to a fine of up to Seven Hundred and Fifty Dollars (\$750.00) and up to sixty (60) days imprisonment or both said fine and imprisonment.

(Code 1976, §13-3-1)

### **Sec. 9-304. Discharges into storm sewers or natural outlets.**

No person shall discharge to any storm sewer or natural outlet within the city or in any area under the jurisdiction of the city, any sewage or other polluted waters except where suitable treatment has been provided in accordance with latest state and federal water quality criteria for the stream involved.

(Code 1976, §13-2-2)

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### **Sec. 9-305. Industrial or harmful wastes.**

(a) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquids, solids, or gas;

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, or injure or interfere with any sewage treatment process, constitute a hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer;

(3) Any waters or wastes having pH lower than 6.0 or greater than 10.5 or having any other chemical or corrosive property which is hazardous or capable of causing damage to structures, equipment and personnel of the sewage works;

(4) Solids of viscous substances in quantities or of sizes (will not pass through a quarter-inch screen) capable of causing obstruction to flow in sewers or other interference with the proper operation of the sewage works, storm sewers, or natural outlets such as, but not limited to ashes, cinders, sand, mud, straw, shaving, metal, glass, rags, feathers, tar, plastics, wood, rubber, un-ground garbage, animal grease or oil, whole blood, paunch manure, hair, meat fleshings, entrails, bones, hooves, toe nails, bristles, horns, chicken feet or heads, yeast, spent grain, hops, whey, whole or separated milk, paper dishes, cups, milk containers, etc., either whole or ground garbage grinders.

(5) Any discharge of polar or non-saturated fats, oils, or greases of animal or vegetable origin having a concentration of 200 mg/l or greater.”

(Ord. No. 626, §2, 04-03-2007)

(b) No person shall discharge or cause to be discharged the following substances, materials, waters, or wastes if it appears likely in the opinion of the director that such substances or wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The prohibited substances are:

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(1) Any liquid or vapor having a temperature higher than one hundred and fifty (150) degrees Fahrenheit or sixty-five (65) degrees Celsius;

(2) Any water or waste containing fats, wax, grease, oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees Fahrenheit and one-hundred fifty (150) degrees Fahrenheit or zero (0) and sixty-five (65) degrees Celsius;

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor greater than three-fourths horsepower is prohibited,

(4) Any waters or wastes containing strong acid iron pickling wasters, or concentrated plating solutions, whether neutralized or not;

(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the director for such materials;

(6) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the director as necessary, after treatment of composite sewage, to meet the requirements of the state, federal or other public agencies for such discharge to the receiving waters;

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director in compliance with applicable state or federal regulations,

(8) Materials, which exert or cause:

a. Unusual concentrations of inert suspended solids (such as but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

c. Unusual BOD, chemical oxygen demand, or chlorine requirements (such as, but not limited to, whey, whole or separated milk, yeast, whole blood, etc.) in such quantities as to constitute a significant load on the sewage treatment works;

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d. Unusual volume of flow or concentration wastes constituting slugs.

(9) Waters or wastes containing substances, which are not amenable to treatment or reduction by the sewage treatment or reduction processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(c) Special handling required to discharge certain wastes. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in this section and which in the judgment of the director may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the director may:

(1) Reject the wastes,

(2) Require pre-treatment to an acceptable condition for discharge to public sewers,

(3) Require control over the quantities and rates of discharge.

(Code 1976, §§13-2-3--13-2-5)

### **Sec. 9-306 Permit for industrial connections.**

Any person applying to the director for a permit to make any connection to the city's sanitary sewer system for industrial wastes shall furnish the following information:

(1) A plot of the property showing accurately all existing sewers and storm drains.

(2) Plans and specifications covering any work proposed to be performed under the permit.

(3) A complete schedule of all process waters and industrial wastes produced or expected to be produced at the property, including a description of the character of each waste, the daily volume and maximum rates of discharge, and representative analyses.

(4) The name and address of the person who will perform the work covered by the permit.

(Code 1976, §13-2-6)

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### **Sec. 9-307. Pretreatment.**

- (a) Whenever deemed necessary, the director may require industrial users to restrict their discharge peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and other conditions as may be necessary to protect the public sewerage system and determine the industrial user's compliance with the requirements of this article.
- (b) Grease, oil and sand interceptors shall be provided by the user when, in the opinion of the director, the interceptors are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interceptor units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Interceptors shall be cleaned and repaired regularly, and as otherwise needed, by the user at the user's own expense.

(Ord. No. 626, §3, 04-03-2007)

### **Sec. 9-308. Inspections, Sampling & Testing.**

- (a) The director shall maintain a current list of all restaurants, car washes, print shops, drycleaners, and laundries in the City and shall make quarterly inspections of the pretreatment system of each such establishment and report all findings and enforcement actions to the city manager.
- (b) The director shall sample and test the discharge from each restaurant and car wash at least one (1) time per calendar year.
- (c) The director shall require all new restaurants, car washes, print shops, drycleaners, and laundries to provide a collection point (clean out) where samples may be taken for analysis and compliance.
- (d) Restaurants, car washes, print shops, drycleaners, and laundries which are determined to be in violation of the discharge standards provided in this Article shall take corrective action as directed and approved by the director within thirty (30) days of notification. (Ord. No. 626, §3, 04-03-2007)