



STATE OF ARKANSAS

ORDINANCE NO. 2023-14

AN ORDINANCE TO AMEND ORDINANCE 2009-1 KNOWN AS THE STORM WATER POLLUTION PREVENTION AND EROSION CONTROL FOR THE CITY OF BROOKLAND

BE IT ORDAINED AND ENACTED by the City Council of the City of Brookland, Arkansas, that:

SECTION 1. Purposes

The purpose and objectives of this Ordinance are as follows:

- A. To maintain and improve the quality of water impacted by the storm drainage system within the City of Brookland.
- B. To prevent the discharge of contaminated storm water runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Brookland.
- C. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, and other pollutants into the storm drainage system.
- D. To facilitate compliance with state and federal standards and permits by owners of construction sites within the City of Brookland.
- E. To enable the City of Brookland to comply with all federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for storm water discharges.

SECTION 2. Administration

Except as otherwise provided herein, the Major, City Engineer, City Building Inspector, and Code Enforcement Officer shall administer, implement, and enforce the provisions of this Ordinance.

SECTION 3. Abbreviation

The following abbreviations when used in this Ordinance shall have the following meanings:

ADEQ - Arkansas Department of Environmental Quality
BMP - Best Management Practices
CFR - Code of Federal Regulations
EPA - U. S. Environmental Protection Agency
HHW- Household Hazardous Waste
MS4 - Municipal Separate Storm Sewer System
NPDES - National Pollutant Discharge Elimination System
SWMP – Storm Water Management Program
SWP3 - Storm Water Pollution Prevention Plan (SWPPP)

SECTION 4. Definitions

Unless a provision explicitly states otherwise, the following terms and phrases as used in this Ordinance, shall have the meanings hereinafter designated.

Best Management Practices (BMPs) - refers to management practices and methods to control pollutants in storm water. BMPs are of two types: "source controls" (nonstructural) and "treatment controls" (structural). Source controls are practices that prevent pollution by reducing potential pollutants at their source before they encounter storm water. Treatment controls remove pollutants from storm water. The selection, application and maintenance of BMP's must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system.

City - the City of Brookland, Arkansas.

City Building Inspector - the person appointed to the position of City Building Inspector and Code Enforcement by the City of Brookland, AR.

City Engineer - the person appointed to the position of City Engineer by the City of Brookland, AR.

Code Enforcement Officer - the person appointed to the position of Code Enforcement Officer by the City of Brookland, AR.

Construction Site - any location where construction activity occurs.

Contaminated - containing harmful quantities of pollutants.

Contractor- any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor, or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical, or landscaping contractors, and material suppliers delivering materials to the site.

Discharge - any addition or release of any pollutant, storm water or any other substance whatsoever into storm drainage system.

Discharger - any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.

Domestic Sewage - sewage originating primarily from kitchen, bathroom, and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers, and sinks.

Earthwork - the disturbance of soil on a site associated with clearing, grading, or excavation activities.

Environmental Protection Agency (EPA) - the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

Facility- any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer - a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

Fire Protection Water - any water, and any substances or materials contained therein, used by any person to control, or extinguish a fire, or to inspect or test fire equipment.

Garbage - putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

Groundwater - any water residing below the surface of the ground or percolating into or out of the ground.

Harmful Quantity - the amount of any substance that the Mayor determines will cause an adverse impact to storm drainage system or will contribute to the failure of the City to meet the water quality-based requirements of the NPDES permit for discharges from the MS4.

Hazardous Substance - any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous Waste - any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261

Household Hazardous Waste (HHW) - any material generated in a household (including single and multiple residences) that would be classified as hazardous.

Illegal Discharge - See illicit discharge below.

Illicit Discharge - any discharge to the storm drainage system that is prohibited under this Ordinance.

Illicit Connection - any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system.

Industrial Waste (or commercial waste) - any waste produced as a byproduct of any industrial, institutional, or commercial process or operation, other than domestic sewage.

Land Alteration -the process of grading, clearing, filling, excavating, quarrying, tunneling, trenching, construction or similar activities.

Mechanical Fluid - any fluid used in the operation and maintenance of machinery, vehicles, and any other equipment, including lubricants, antifreeze, petroleum products, oil and fuel.

Mobile Commercial Cosmetic Cleaning (or mobile washing) - power washing, steam cleaning, and any other method of mobile cosmetic cleaning, of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.

Municipal Separate Storm Sewer System (MS4) - the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying storm water, and not used for collecting or conveying sanitary sewage.

NPDES - the National Pollutant Discharge Elimination System.

NPDES Permit - a permit issued by EPA 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.

Notice of Violation - a written notice detailing any violations of this Article and any action expected of violators.

Oil - any kind of oil in any form, including, but not limited to petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

Release - to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

Rubbish - non-putrescible solid waste, excluding ashes, that consist of: (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Sanitary Sewage - the domestic sewage and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Sanitary Sewer - the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which storm water, surface water, and groundwater are not intentionally admitted).

Sediment - soil (or mud) that has been disturbed or eroded and transported naturally by water, wind, or gravity, or mechanically by any person.

Septic Tank Waste - any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and aerated tanks.

Shall - Means mandatory; may means discretionary.

Site - the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Solid Waste - any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining, or agricultural operations, and residential, community and institutional activities.

State - The State of Arkansas.

Storm Drainage System - all surfaces, structures and systems that contribute to or convey storm water, including private drainage systems, the MS4, surface water, groundwater, Waters of the State and Waters of the United States.

Storm water - runoff resulting from precipitation.

Storm Water Management Program (SWMP) – means a program that addresses the long-term effect of development on storm water quantity and quality and satisfies the requirement for post-construction water quality maintenance in an EPA and ADEQ Storm Water Discharge General Permit ARR040000.

Storm Water Pollution Prevention Plan (SWP3 or SWPPP) - a document that describes the Best Management Practices to be implemented at a site, to prevent or reduce the discharge of pollutants.

Subdivision Development- Includes activities associated with the plating of any parcel of land into two or more lots and includes all construction activity taking place thereon.

Surface Water - water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow, and runoff.

Uncontaminated - not containing harmful quantities of pollutants.

Used Oil (or Used Motor Oil) - any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

Utility Agency - private utility companies, City departments or contractors working for private utility companies or City departments, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television, and communication services.

Wastewater - any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Water of the State (or water) - any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Water Quality Standard - the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by State or Federal regulatory standards to be necessary to protect those uses.

Waters of the United States - all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

Wetland - any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard Waste - leaves, grass clippings, tree limbs, brush, soil, rocks, or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

SECTION 5. Prohibitions

- A. No person shall release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated storm water, except as allowed herein. Common storm water contaminates trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, and sediment.
- B. Any discharge shall be prohibited by this section if the discharge in question has been determined by the Storm Water Discharge Commission to be a source of pollutants to the storm drainage system.
- C. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system are prohibited. 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.
- D. No Person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste to the storm drainage system or allow such a connection to continue.
- E. No person shall maliciously destroy or interfere with BMPs implemented pursuant to this Ordinance.

SECTION 6. Exemptions

The following non-storm water discharges are deemed acceptable, and not a violation of this section:

- A. A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4.
- B. Uncontaminated waterline flushing and other infrequent discharges from potable water sources.
- C. Infrequent uncontaminated discharge from landscape irrigation or lawn watering.
- D. Discharge from the occasional noncommercial washing of vehicles on properties zoned R-1, R-2, and R-3.
- E. Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains.
- F. Uncontaminated ground water, including rising ground water, ground water infiltration into storm drains, pumped ground water and springs.
- G. Diverted stream flows and natural riparian habitat or wetland flows.
- H. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

SECTION 7. Requirements applicable to certain dischargers.

- A. *Private drainage system maintenance.* The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
- B. *Minimization of irrigation runoff.* A discharge of irrigation water that is of sufficient quantity to cause flooding of the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from the site.
- C. *Maintenance of Equipment.* Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery, and equipment must be maintained to reduce leaking fluids. *Materials Storage.* Materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
- D. *Pesticides, herbicides, and fertilizers.* Pesticides, herbicides, and fertilizers shall be applied in accordance with manufacturer recommendations, and applicable laws. Excessive application shall be avoided.
- E. *Prohibition on use of pesticides and fungicides banned from manufacture.* Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the Environmental Protection Agency, or any federal or state regulation is prohibited.
- F. *Open drainage channel maintenance.* Every person owning or occupying property through which an open drainage channel passes, shall keep and maintain that part of the drainage channel within the property, free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned structures adjacent to a drainage channel, so that such structures will not become a hazard to the use, function, or physical integrity of the drainage channel.
- G. *Open drainage channel maintenance.* Every person owning or occupying property through which an open drainage channel passes, shall keep and maintain that part of the drainage channel within the property, free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned structures adjacent to a drainage channel, so that such structures will not become a hazard to the use, function, or physical integrity of the drainage channel.

SECTION 8. Release reporting and clean-up.

Any person responsible for a known or suspected release of materials which are resulting in or may result in illegal discharges to the storm drainage system, shall take all necessary steps to ensure the discovery, containment, abatement, and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal and local laws requiring reporting, clean-up, containment, and any other appropriate remedial action in response to the release. In the event of such a release of non-hazardous materials, said person shall notify the Mayor's Office no later than 5:00 pm of the next business day.

SECTION 9. Authorization to adopt and impose best management practices.

The City of Brookland may adopt and impose requirements identifying best management practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.

SECTION 10. General requirements for construction sites.

[Responsible Party.] The owner of a site of construction activity shall be responsible for compliance with the requirements of this ordinance, and with the requirements of the state of Arkansas Construction General Permit (for discharge of storm water from construction sites), which is incorporated in its entirety herein. The state Construction General Permit was developed in accordance with provisions of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended, Ark. Code Ann. 8-4-101 et seq., and the Clean Water Act (33 U.S.C. 1251 et. seq.).

- A. *Waste Disposal.* Solid waste, industrial waste, yard waste, and any other pollutants or waste on any construction site shall be controlled through the use of best management practices. Waste or recycling containers shall be provided and maintained by the owner or contractor, on construction sites where there is potential for the release of waste. Uncontained waste that may blow, wash, or otherwise be released from the site is prohibited.
- B. *[Release of materials.]* Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing, or used in transporting, or applying ready-mixed concrete, shall be contained on construction sites for proper disposal. Release of these materials is prohibited.
- C. *Erosion and sediment control.* Best management practices shall be implemented to prevent the release of sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed, and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracking onto public streets shall be removed immediately.
- D. *[Continued compliance - Post Construction.]* Upon completion of permitted construction activity on any site, the property owner and subsequent property owners, will be responsible for continued compliance with the requirements of this article, during maintenance, reconstruction, or any other construction activity on the site.

SECTION 11. Construction sites requiring an approved SWP3.

This section applies to all construction sites where construction activities on a site will disturb soil or remove vegetation on one (1) or more acres of land during the life of the construction project. An approved Storm Water Pollution Prevention Plan (SWP3) for the project must be provided, and implemented by the construction site owner as follows:

- A. The area disturbed shall be assumed to include the entire property area unless all applicable plans specifically exclude certain areas from disturbance.
- B. The SWP3 must be provided by the owner and submitted to the city for approval. A copy of the SWP3 shall be submitted to the City Engineer and City Building Inspector. For sites subject to plan review by the city, the plan will not be released for construction until an approved SWP3 has been obtained.
- C. The City Engineer and City Building Inspector will review the SWP3 submitted for the site, and will return either an approval of the SWP3, or a request for revisions. Construction activity, including any soil disturbance or removal of vegetation, shall not commence on the site until the City has issued an approval of the SWP3.

- D. The owner/developer bears the responsibility for implementation of the SWP3, and notification of all contractors and utility agencies on the site.
- E. The owner/developer bears the responsibility for meeting compliance with the State of Arkansas Construction General Permit (for discharge of storm water from construction sites).

SECTION 12. Subdivision developments requiring an approved SWP3.

Where construction of a subdivision development will disturb soil, or remove vegetation on one (1) or more acres of land during the life of the development project, approved storm water pollution prevention plans (SWP3's) for the project must be provided, and implemented by the subdivision owner/developer as follows:

- A. The area disturbed shall be assumed to include the entire platted area.
- B. SWP3's must be provided by the subdivision owner/developer and submitted to the City Engineer and City Building Inspector for approval.
- C. SWP3's must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction, general grading, and the construction of individual homes. The subdivision owner/developer will not be required to provide an SWP3 for the activities of utility agencies within the subdivision.
- D. The subdivision owner/developer shall provide a copy of the approved SWP3's to all utility agencies prior to their working within the subdivision.
- E. The subdivision owner/developer bears the responsibility for implementation of the approved SWP3's for all construction activity within the development, excluding construction managed by utility agencies.
- F. The subsequent owner of an individual lot bears the responsibility for continued implementation of the approved SWP3's for all construction activity within, or related to the individual lot, excluding construction managed by utility agencies.

SECTION 13. Storm water pollution prevention plans.

Preparation and implementation of storm water pollution prevention plans for construction activity shall comply with the following:

- A. *Preparation.*
 - (1) The SWP3 shall be prepared under the direction of a qualified person.
 - (2) The SWP3 shall provide the name, address, and phone number of the project owner, for purposes of correspondence and enforcement.
 - (3) The SWP3 shall identify existing natural resources such as streams, forest cover, and other vegetative cover.
 - (4) The SWP3 shall specify and provide details for all BMP's necessary to meet the requirements of this article, including any applicable BMP's that have been adopted and imposed by the City of Brookland.
 - (5) The SWP3 shall specify when each BMP will be installed, and for how long it will be maintained within the construction sequence. Multiple plans may be required for major phases of construction such as rough grading, building construction and final grading.

(6) The SWP3 shall delineate all anticipated disturbed areas and specify the vegetation cover that must be established in those areas to achieve final stabilization.

B. Implementation.

- (1) BMPs shall be installed and maintained by qualified persons. The owner/developer, or their representative shall be able to provide, upon the Code Enforcement Officer's request, a copy of the SWP3 on site, and shall be prepared to respond to unforeseen maintenance of specific BMP's.
- (2) The owner/developer or their representative shall inspect all BMP's at least once per week, and within 24 hours after a rainfall of one quarter of an inch or more, as measured at the site, or generally reported in the Brookland area.
- (3) Based on inspections performed by the owner/developer, or by authorized city personnel, modifications to the SWP3 will be necessary if at any time the specified BMP's do not meet the objectives of this article, or those of the state of Arkansas Construction General Permit. In this case, the owner/developer, or authorized representative shall meet with authorized city personnel to determine the appropriate modifications. All modifications shall be completed within seven (7) days of the referenced inspection, except in the circumstances necessitating more timely attention and shall be recorded on the owner's copy of the SWP3.

SECTION 14. Requirements for utility construction.

(A) Utility agencies shall be responsible for compliance with the requirements of this article.

(B) Utility agencies shall develop and implement best management practices (BMP's) to prevent the discharge of pollutants on any site of utility construction within the City of Brookland. In addition, the city may adopt and impose BMPs on utility construction activity.

(C) Utility agencies shall implement BMPs to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed, and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.

(D) Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWP3's for the project. Any disturbance to BMP's resulting from utility construction shall be repaired immediately by the utility company, in compliance with the SWP3.

SECTION 15. Enforcement personnel authorized.

The following personnel employed by the city shall have the power to issue notices of violations and implement other enforcement actions under this article, as provided by the City of Brookland.

(A) All authorized personnel under the supervision of the Mayor.

(B) All code enforcement officers under the supervision of the Mayor.

(A) All health officers that are authorized representatives of the Craighead County Health Department.

SECTION 16. Right of entry and sampling.

(A) Whenever the Code Enforcement Officer has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this ordinance, the Code Enforcement Officer shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this ordinance. If the owner or occupant refuses entry after a request to enter has been made, the city is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.

(B) The Mayor and/or Code Enforcement Officer, City Building Inspector, City Engineer shall have the right to set up on the property of any discharger to the storm drainage system, such devices that are necessary to conduct sampling of discharges.

SECTION 17. Enforcement procedures.

This Ordinance establishes a formal enforcement procedure to be followed by the City of Brookland Mayor when enforcement action is necessary on sites that do not comply with the city's storm water pollution prevention and erosion control ordinance. Enforcement cases can be generated in any of three ways: (1) through the construction review (inspection) process; (2) through complaints from individuals, groups, etc.; and (3) through referrals from city/state agencies. Procedures to be followed for each of these methods are outlined below:

- A. *Construction Review (Inspection)*. Every effort is made to use the construction review process to correct deficiencies in site compliance whenever possible. Should that process fail to achieve expected results, or if the code enforcement officer feels that a violation is serious enough to warrant enforcement action, the following procedures shall be followed:
- (1) *Issuance of Notice of Violation*. If site deficiencies are noted, the owner/developer, or authorized agent shall be given a notice of violation. The notice of violation shall be specific as to the noted violation, corrective measures to be taken, and time frame allowed for completion of the work.
 - (2) *Compliance Review*. At the end of the time specified above, a follow-up site inspection shall take place to determine whether compliance has been achieved. Depending on that determination, the following actions may occur:
 - a. Site violations corrected. If all previous site violations have been corrected, the code enforcement officer shall issue an inspection report stating that fact, and the site shall be returned to a normal construction review status.
 - b. Previous violations not corrected. If previously noted violations have not been satisfactorily corrected, then further actions may be initiated as outlined in the following section.
- B. *Submissions from the General Public*. Members of the public may submit information pertaining to this ordinance to the City of Brookland. The Mayor will consider such submissions as they pertain to the implementation and enforcement of this ordinance and will provide written or verbal response to the person submitting the information.
- C. *Referrals from other agencies*. Referrals from other agencies will be handled in the following manner:
- (1) Cases will be referred directly to the Mayor. At this point, the Mayor, will determine if enforcement actions are warranted, and if proper documentation has been obtained. If the Mayor determines that action is required, the enforcement process will be set into motion.
 - (2) Cases received by the Mayor will be handled on a first come, first served basis. All enforcement actions will be initiated by a site inspection to verify site conditions that caused the case to be referred. If conditions have been corrected, or do not exist as stated in the referral, the case will be returned to file for documentation and reporting purposes. If conditions exist as stated in the referral, enforcement actions will proceed.
 - (3) Once site conditions have been verified and the site is determined to be in a state of noncompliance, a Notice to Comply will be issued to the owner/developer informing them that they are not in compliance with the city's storm water pollution prevention and erosion control ordinance, the steps needed to be taken to get into compliance, and that they have an established time frame to complete the work. At the end of the period the code enforcement officer will re-inspect the site to check for compliance. If all work has been satisfactorily completed, the case will be returned to file for documentation and reporting purposes. If the work has not been satisfactorily

completed within the established time frame, a citation (ticket) will be issued to the owner/developer and follow-up will be done until the site is brought back into compliance.

D. Enforcement options for failure to comply.

(1) The City of Brookland Mayor, may issue a stop work order to any persons violating any provision of the city's storm water pollution prevention and erosion control ordinance by ordering that all site work stop, except that necessary to comply with any administrative order.

(2) The City of Brookland may request that the Planning Commission refrain from issuing any further building or grading permits until outstanding violations have been remedied.

(3) The City of Brookland code enforcement officer may initiate penalties as stipulated herein. Complete information concerning enforcement and penalties is described below.

E. Action without prior notice. Any person who violates a prohibition or fails to meet a requirement of this article will be subject, without prior notice, to one or more of the enforcement actions, when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or threatened discharge which presents, or may present, imminent danger to the environment, or to the health or welfare of persons, or to the storm drainage system.

F. Enforcement Actions.

(1) *Recovery of Costs.* Within 30 days after abatement by city representatives, the Mayor shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the city council. The written protest must be received by the Mayor's office within 15 days of the date of notification. A hearing on the matter will be scheduled before the city council. The decision of the city council shall be final. If the amount due is not paid within the protest period, or within 10 days of the decision of the city council, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the county clerk so that the clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the treasurer shall include the amount of the assessment of the bill for taxes levied against the parcel of land.

(2) *Termination of utility services.* After lawful notice to the customer and property owner concerning the proposed disconnection, the Mayor shall have the authority to order the disconnection of city water, sanitary sewer and/or sanitation services, upon a finding by the Mayor that the disconnection of utility services will remove a violation of this article that poses a public health hazard or environmental hazard.

(3) *Performance Bonds.* Where necessary for the reasonable implementation of this article, the Mayor may, by written notice, order any owner of a construction site or subdivision development to file a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the Mayor to be necessary to achieve consistent compliance with this article. The city may deny approval of any building permit, subdivision plat, site development plan, or any other city permit or approval necessary to commence or continue construction, or to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the city council. The written protest must be received by the Mayor's office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the city council. The decision of the city council shall be final.

(4) *Criminal Prosecution.* Any person who violates or continues to violate a prohibition or requirement of this article shall be liable to criminal prosecution to the fullest extent of the law and shall be subject to criminal penalties.

G. *Criminal Penalties.* The violation of any provision of this article shall be deemed a municipal offense. When all other efforts have failed to correct non-compliance issues persons violating this ordinance shall, upon an adjudication of guilt or a plea of no contest, be fined according to the schedule of fines reference below. Each separate day on which a violation is committed, or continues, shall constitute a separate offense.

Schedule of Fines

Offense	Fine (Per Offense)
First	\$500.00
Second & Subsequent	\$1,000.00

H. *Other legal action.* Notwithstanding any other remedies or procedures available to the city, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this article, the city attorney may commence an action for appropriate legal and equitable relief including damages and costs in any court of competent jurisdiction. The city attorney may seek a preliminary or permanent injunction, or both, which restrains or compels the activities on the part of the discharger.

SECTION 18. Storm Water Pollution Prevention Plan (SWPPP)

A. Preparation.

(1) The SWPPP shall be prepared in accordance with the provisions of ADEQ General Permit ARR150000. All SWPPP's shall be prepared and sealed by the engineer of record for the project except those for:

- (a) One new or existing single-family structure that is part of a larger common development.
- (b) One new or existing duplex, triplex, or quadplex structure that is part of a larger development; or.
- (c) One existing commercial or industrial structure where additional structure or site improvements are less than 2000 square feet and that is part of a larger common development.

(2) SWPPP's exempt sites in subsections A(1)a through c in this section can be prepared by the developer, provided that the developer is knowledgeable with the applicable local, state, and federal requirements for SWPPP preparations.

B. Submission. The developer shall submit two signed copies of the SWPPP to the City Inspector and City Engineer. The City Engineer will review the submittal.

C. Plan review.

- (1) The City Engineer or his designated representative shall review the submittals for conformance to the city minimum design standards.
- (2) The City Engineer will review and comment or approve the project submittals within 15 business days upon receipt. Failure of the City Engineer to meet this timeline shall not be considered approval of the proposed work.

D. Rejection.

(1) If it is determined that the proposed development will not control storm water runoff in accordance with these regulations, a comment letter listing the deficiencies shall be issued to the developer for response. Re-submittals shall be made to the City Engineer.

- (2) If needed, an informal meeting between the developer and City Engineer or his designee may be scheduled by either party to review the overall concepts included in the plan. The purpose of this meeting may vary, but generally shall be to jointly agree upon an overall storm water management concept for the proposed development and to review criteria and design parameters which shall apply to the project.

E. Acceptance. If it is determined that the proposed development will control storm water runoff in accordance with these regulations, a pre-construction permit will be issued to the developer.

SECTION 19 Design Criteria

The city's stormwater drainage design manual (drainage manual) latest version shall be the accepted design document. It is the responsibility of the developer and the engineer of record to verify that they are using the latest version of the drainage manual in the design of their proposed development. Unless otherwise provided, the following rules shall govern the design and improvements with respect to managing stormwater runoff:

A. *Method of determining stormwater runoff.* Developments where the upstream drainage area contributing runoff is less than 100 acres should be designed using the SCS, Type II 24-hour distribution, TR-55 Hydrograph Method for calculating runoff. Developments where the area contributing runoff is greater than 100 acres shall use the city basin analysis for calculating runoff. If not available, the FEMA Data shall be used for calculating runoff. If neither the basin analysis nor the FEMA Data is available, the SCS TR-55 Hydrograph Method for calculating runoff shall be used.

B. *Differential runoff.*

- (1) For undeveloped property, peak flow rate, and velocity of stormwater runoff from the site, post-development, should to the extent practicable approximate that of the site prior to the development.
- (2) For redeveloped property, peak flow rates, and velocity of stormwater runoff from this site, post-development, should be reduced by an amount equivalent to a 20 percent reduction in impervious area from the previously developed site.

C. *Development design.*

(1) For undeveloped property, peak flow rate, and velocity of stormwater runoff from the site, post-development, should to the extent practicable approximate that of the site prior to the development.

(2) Streets, curbs and gutters, parking areas, enclosed conveyance systems, detention basins, retention basins, and other generally accepted practices and methods for stormwater control may be a part of the overall stormwater runoff management systems for a particular site. To the maximum extent possible, these facilities shall be concurrently designed to effectively manage stormwater runoff in accordance with these regulations.

D. *Enclosed systems and open channels.* Enclosed systems and open channels shall be designed in accordance with the drainage manual.

E. *Evaluation of downstream flooding.*

(1) The engineer of record shall evaluate whether the proposed plan will cause or increase downstream flooding conditions within the drainage sub-basin in which the project is located or if it will otherwise increase peak flows from the drainage sub-basin. This evaluation shall be made based on existing downstream development and an analysis of stormwater runoff with and without the proposed development. When it is determined that the proposed development will cause or increase downstream flooding conditions, provisions to correct such cause or increase shall be included in the overall design of the stormwater management system improvements. Such

provisions may include downstream improvements or detention of stormwater runoff and its regulated discharge to the downstream storm drainage system, or both.

- (1) When it is determined that a localized flooding condition exist downstream of a proposed development, the engineer of record for the project shall notify the city engineer of this discovery and include sufficient documentation in the project submittals to assist in the delineation of the identified special flood hazard area (SFHA).

F. *Detention.* The following design criteria shall govern the design of detention facilities:

- (1) *Release rate.* The release rate from any detention facility shall be equal to or less than that of the site prior to the proposed development.

- (2) *Freeboard.* Detention storage areas shall have adequate capacity to contain the storage volume of tributary stormwater runoff with freeboard in accordance with the drainage manual.

- (3) *Outlet control works.*

- a. Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation.

- b. Size and hydraulic characteristics shall be such that all water and detention storage is released to the downstream stormwater conveyance systems within 24 hours after the end of the design rainfall. Normal time for discharge ranges from three to 24 hours.

- (4) *Spillway.* Emergency spillways shall be provided in accordance with the drainage manual.

- (5) *Design data submittal.* In addition to complete plans, all design data shall be submitted as required in the detention design data submittal section of the drainage manual.

- (6) *Detention methods.* Depending upon the detention alternative or alternatives selected by the engineer of record, the design criteria for detention shall follow those given in the drainage manual.

- (7) *Required buffer widths.* The top-of-bank or toe-of-slope of a retention/detention facility shall be no closer than ten feet to an abutting property line.

G. *Alternatives to on-site detention.*

- (1) *Alternative methods.*

- a. Where on-site detention is deemed inappropriate, alternatives to on-site detention shall be permitted. The methods may include off-site detention or improvements.

- b. Determinations regarding the appropriateness of on-site detention shall be made by the city engineer based upon the impact of the proposed development on existing drainage networks and the location of the project in relation to existing floodplains, regional detention facilities, and other planned drainage or channel improvements. Disputes, if any, shall be resolved by the stormwater management board.

- c. Determinations regarding the appropriateness of off-site detention or comparable improvements shall be made by the city engineer based upon the impact of the proposed development on existing drainage networks and the location of the project in relation to existing floodplains, regional detention facilities, and other planned drainage or channel improvements. Disputes, if any, shall be resolved by the stormwater management board.

(2) *Excess stormwater storage credit.* A developer may receive credit for excess stormwater storage (in acre-feet) created on one site that may be applied to another site within the same watershed. The transfer of storage volume credit (in acre-feet) shall not be allowed when the site where credited storage is proposed to be transferred has an existing flooding condition downstream or the proposed development will cause downstream flooding.

SECTION 20 Maintenance assurance

Prior to final acceptance of the development and the recording of the record plat, the developer or developers shall acknowledge their perpetual maintenance responsibilities for the stormwater management improvements (excluding detention and retention basins) and drainage easements to be dedicated to the city. This assurance shall be in a form acceptable to the Mayor, City Attorney, and the City Engineer, and shall be recorded with the circuit court clerk at the same time as the recorded plat.

SECTION 21 Performance bond

A. The developer shall, before the sale of any lot or lots, either complete the improvements or provide a performance bond to guarantee the completion of the improvements in a timely manner. The bond shall be in a form and in an amount acceptable to the Mayor, City Attorney, and the City Engineer, and shall assure that the prescribed work will be well and truly performed and complete in good, sufficient, and workmanlike manner within an agreed time period, not to exceed six months, and shall indemnify and hold harmless the city from and against all claims, loss, damages, injury or death, court costs, litigation expense, reasonable attorneys' fees, and expenses whatsoever which may arise because of or resulting from the developer's operation.

B. All companies furnishing bonds shall be on the U.S. Treasury Department's most current list of approved surety companies (Circular 570, as amended) and be authorized to transact business in the state.

SECTION 22 Maintenance bond

A. A one-year maintenance bond against defects in workmanship shall be required for any portions of the stormwater management improvements proposed to be dedicated to the city. The maintenance bond shall be in a form acceptable to the Mayor, City Attorney, and the City Engineer, and shall indemnify and hold harmless the city from and against all claims, loss, costs, damages, injury or death, court costs, litigation expense, reasonable attorneys' fees, and expenses whatsoever which it may suffer or be compelled to suffer to pay by reason of failure of the developer to keep said work in repair or against any and all defects of workmanship or materials. No maintenance bond shall be required for improvements located on private property which is not to be dedicated to the city.

B. All companies furnishing bonds shall be on the U.S. Treasury Department's most current list of approved surety companies (Circular 570, as amended) and be authorized to transact business in the state.

SECTION 23 Certifications

A. Prior to issuance of any occupancy permit or entrance into the one-year probationary period for subdivision acceptance, the engineer of record shall submit to the city engineer certification that the stormwater management system is complete and functional in accordance with the plans approved by the city engineer. Any deviations from the approved plans shall be noted. To ensure the adequacy of stormwater quantity detention facilities and stormwater management practices, this certification shall, at a minimum include "record drawings" showing final topographic features of all facilities and updated hydrologic and hydraulic computations for the as-built conditions.

B. Prior to the issuance of any occupancy permit subject to minimum floor elevation requirements, a registered engineer or registered land surveyor, shall submit to the city engineer certification of the elevation of the lowest floor (including basement); or if the structure has been flood proofed, the elevation to which the structure is floodproofed. This information must be provided on a FEMA elevation certificate.

SECTIONS 24 Notifications

Developers having been issued a grading permit shall notify the city engineer upon final stabilization of the disturbed lands and request that the grading permit be terminated. Request for a certificate of occupancy for a structure shall be deemed a sufficient means of notification.

SECTION 25 Final acceptance

A. Upon expiration of the approved one-year maintenance bond and correction of all deficiencies noted in the eleventh month anniversary inspection report prepared by the city engineer or his designated representative and presented to the developer, the city engineer shall issue or cause to be issued a letter to the engineer of record for the project accepting the improvements into the city's long-term maintenance program.

B. As-builts of the project shall be provided to the city in conformance with the provisions of this ordinance.

Final acceptance by the city will not be given until as-builts are provided to the city.

SECTION 26 Inspection

The City Inspector and/or City Engineer may make or cause to be made the inspection of any tract of land for each of the following:

A. *Permit.* Before a compliance letter or grading permit is issued, the City Inspector and/or City Engineer may examine or cause to examine any tract of land for which an application has been received.

B. *Construction.* Permitted sites may be inspected at various intervals during the course of construction including but not limited to:

- (1) Prior to the initiation of the project, temporary or permanent erosion prevention and sediment control practices have been installed.
- (2) After the completion of rough grading and installation of stormwater management structures; and
- (3) Upon completion of the project.

SECTION 27. Repeal. This ordinance shall repeal Ordinance Number 2009-1.

SECTION 28. Held Invalid. Any part of this ordinance that may be held invalid by any court or jurisdiction SHALL not affect the remainder of this ordinance.

SECTION 29. Emergency Clause. It is hereby found and declared by the City Council of the City of Brookland, Arkansas, that the quality of water impacted by storm water drainage and the prevention of the discharge of contaminated storm water runoff is important to the preservation of public peace, health, and safety; therefore, an emergency is hereby declared to exist, and this Ordinance shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 14th day of August, 2023


KENNETH D. JONES, MAYOR

ATTEST:


JULIA THOMAS, RECORDER
Julie

