



CITY COUNCIL WORK SESSION

Ted Terry – Mayor

YT Bell

Awet Eyasu

Andrea Cervone

Ahmed Hassan

Jamie Carroll

Mario Williams

Robin Gomez – City Manager

AGENDA

Tuesday, January 29, 2019 7:00PM

A. ROLL CALL

B. WORK SESSION - RESIDENT COMMENT POLICY

Any member of the public may address questions or comments to the Council referencing only agenda items after the Mayor and council have had the opportunity to discuss the agenda item. Each Attendee will be allowed 3 minutes for comments at the discretion of the Presiding Officer. Attendees will be asked to conclude their comments in a reasonable time period if they exceed the 3 minute limit.

C. PRESENTATION/ ADMINISTRATIVE BUSINESS

D. OLD BUSINESS

D1) Discuss Adopting a Non-Discrimination Ordinance

D2) Discuss Amending Zoning Ordinance to allow automobile sales as a conditional use in NC-2

D3) Discuss Amending Chapter 3 of the Code regarding Alcohol to Allow “Late Night Sales” for Consumption on Premises

E. NEW BUSINESS

E1) PUBLIC HEARING: Myrick Gurosky and Associates for North American Mission Board of the Southern Baptist Convention, Incorporated with Clarkston International Bible Church is submitting a site development plan for a proposed Planned Unit Development (PUD) consisting of nine (9) parcels located at 3895 Church Street-Parcel 18 096 16 003, 3865 Church Street, 18 096 06 006, 3871 Church Street, 18 096 16 005, 993 Rowland Street-18 096 15 005, 1011 Rowland Street-18 096 15 004, 1001 Rowland Street-18 096 15 006, 966 Rowland Street-18 096 16 008, 954 Rowland Street-18 096 16 010, 960 Rowland Street-18 096 16 009 Clarkston, GA 30021. If approved the PUD will include multifamily housing, new parking areas, and an activity center.

E2) PUBLIC HEARING: Rezoning request from Christopher Malone to rezone the property located at 3723 DeBelle Street-Clarkston, GA 30021, parcel 18 067 03 001 from NR-1 Low Density Neighborhood Residential to NR-2 Medium Density Residential. If approved the applicant will subdivide the property into two (2) lots to construct a new 1484 SF single family home on the vacant lot.

E3) PUBLIC HEARING: Variance request from Christopher Malone to vary from Section 702 NR-2 Medium Density Neighborhood Residential (f) Bulk and area regulations of minimum lot size of 7500 sq. ft. to allow the minimum lot size to be 7202 sq. ft. per lot.

E4) Adopt Required Stormwater Ordinances and Regulations: Georgia Erosion & Sedimentation Act, Enforcement Response Plan and Green Infrastructure / Low Impact Development Program.

E5) Adopt the 2018 International Property Maintenance Code

E6) Discuss Membership to National League of Cities

F. ADJOURNMENT

Note: Detailed Information on current Agenda Items can be found at the City of Clarkston Website Agenda page.
<http://www.clarkstonga.gov/index.php/city-your-government/agendas-minutes>

ARTICLE XVIII. - DISCRIMINATION

Sec. 6-1001. – Definitions.

For purposes of this article, certain terms shall be interpreted or defined as follows unless the context clearly indicates otherwise.

- (a) *Business* means any person or entity conducting business within the City, which is required to obtain a license or permit. For purposes of this article, no department of any government agency shall be considered to be a business (notwithstanding licensure by the City).
- (b) *Place of public accommodation* means any place, store, or other establishment, that supplies accommodations, good or services to the general public, or that solicits or accepts the patronage or trade to the general public, or that is supported directly or indirectly by government funds. The term does not include any private club, bona fide membership organization, or other establishment that is not in fact open to the public.
- (c) *Rental housing* means any real property which is required to obtain a license or permit by the City of Doraville.
- (d) *To rent* means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (e) *Employee* means any person employed by or seeking employment from any business within the City of Doraville. Employee does not include any individual employed by such individual's parents, spouse or child or in the domestic service of any person.
- (f) *Person* means an individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver and fiduciary.
- (g) *Familial status* means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.
- (h) *Sexual orientation* means an individual's actual or perceived orientation as heterosexual, homosexual, bisexual or asexual.
- (i) *Gender identity* means the actual or perceived gender-related identity, expression, appearance, mannerisms, or other gender related characteristics, regardless of the individuals designated sex at birth.
- (j) *Military status* means a person who is serving or has served in the uniformed services, and who, was discharged or released under conditions other than dishonorable, as specified in 38 U.S.C. 101(2), or amendments thereto. Uniformed services is defined as set forth in 20 C.F.R. 1002.5(o), or amendments thereto.
- (k) *Hearing officer* means a person chosen as described in Sec 2104, who is charged with determining the validity of alleged violations of this article, and upon determining that a violation has occurred, assessing appropriate damages, penalties and/or costs as provided in this article.
- (l) *Mediator* means a state registered mediator, who shall be chosen by the City to perform the duties described in Sec 6-1003.
- (m) *Religious organization* means an entity which: Conducts regular worship services; or Is qualified as a religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, that is not required to file IRS Form 990, Return of Organization Exempt From Income Tax, under any circumstances.

Sec. 6-1002. – Unlawful Practices.

- (a) It shall be an unlawful discriminatory practice for a business, because of the race, religion, color, sex, disability, national origin, ancestry, sexual orientation, gender identity or military status of any person to refuse to hire or employ such person to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation.
- (b) It shall be an unlawful discriminatory practice for a business to discriminate against any person in the terms, conditions or privileges of sale or rental of real property or rental housing, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, disability, familial status, national origin, ancestry, sexual orientation, gender identity or military status, or to discriminate against any person in such person's use or occupancy of rental housing because of the race, religion, color, sex, disability, familial status, national origin ancestry, sexual orientation, gender identity, or military status of the people with whom such person associates.
- (c) It shall be an unlawful discriminatory practice for any business, as defined herein being the owner, operator, lessee, manager, agent or employee of any place of public accommodation, to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this article because of race, religion, color, sex, disability, national origin, ancestry, sexual orientation, gender identity, or military status. Notwithstanding the above, nothing in this article shall be construed to prevent any business as defined in this article from offering, affording or providing any additional benefit or additional discount to a person because of such person's military status.
- (d) Nothing in this article shall be construed to mean that a business shall be forced to hire unqualified or incompetent personnel, or discharge qualified or competent personnel.
- (e) Nothing in this article shall prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable and equitable dress or grooming standards not prohibited by other provisions of Federal, State, or local law, provided that all employees are permitted to dress in a manner consistent with their gender identity.
- (f) Nothing in this article shall prohibit a religious organization to employ an individual of a particular religion to perform work connected with the performance of religious activities by the religious organization. Nor shall this article prohibit a religious organization from limiting its non-commercial accommodations, advantages, facilities, membership, and privileges to persons of the same religion.
- (g) Nothing in this article shall prohibit a nonprofit private club in fact not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (h) Nothing in this article shall be construed to require any entity subject to this article to make changes requiring a building permit to any existing facility, except as otherwise required by law.

Sec. 6-1003. – Enforcement.

- (a) Any person aggrieved by a potential violation of this article may file a complaint with the City Clerk on a form to be provided by the City. The aggrieved person's full name shall be written on the subject complaint. Any such complaint must be filed within 90 days after the alleged act of discrimination. A filing fee of \$50.00 shall be paid by the Complainant contemporaneously with the filing of all discrimination complaints, however, Complainant shall receive a refund of the filing fee if the Complaint survives the dismissal provisions of Sec 6-1005(c).

- (b) The City Clerk shall cause the complaint to be served on the person charged with a violation as soon as practicable but in no event later than seven (7) calendar days after receipt of a verified complaint. Service may be by personal service, by certified mail, return receipt requested or by statutory overnight delivery.
- The City Clerk shall cause a copy of the complaint to be served upon all City Council Members within forty-eight hours after receipt of a verified complaint. A copy shall be furnished by electronic mail to the Council Members government e-mail address. A copy of the verified complaint shall also be placed in each Council Member's designated mailbox.
 - All verified Complaints shall be announced by the City Manager at the City Council meeting that immediately follows the date of the verified complaint.
 - All verified complaints, along with all associated penalties and recorded decisions, shall are public records subject to the Georgia Open Records Act
 - All hearing held pursuant to a verified complaint shall be open to the public and shall be recorded by video.
- (c) The complaint shall first be referred to a mediator for non-binding mediation. Participation in mediation shall be voluntary for both parties. The mediator shall be a person, selected from a list provided by the City, to serve as the mediator. Any fees charged by the mediator shall be split equally between the parties, unless at the conclusion of the mediation, both parties agree to assess these costs of mediation in some other manner.
- (d) Any mediation hereunder shall be conducted in accordance with procedures to be established by the mediator.
- (e) If, within 15 days of the conclusion of the mediation, either party notifies the City Clerk in writing that such person is dissatisfied with the results of the mediation, or if either party elects not to participate in mediation, the complaint shall be referred to a Hearing Officer as per Sec 6-1004.
- Also, all businesses must agree to provide a copy of this Ordinance to their respective employees, within 60 days of obtaining their business license from the City of Clarkston. Regarding current businesses, whose license has already been obtained at the time that this Ordinance becomes effective, those businesses shall provide a copy of this Ordinance to their respective employees within 90 days of the Ordinance's effective date. The City manager shall send a notice regarding this requirement to all affected businesses (as of the day this Ordinance becomes effective) within seven days of the Ordinances effective date.

Sec. 6-1004 – Appointment of Hearing Officer, Service of Complaint, Burden of Proof; Introduction of Evidence

- (a) All complaints not resolved by mediation shall be heard before a Hearing Officer who: (i) shall be a competent attorney at law of good standing in his or her profession, (ii) shall have at least five (5) years' experience in the practice of law in the area of constitutional and employment discrimination, and (iii) shall not maintain an office within a ten (10) mile radius of the City of Doraville, Georgia. The City Clerk shall maintain a listing of no less than five (5) qualified attorneys, who must be

licensed to practice law in the state of Georgia, to serve as a Hearing Officer pursuant to this section. Upon receipt of the letter of dissatisfaction with the results of the mediation, or if either party elects not to participate in mediation, the City Clerk shall draw names randomly from the listing of qualified Hearing Officers and appoint the first one who is available to serve in the matter.

- (b) In all hearing officer proceedings under this section, the burden of proof shall be on the complaining party. Further, the quantum of proof required to establish a violation under this Ordinance shall be based on a preponderance of the evidence.
- In all hearing officer proceeding hearsay evidence shall be admissible, and if the hearing officer discredits hearsay evidence or otherwise excludes said evidence, the decision to do so must be explained, in writing, as part of the hearing officer's decision regarding the verified complaint.
 - No judicial rules of evidence, including the Georgia Rules of Evidence for Civil Procedure and the Georgia Administrative Procedures Act, apply to any portion of a verified complaint, to include the actual hearing regarding the Complaint.
 - A Complainant may call a witness by submitting a request to the Hearing Officer while also explaining the importance of the witness. If it is alleged that the witness saw or heard matters at issue in the verified complaint, then the hearing officer shall subpoena the witness to show up at the hearing about the complaint. The Complainant's request must be made at least ten days prior to a scheduled hearing date.

Sec. 6-1005. – Hearing.

- (a) The person violator charged in the Complaint shall have fifteen (15) days to file an answer to the complaint provided, however, the alleged violator charged shall have no obligation to file an answer to any complaint.
- (b) Upon the expiration of the fifteen (15) day answer period, the Hearing Officer shall review the complaint and answer, if any, to determine: (i) whether the complaint is in conformity of the requirements of Sec 6-1003 above, (ii) whether upon consideration of the complaint and answer, the complaint is unjustified, frivolous, or patently unfounded, or (iii) whether upon consideration of the complaint and answer, the complaint demonstrates facts sufficient to invoke disciplinary jurisdiction as set forth in this Ordinance.
- (c) If the complaint fails based upon the requirements of the foregoing subsection (b), the Hearing Office must state the reasons for said dismissal in writing, and the City Council must approve of the dismissal by majority vote per City Council Rules as to hat constitutes a majority vote.
- Once a verified Complaint is dismissed, the Complainant may appeal the dismissal to the City of Clarkston Municipal Court.
- (d) Upon a determination that the complaint should not be dismissed pursuant to the foregoing subsection (c), the Hearing Officer shall be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigations to the file containing such complaint. In furtherance of this investigation, the Hearing Officer may:

- (i) Seek such further information from the complainant or the alleged violator charged through inquiry or written questions, provided, however the alleged violator shall have no obligation to answer any inquiries, or
- (ii) Conduct a hearing regarding the allegations set forth in the complaint. At any hearing, the alleged violator who is the subject of inquiry shall have the right: (i) to representation by counsel at all stages of these proceedings, (ii) to written notice of the hearing at least ten (10) calendar days before the first hearing, (iii) to hear and examine the evidence and witnesses, (iv) to not testify, and (v) to submit evidence and call witnesses to oppose or mitigate the allegations.
 - Once a hearing is set, to adjudge a verified complaint, the Complainant is entitled to representation by the City of Clarkston's public defender. After a hearing date is set, the Complaint must request representation by the City of Clarkston's public defender no less than two weeks prior to the hearing date. The Public Defender may seek a continuance of the hearing date, and such request shall be freely granted, generally.
- ~~(e) All investigations under this section shall be completed within thirty (30) days of receipt of the alleged violator's response or the expiration of the 15-day answer period. Should the investigation not be completed in said period, the complaint will be deemed dismissed as a failure to state facts sufficient to invoke the disciplinary jurisdiction of the City of Clarkston.~~
- (f) Within seven (7) days of the completion of the investigation, to include a hearing, the Hearing Officer shall either:
 - (i) Dismiss the complaint on the grounds that it is unjustified, frivolous, patently unfounded, or that it fails to state facts sufficient to invoke the disciplinary jurisdiction of the City of Doraville, or
 - (ii) Finds that a violation of this article has occurred, and thus the Hearing Officer may apply the following penalties: a civil penalty in an amount up to \$1,000.00 for each violation; community service hours not to exceed eighty hours; revocation of the violator's Clarkston-issued business license; and/or sensitivity training not to exceed 80 hours in total for all employees, but no less than 40 hours. If the Hearing Officer finds that the violator's business license should be revoked, the Hearing Officer must make a recommendation to the City Council and thereafter, the City Council must vote to revoke the licenses. The City Council's vote must take place within 30 days of the Hearing Officer's recommendation.
 - The Hearing officer shall provide the City Manager with a copy of all decisions within forty-eight hours of making said decisions.
- (g) In addition, the Mediator's fees and the Hearing Officer's fees shall be assessed to the non-prevailing party unless the Hearing Officer determines that the circumstances warrant assessing the costs in some other manner.
- (h) The Hearing Officer must submit all documents and information related to all verified complaints to the City Manager, to be placed on file, within 48 hours of receiving said documents and information. In the case of written decision made by the Hearing Officer, a copy those decisions must be provided to all City Council Members by the City Manager within 48 hours of the City Manager receiving said decisions.

- (a) Any party adversely affected by the final decision regarding a verified Complaint may appeal the final order to Clarkston Municipal Court. The party choosing to appeal must do so within fourteen days of the adverse decision. In the case that a decision by the hearing officer must be voted on by the City Council, the decision is not final until the City Council has undertaken said vote.

DRAFT

ORDINANCE NO. 19-_____

AN ORDINANCE TO AMEND CHAPTER 3 OF THE CODE, REGARDING ALCOHOLIC BEVERAGES, TO ALLOW “LATE NIGHT SALES” FOR CONSUMPTION ON THE PREMISES SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, the City Council has determined that “late night sales” of alcohol for consumption on the premises, as defined herein, present an important economic opportunity for businesses located within the City; and

WHEREAS, the City Council has determined that certain conditions must be met by licensed alcohol vendors in order to protect public safety during the “late night sales” period.

NOW THEREFORE, BE IT ORDAINED BY the City of Clarkston, Georgia that Chapter 3 of the City’s Code of Ordinances, concerning the sale of alcohol within the City of Clarkston, be amended as follows:

Section 1.

New Code Section 3-34 is hereby adopted, to read as follows:

“Sec. 3-34. Late night alcohol sales for consumption on premises.

(a) In addition to the permissible hours for sales of alcoholic beverages for consumption on the premises set out in Section 3-29, businesses licensed to sell alcohol for consumption on premises may also make such sales during the following hours, subject to the conditions set forth this section:

- (1) Monday, Tuesday, Wednesday, Thursday and Friday mornings between 1:56 a.m. and 4:00 a.m.; and
- (2) Saturday morning between 2:51 a.m. and 4:00 a.m.

(b) Late night sales pursuant to this section shall only be permitted when the licensee engages an off-duty P.O.S.T. certified law enforcement officer currently employed in such capacity by either the City of Clarkston or DeKalb County to provide security at the licensed establishment during late night hours and such security officer is actually present at the premises to provide security.

(c) The licensee shall not permit any person under 21 years of age to be present at the premises during late night sales hours as defined in this section.”

Section 2.

This ordinance shall become effective immediately upon its adoption by the City Council.

SO ORDAINED, this _____ day of _____, 2019.

ATTEST:

**CITY COUNCIL OF THE
CITY OF CLARKSTON, GEORGIA**

Tracy Ashby, City Clerk

Mayor Ted Terry

Approved as to Form

 1-23-19

Stephen G. Quinn, City Attorney

CITY OF CLARKSTON

ITEM NO: E1

CLARKSTON CITY COUNCIL

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Resolution

MEETING DATE: January 29, 2019

SUBJECT: Myrick Gurosky and Associates for the North American Mission Board of the Southern Baptist Convention, Incorporated with the Clarkston International Bible Church have submitted a planned unit development (PUD) request that will include multifamily housing, parking areas, and an activity center of the properties located at 3895 Church St., 3865 Church St., 3871 Church St., 993 Rowland St., 1011 Rowland St., 1001 Rowland St., 966 Rowland St., 954 Rowland St., and 960 Rowland St.

DEPARTMENT:
Planning & Development

PUBLIC HEARING: YES NO

ATTACHMENTS: YES NO
Pages:

INFORMATION CONTACT:
Shawanna Qawiy, Planning and Dev. Director
PHONE NUMBER: 404-296-6489

PURPOSE: The Mayor and City Council shall review the PUD submittal for acceptance and determine whether or not to move forward with a public hearing. If it is determined, by the mayor and city council, after review of the proposed application and materials for the PUD, that it is deemed acceptable, Council may move forward into a public hearing to.

NEED/ IMPACT: The applicants have s submitted an application and development plans to be reviewed as a mixed use planned unit development (PUD). Currently three (3) parcels are zoned NR-1 Low Density Neighborhood Residential and six (6) parcels are zoned NC-1 Neighborhood Commercial. The request is for approval of a mixed use planned unit development that will consist of multifamily housing, new parking areas and an activity center. The requested PUD review is permitted within the zoning classifications of NC-1.

A mixed use development incorporates a minimum of forty thousand (40,000) square feet on multiple parcels which has design and development features that would not be possible by the application of lot by lot zoning districts regulations. A PUD is a provision that allows more flexibility to development projects that incorporate two (2) or more buildings on a tract or over several tracts of land than would otherwise be allowed by the underlying zoning district regulations. According to Section 901 of the Zoning Ordinance, the purpose of planned unit developments are to encourage the best possible site plans and building arrangements under a unified plan of development rather than on a lot by lot basis. The developer benefits from better land utilization, economy in the provision of road and utilities and flexibility in design. The City

gains the advantages of variety in building types compatibility of uses and optimum community development. A review of the PUD plans by the City provides an opportunity to assure that the development will be in harmony with the character of the neighborhood. A PUD provides unified approaches to the development of land that provides for a simplified process of enabling development which would otherwise require numerous applications for variations from the provisions of the zoning code and provide for the development of stable environments that are compatible with surrounding areas of the community. It also ensures the provisions of open space, parks and recreation land and facilities for the use of the occupants of the development.

The PUD requests were reviewed at the November 20, 2018 Planning and Zoning Board meeting. The Planning and Zoning Board voted to defer/postpone a decision and requested a traffic impact study from the applicant to be submitted at the next Board meeting (January 22, 2019).

STAFF RECOMMENDATION: *Staff Analysis Attached*

Staff recommended conditional approval of the Planned Unit Development with conditions.

PLANNING AND ZONING BOARD RECOMMENDATIONS: *(12.18.18 and 01.22.19 meeting minutes attached)*

Based on the December 18, 2018, planning and zoning Board public hearing meeting, the Board recommended to defer/postpone a decision on the PUD submittal until the applicant can submit a requested traffic impact study.

Based on the January 22, 2019, planning and zoning Board public hearing meeting, the Board recommended to approve the PUD submittal with conditions.



PLANNED UNIT DEVELOPMENT (PUD) ANALYSIS

Report Prepared by: Shawanna N. Qawiy, MPA, MSCM
Planning & Development Director

Applicant: Myrick Gurosky and Associates for North American Mission Board of the Southern Baptist Convention Inc. w/Clarkston International Bible Church

Location: 3895 Church St.| 3865 Church St.| 3871 Church St. |
993 Rowland St. | 1011 Rowland St. | 1001 Rowland St. | 966 Rowland St.
954 Rowland St.| 960 Rowland St.

Request: A planned unit development that will include multifamily housing, new parking areas, and an activity center.

Parcel ID(s): 18 096 16 003 | 18 096 06 006 | 18 096 16 005 |
18 096 15 005 | 18 096 15 004 | 18 096 15 006 | 18 096 16 008
18 096 16 010 | 18 096 16 009

Current Land Use: The properties currently has a renovated place of assembly, parking areas, vacant building (soon to be demolished) of the Clarkston International Bible Church, vacant lots.

Sign Posted: December 3, 2018

Planning & Zoning Meeting: December 18, 2018; 7PM
DEFERRED until January 22, 2019

City Council Meeting: January 3, 2019; 7PM
DEFERRED until February 5, 2019

Lot Size: 4.45 acres

Road Access: Church Street, Rogers Street and Rowland Street

Public Utilities:

Water and Wastewater Treatment – All planned developments are required to connect to county water and sewer services. Public water service connections are available on this property. If additional public sewer service is warranted it will be made available via line extensions at the developer's/property owner's expense. This will be confirmed during the required permitting review process.

Zoning Overview: Myrick Gurosky and Associates for North American Mission Board of the Southern Baptist Convention Inc., with Clarkston International Bible Church has submitted an application and development plans to be reviewed as a mixed use planned unit development

(PUD). Currently three (3) parcels are zoned NR-1 Low Density Neighborhood Residential and six (6) parcels are zoned NC-1 Neighborhood Commercial. The request is for approval of a mixed use planned unit development that will consist of multifamily housing, new parking areas and an activity center. The requested PUD review is permitted within the zoning classifications of NC-1.

A Planned unit developments (PUD) a provision that allows more flexibility to development projects that incorporate two (2) or more buildings on a tract or over several tracts of land than would otherwise be allowed by the underlying zoning district regulations. According to Section 901 of the Zoning Ordinance, the purpose of planned unit developments are to encourage the best possible site plans and building arrangements under a unified plan of development rather than on a lot by lot basis. The developer benefits from better land utilization, economy in the provision of road and utilities and flexibility in design. The City gains the advantages of variety in building types compatibility of uses and optimum community development. A review of the PUD plans by the City provides an opportunity to assure that the development will be in harmony with the character of the neighborhood. A PUD provides unified approaches to the development of land that provides for a simplified process of enabling development which would otherwise require numerous applications for variations from the provisions of the zoning code and provide for the development of stable environments that are compatible with surrounding areas of the community. It also ensures the provisions of open space, parks and recreation land and facilities for the use of the occupants of the development.

Based on the submission of the information and documents from the applicants with multifamily housing, and a multipurpose building that will be occupied with retail, offices and restaurants the development will be a mixed use development. A mixed use development incorporates a minimum of forty thousand (40,000) square feet on multiple parcels which has design and development features that would not be possible by the application of lot by lot zoning districts regulations. Site planning in the proposed PUD mixed use development will consider topography and will be compatible with the topography of the land and is encouraged to preserve any unusual and valuable natural features. The proposed mixed use PUD shall not adversely affect developed or undeveloped neighboring properties and shall consider the location of structures screening, setbacks and street design in the evaluation of relationship of the development to its surrounding areas.

The location of the proposed buildings 100 and 200 will be the site for the multifamily housing development (954/960 Rowland St.) It meets the setback requirements as outlined in the Ordinance for front yard setback of 10', the side setback of none, since it does not abut a single family residential district, and rear setback of 10' when not abutting a single family residential district. Building 300 as known as 3865 Church Street, the Christian Life Center has an approved certificate of occupancy and meets the zoning districts applicable setback requirement of the buildings 100 and 200. Buildings 400 and 500 will be located at 3895 Church Street. The front of buildings 400 and 500 will face towards the proposed commons space. The side of the proposed buildings will meet the zoning district buffer requirements since the development will not face the street. From review, building 400 appears to be close to the side setback line, which according to the zoning ordinance regulations for NC-1, has a side setback of none, since it does not abut single family residential.

Transportation Facilities:

The development will have access from Rogers Street, Rowland Street, and Church Street. The streets have functional classifications as Local Roads. On local roads local traffic gain access to a property. Indian Creek Drive and East Ponce de Leon Avenue have functional classification of Minor Arterial Roads. Minor arterials are high-capacity urban roads. The primary function of an arterial road is to deliver traffic from collector roads to freeways or expressways, and between urban centers at the highest level of service possible.

Service and emergency vehicles shall have adequate access for firefighting and other emergency equipment service deliveries and refuse collections. The final review will be conducted during the permitting process by DeKalb County.

The applicant is required to show acceptable design and construction of storm sewer and/or storm water retention facilities. The proposed mixed use PUD plans north of the Rowland Street (buildings 100-500) and also for the parking lot reconstruction south of Rowland Street is proposing three (3) drainage basins. The two (2) basins north of Rowland Street will discharge into the existing city storm system at the southwest corner of the site. The basin south of Rowland Street will discharge into the existing city storm system at the northeast corner of the site. The two (2) basins that the applicant is proposing north of Rowland Street will utilize a separate underground detention system and water quality treatment unit to meet the storm water quality standards. The proposed basin south of Rowland Street will utilize water quality treatment units to meet the storm water quality standards per the Georgia Stormwater Management Manual. The final approval of the proposed storm sewer and stormwater retention facilities will be confirmed during the required permitting review process with the City and DeKalb County.

The maximum density for this proposed mixed use PUD will not exceed the density requirements of the NC-1 zoning district. The maximum density of building coverage in the NC-1 zoning district is 80 % (155,535.2 sq. ft.). With a combined total site square footage of 194,419, the building density is 54,685 square feet for all buildings (100-500). The building density requirement has been met. **Table 1.1** shows the square footage of each building.

The yards along the exterior boundaries of the proposed mixed use development shall not be less than five (5) feet in width. Each building has a 10' setback from the property lines facing Rowland Street and Church Street. The buffer requirements for the NC-1 zoning district is that when a use within the NC-1 district directly abuts the NR-1, NR-2, or NR-3 district a 30 foot landscape buffer shall be required. The proposed mixed use PUD does not directly abut the aforementioned zoning districts.

The common open space requirements for the underlying zoning district of NC-1 is 20% of the development. Since the properties located at 993, 1001 and 1011 Rowland Street will be a grandfathered use for Christian Life Center and the development. The proposed open space calculations have included these properties. The open space requirement has been met.

Table 1.0 illustrates the proposed open space for the PUD

Table 1.0

Property Address	Lot Square footage +/-	Open space square footage Per lot	Total % Open Space for the PUD
954 Rowland St.	13,977.55	10,654.69	
960 Rowland St	14,449.23	7,289.27	
966 Rowland St.	14,717.26	2,096.79	
3865 Church St	34,358.41	8,268.59	
3871 Church St.	15,770.71	4,670.28	
3895 Church St.	39,581.77	26,117.946	
993 Rowland St	20,121.09	5,199.62	
1001 Rowland St	20,213.07	3,567.87	
1011 Rowland St	20,503.10	4,725.49	
	193,626.19	75,593.546	39%

Table 2.0 Illustrates the zoning and current land uses for the adjacent properties:

Table 2.0

	Current Zoning	Current Land Use
North	NC-1	Current Place of Assembly
East	NR-1	Parking
South	NR-1	Parking
West	NC-1	Vacant Lots

Table 3.0 Illustrates the parcel addresses and the proposed PUD land use with building heights:

Table 3.0

Sq. Ft.	Current Address	Proposed Land Use	Building Height
15,259 13,379	954 Rowland Street 960 Rowland Street	Multifamily housing Building 100= 3,438 sq. ft. Building 200= 3,438 sq. ft. Lots will be submitted for lot combination. 24% building density	Building 100 24'-10" (chimney adds additional 4'-8") Building 200 – 35' (adding chimney will exceed requirement)
14,810	966 Rowland Street	No new building will be constructed on this parcel.	
34,073	3865 Church Street	Christian Life Center Previously combined with 972 Rowland St. for renovations Building 300= 12,824 sq. ft. 38% building density	Building 300 26'-11"
15,987	3871 Church Street	No new building will be constructed on this parcel.	
39,644	3895 Church Street	Building 400=12,670 sq. ft. Multipurpose building- restaurant, doctor's office, office space, retail space Building 500= 3971 sq. ft.- Retail building 42% building density	Building 400 34' – 4" Building 500 21'-0"
61,267	993/1001/1011 Rowland Street	No new buildings will be constructed on these parcels. These parcels are non-conforming grandfathered uses that will be remain as parking areas.	

Table 4.0 Illustrates parking requirements for the proposed PUD:
Table 4.0

	Current Address	Parking Requirements	Parking Spaces
	954 Rowland Street 960 Rowland Street	A. Boarding/rooming houses=1 space per bedroom B. Multifamily= 2 spaces per dwelling unit Building 100 = 4 bedrooms Building 200 = 8 bedrooms	A. 4 bedrooms =4 spaces or 8 spaces B. 4 bedrooms= 8 spaces or 16 spaces
	3865 Church Street	Building 300 1 space per 3 seats in the main assembly area or 1 space per 50 sq. ft. where fixed seats are not provided.	87 spaces
	3895 Church Street	Building 400 Restaurant 3208 sq. ft. Restaurant 1817 sq. ft. @ 1 space per 100 sq. ft. no seats/ 1 space per 3 seats + 1 employee min. of 10 spaces Doctor's office 3814 sq. ft. 6 spaces per practitioner @ 2 practitioners Office space 7622 sq. ft. 1 space per 250 sq. ft. Retail space 1812 sq. ft. 1 space per 250 sq. ft. Building 500 Retail 3735 sq. ft. 1 space per 250 sq. ft.	43 spaces 19 spaces 12 spaces 31 spaces 8 spaces 15 spaces
			Total parking spaces required 227

Future Land Use: Mixed Use: According to the Clarkston 2040 Comprehensive Plan, this area is a mix of diverse uses including multifamily housing, commercial, office, and urban compatible industrial uses (marker spaces, manual crafts and breweries).

General Standards for approval:

When any request is made for a Planned Unit Development (PUD) to construct two (2) or more buildings on a tract or several tracts of land, the following points will be reviewed as follows;

Point 1: Is the proposed development suitable in view of the use and development of adjacent or nearby property?

All planned unit development shall meet standards all requirements as set forth based on the permitted type of PUD. Planned mixed use developments require forty thousand (40,000) square

feet on multiple parcels which is permitted in the NC-1 zoning district. Only those uses permitted in the zoning district which the proposed development is located shall be permitted in the planned unit development. The impacts of post-development may affect traffic circulation and other uses of lands surrounding the property. The development is suitable in view of the proposed development of multi-family, office space, restaurants and retail that is permitted in the zoning district.

Point 2: Does the proposed development adversely affect the existing use or usability of adjacent or nearby property?

If the mixed use PUD request is approved, it would permit uses to be constructed that are suitable in view of the use of adjacent land uses. The proposed PUD will not adversely affect the existing use or usability of adjacent or nearby properties. As outlined in the Clarkston 2040 Comprehensive Plan this area is designated as mixed use, which includes a mix of diverse uses including multifamily housing, commercial, office, and urban compatible industrial uses (marker spaces, manual crafts and breweries).

Point 3: Does the proposed development result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

The development will cause an increased use of existing streets, with vehicular and pedestrian traffic. The nature of the proposed development will create an increase in the number of vehicular trips on Rogers Street, Market Street and North Indian Creek Drive. Due to the streetscape project along Rowland Street the developer has had a meeting with the consultant team to discuss traffic calming measures on Rowland Street. If approved the applicant/developer will be required to follow all policies and procedures, best management practices (BMPs) for land disturbance, demolition and pertaining to storm water runoff and erosion/sedimentation control. The applicants have submitted a tree replacement and landscape plans, and all buffer requirements will be adhered to base on the requirements outlined in the zoning district. School facilities will not be adversely affected by the proposed mixed use PUD.

Point 4: Are there other existing or changing conditions which, because of their impact on the public health, safety, morality and general welfare of the community give supporting grounds for either the approval or denial of the proposed development?

There are concerns about traffic flow based on the entrances and exits of the proposed development onto Church Street and Rowland Street. However, because the development will be included in a road diet on Rowland Street, the impact the vehicular traffic and pedestrian traffic has on the proposed developed has the potential of being a suitable community oriented project.

Recommendation):

Staff recommends **conditionally approving** of the Planned Unit Development (PUD) request submitted with the following conditions;

1. The applicant shall adhere to the Metropolitan North Georgia Water Planning District and Georgia Stormwater Management Manual requirements.
2. Retail shall have no more than five thousand (5,000) square feet of gross floor area.

3. If off street parking facilities are used at night, they shall be properly illuminated for the safety of pedestrians, vehicles and for security. The lighting shall be designed so as not to reflect onto or cause glare in any adjacent residential district.
4. The plan shall provide bicycle parking racks at a ratio of a least (1) bicycle parking space every twenty (20) automobile parking spaces (12 bicycle parking spaces). The bicycle parking spaces shall be located within the landscape zone a maximum distance of one hundred (100) feet from the building entrance, or shall be located at least as close as the closest automobile space and shall provide a concrete pad upon which the bicycle parking space shall be firmly rooted.
5. All developments are required to comply with all signage provisions as outlined in the Ordinance.
6. No uses which emit odors, fumes or continuous loud noise are permitted.
7. The applicant shall submit to the City and DeKalb County for review, and recording of the lot combination of 954 and 960 Rowland Street.

Additional Information:

Street Index Map

Aerial Map of location

Current Zoning and Future Land Maps

Tax Map

Conceptual Site Plan



Shawanna N. Qawiy, MPA, MSCM
Planning & Development Director
City of Clarkston
1055 Rowland Street
Clarkston, GA 30021

RE: SEND Relief – Clarkston

Subject: PUD Submittal Site Plan Revision

Dear Ms. Qawiy:

As requested in this week’s Planning and Zoning meeting and in compliance with the approved conditions, please find the attached revised site plan (details below) that includes the parking reductions requested by the Planning and Zoning Board. To help prepare the City Council for our complete PUD presentation, please allow this correspondence to summarize other topics and information that will be addressed in our presentation to the City Council during the work session on Tuesday January 29, 2019.

PRIOR SITE PLAN OPTIONS

In an effort to address comments and concerns from the City and residents which were expressed in the December 2018 Planning and Zoning meeting and beyond, we developed multiple site options that were presented to the Planning and Zoning Board in last Tuesday’s meeting. As you know, it was our intent to provide *options* that best worked for the residents of Clarkston, and we regret any confusion these options may have caused among residents. Each of the additional site plan options showed a reduction of parking that would provide counts below what is allowed in NC-1 zoning (without utilizing the “shared parking” allotment). In reality, we are not aware of anything being submitted as part of the PUD approval that is outside the general requirements already set forth in the current NC-1 zoning. At best, the PUD could allow for less parking than would otherwise be required in our current NC-1 zoning, resulting in more green-space. In any event, we have multiple plans that meet and exceed the required parking for our NC-1 zoning (with or without the shared parking allotment).

To summarize, regardless of any approved PUD, our development plans clearly fit within the current NC-1 zoning. As you know, our desire is for this property to be designated as a PUD, as it would allow for less parking and enable us to provide greater green spaces and the like to enhance the development for all involved.

As requested by the Planning and Zoning Board, the information below outlines changes to the submitted site plan. This is the only site plan option that is being submitted or discussed.

CURRENT REVISED SITE PLAN

Below is a summary of the revisions to the site plan as well as other pertinent details:

- The parking shown represents 166 spaces (61 less than the requirement, without the shared parking allowance)
- Bicycle parking meets the conditions approved by Planning and Zoning.
- The Grand Lawn is approximately 20,000 sf and is a direct result of the reduction in parking.
- All landscaped areas, including perimeter and parking islands, meet or exceed requirements.
- The required “tree-save” has been considered as part of this plan (and others previously submitted) and meets or exceeds requirements.
- Plan meets or exceeds all storm-water and drainage requirements set-fourth by Dekalb County , as required in the conditions approved by Planning and Zoning.

OTHER ITEMS

Below is a summary of additional pertinent items that we will be addressing in our presentation to the City Council on Tuesday, January 29th:

- Overview and 3D computer model of architectural changes made to the proposed facilities to better meet the desires of the City and its residents
- Clarifications and factual specifics to address resident concerns and misperceptions regarding various aspects of our plan, including the size and scale of the proposed facilities, tree-save efforts by the owner, and general zoning compliance.
- Send Relief will also address comments concerning the purpose and proposed initiatives for this development.

As always, please feel free to reach out with any questions or additional needs. We look forward to Tuesday’s meeting and appreciate your help in providing this information to the City Council for review prior to Tuesday’s work session.

Sincerely,



Scott Gurosky President

MYRICK GUROSKY & ASSOCIATES
700 Montgomery Highway | Suite 156
Birmingham, AL 35216 | 205.313.3020



CONSTITUTIONAL OBJECTIONS
APPLICATION FOR PLANNED UNIT DEVELOPMENT
CITY OF CLARKSTON, GEORGIA

Georgia Law and the procedures of the City of Clarkston require us to raise Federal and State Constitutional objections during the PUD application approval process. While the Owner/Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Owner/Applicant will be barred from raising important legal claims later in the process. Accordingly, we are required to raise the following constitutional objections at this time:

The portions of the Zoning Ordinance of the City of Clarkston, Georgia, as applied to the Property, that would result in a denial of the PUD application as requested by the Owner/Applicant, are, or would be, unconstitutional in that they would destroy the Owner/Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Any application of the Code of the City of Clarkston or the City of Clarkston Zoning Ordinance to the Property which restricts its use to any use in a manner other than that requested by the Owner/Applicant is unconstitutional, illegal and null and void because such an application constitutes a taking of the Owner/Applicant's property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I, of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States because such an application denies the Owner/Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application or approval subject to conditions which differ from those proposed by the Owner/Applicant, would also violate the Religious Land Use and Institutionalized Persons Act by imposing a substantial burden on the exercise of religion without a compelling government interest or without using the least restrictive means possible of furthering a compelling governmental interest.

A denial of this Application would also constitute an arbitrary and capricious act by the City Council of the City of Clarkston without any rational basis therefore, thereby constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal to grant the PUD application as requested by the Owner/Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between

the Owner/Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of the PUD application subject to conditions that are different from the conditions requested by the Owner/Applicant, to the extent such different conditions would have the effect of further restricting the Owner/Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

In addition, this constitutes formal written notice to the City of Clarkston, pursuant to O.C.G.A. § 36-33-5, that the Owner/Applicant plans to seek to recover all damages that it sustains or suffers as a result of the denial of this Application and/or the unconstitutional zoning of the Property by the City of Clarkston. Such damages may include, but are not necessarily limited to, damages related to the diminution in the value of the Property, attorneys' fees and expenses of litigation.

Accordingly, the Applicant respectfully requests that the City Council of the City of Clarkston grant the PUD application as requested by the Applicant.

THE GALLOWAY LAW GROUP, LLC



Laurel David
Attorney for Applicant

3500 Lenox Road NE, Suite 760
Atlanta, Georgia 30326
(404) 965-3680

TO: Brian Hatcher, P.E., LBYD Engineers

FROM: Scott Israelson, P.E., PTOE

DATE: 3 January 2019

RE: **Traffic Generation Statement**
SEND Relief Development PUD
Clarkston, GA

Introduction

Traffic Impact Group, LLC has been retained to prepare a traffic generation statement for the proposed SEND Relief development located at the Clarkston International Bible Church (CIBC). The site is located on Church Street north of Indian Creek Drive.

The existing parcel has an existing church building, a Christian Life Center (CLC) building, and four single-family homes.

The proposed redevelopment would raze the four single-family homes, construct mission housing (Buildings 100 and 200), relocate the church to the Christian Life Center (Building 300), and raze the existing church to construct a multi-purpose building (Building 400) and retail space (Building 500).

Building 100 consists of a one-story, four-bedroom unit and Building 200 consists of two stories (i.e. two units) with four bedrooms per unit.

Building 300 is the existing CLC which consists of a gymnasium, an auditorium, classrooms, and office space, among other uses. Worship services which currently occur at the church will be relocated to the CLC.

Building 400 will consist of two small restaurant spaces, a 3,814 square foot medical office, a 1,812 SF retail space, and 7,662 square feet of office space that will be relocated from the existing CLC. Although the site plan shows restaurant space totaling 5,025 SF, it is envisioned that the south end of Building 400 would be a small coffee place and not intended to be a full service, commercial, high-customer restaurant or coffee shop. This square footage was required to determine the worst case scenario for parking demand.

Building 500 will consist of 3,735 SF of retail space. The type of retail envisioned for the redevelopment would be small-scale arts and crafts.

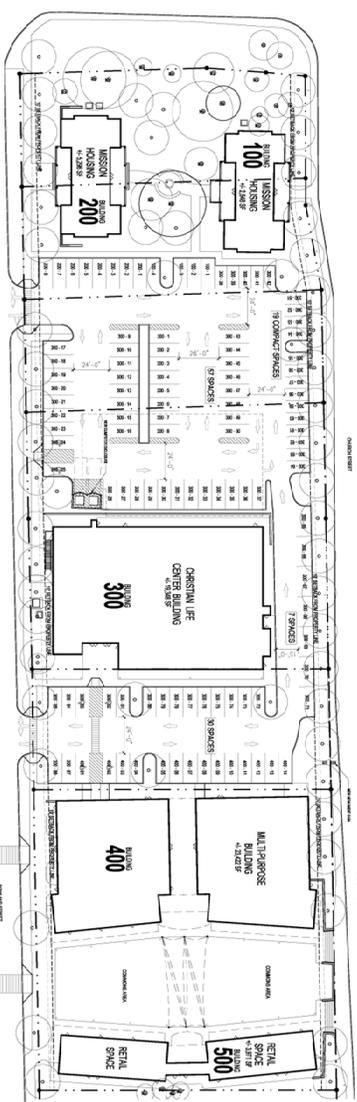
Access to the site is provided via Rowland Street, and an existing surface parking lot also has access to Rogers Street.

Figure 1 shows the most recent site plan.

BUILDING INFORMATION:	
BUILDING 100 MISSION HOUSING - ONE LEVEL Conditioned Space Total Conditioned Space Total Conditioned Space Bldg Height	2,448 square feet 2,448 square feet 2,448 square feet 12.0' A.F.F.
BUILDING 200 MISSION HOUSING - TWO LEVEL Conditioned Space - Lower Level Conditioned Space - Upper Level Total Conditioned Space Total Conditioned Space Bldg Height	2,448 square feet 2,448 square feet 4,896 square feet 4,896 square feet 24.0' A.F.F.
BUILDING 300 CHRISTIAN LIFE CENTER - TWO LEVEL RENOVATION Conditioned Space - Lower Level Conditioned Space - Upper Level Total Conditioned Space Total Conditioned Space Bldg Height	4,896 square feet 4,896 square feet 9,792 square feet 9,792 square feet 24.0' A.F.F.
BUILDING 400 MULTI-PURPOSE BUILDING Conditioned Space - Lower Level Conditioned Space - Upper Level Total Conditioned Space Total Conditioned Space Bldg Height	12,276 square feet 12,276 square feet 24,552 square feet 24,552 square feet 24.0' A.F.F.
BUILDING 500 RETAIL SPACE Conditioned Space - Lower Level Conditioned Space - Upper Level Total Conditioned Space Total Conditioned Space Bldg Height	3,271 square feet 3,271 square feet 6,542 square feet 6,542 square feet 12.0' A.F.F.
TOTAL BUILDING SQUARE FOOTAGES	54,685 Square Feet

BUILDING & SITE DENSITIES	
BUILDING 100 Mission Housing - 200 Bldg Density Site Density	2.08 sq ft/sq ft 1.04 sq ft/sq ft
BUILDING 200 Mission Housing - 200 Bldg Density Site Density	2.08 sq ft/sq ft 1.04 sq ft/sq ft
BUILDING 300 Christian Life Center - 200 Bldg Density Site Density	2.08 sq ft/sq ft 1.04 sq ft/sq ft
BUILDING 400 Multi-Purpose Building Bldg Density Site Density	2.08 sq ft/sq ft 1.04 sq ft/sq ft
BUILDING 500 Retail Space Bldg Density Site Density	2.08 sq ft/sq ft 1.04 sq ft/sq ft
TOTAL BUILDING FOOTPRINT	54,685 Square Feet
TOTAL SQUARE FOOTAGE OF RENOVATED STREET	134,413 Square Feet
TOTAL SITE	134,413 Square Feet

Total Building Density is 23% of overall site	
BUILDING 100 Mission Housing - 200 Bldg Density Site Density	1.04 sq ft/sq ft 0.52 sq ft/sq ft
BUILDING 200 Mission Housing - 200 Bldg Density Site Density	1.04 sq ft/sq ft 0.52 sq ft/sq ft
BUILDING 300 Christian Life Center - 200 Bldg Density Site Density	1.04 sq ft/sq ft 0.52 sq ft/sq ft
BUILDING 400 Multi-Purpose Building Bldg Density Site Density	1.04 sq ft/sq ft 0.52 sq ft/sq ft
BUILDING 500 Retail Space Bldg Density Site Density	1.04 sq ft/sq ft 0.52 sq ft/sq ft
TOTAL BUILDING DENSITY	23% of overall site



PARKING LOT REQUIREMENT CALCULATIONS:	
100 MISSION HOUSING - ONE LEVEL: 4-dwelling spaces require 1.5 spaces per residential unit. MISSION HOUSING - TWO LEVEL: 8-dwelling spaces require 1.5 spaces per residential unit.	4-dwelling spaces require 6 spaces per residential unit. 8-dwelling spaces require 12 spaces per residential unit.
200 MISSION HOUSING - ONE LEVEL: 8-dwelling spaces require 1.5 spaces per residential unit.	12-dwelling spaces require 18 spaces per residential unit.
300 CHRISTIAN LIFE CENTER - TWO LEVEL RENOVATION: 2-dwelling spaces require 1.5 spaces per residential unit.	3-dwelling spaces require 4.5 spaces per residential unit.
400 MULTI-PURPOSE BUILDING: 2,455 sq ft of office space requires 1.5 spaces per 1,000 sq ft. 1,442 sq ft of retail space requires 1.5 spaces per 1,000 sq ft. 1,442 sq ft of multi-purpose space requires 1.5 spaces per 1,000 sq ft.	43 parking spaces required for office space. 21 parking spaces required for retail space. 21 parking spaces required for multi-purpose space.
500 ONE LEVEL RETAIL BUILDING: 6,542 sq ft of retail space requires 1.5 spaces per 1,000 sq ft.	10 parking spaces required for retail space.

PARKING SPACES PROVIDED:	
MISSION HOUSING - ONE LEVEL: 15-dwelling spaces required MISSION HOUSING - TWO LEVEL: 30-dwelling spaces required CHRISTIAN LIFE CENTER - TWO LEVEL RENOVATION: 3-dwelling spaces required MULTI-PURPOSE BUILDING: 43 parking spaces required ONE LEVEL RETAIL BUILDING: 10 parking spaces required TOTAL PARKING SPACES: 227 PARKING SPACES	15-dwelling spaces required 30-dwelling spaces required 3-dwelling spaces required 43 parking spaces required 10 parking spaces required 227 PARKING SPACES
PARKING SPACES PROVIDED: NORTH OF BUILDING PARKING SPACES: TOTAL NORTH OF BUILDING PARKING SPACES: SOUTH OF BUILDING PARKING SPACES: TOTAL SOUTH OF BUILDING PARKING SPACES: TOTAL PARKING SPACES:	82 spaces provided 7 spaces provided 143 spaces provided 143 spaces provided 227 PARKING SPACES

CLARKSTON SITE DEVELOPMENT PLAN
Project No: 19-GA5233-1
Date: 3 January 2019

Site Plan
Figure 1
SEND Relief - Clarkston

TRAFFIC IMPACT GROUP, LLC

North American Mission Board
Site Development Planning for PUD
Clarkston, Georgia

SEND RELIEF - CLARKSTON PUD SUBMISSION PACKAGE

Trip Generation

According to CIBC, the average daily attendance for ministry is approximately 387 on weekdays, although not all drive to the site and many carpool.

A trip generation analysis has been prepared in accordance with the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 10th Edition*, using the Average Rate for the Daily and Peak Hours. Table 1 summarizes the trip generation estimates for existing conditions.

Average Weekday Driveway Volumes				AM Peak Hour		PM Peak Hour	
Land Use	ITE Code	Size	Daily Trips	Enter	Exit	Enter	Exit
Single-Family Detached Housing	210	4 Dwelling Units	38	1	2	3	1
Church	560	1000 Seats	440	5	5	12	18
Driveway Peak Hour Trips			478	6	7	15	19

It should be noted that the existing office space is not specifically separated in the trip generation estimate since Land Use #560 “Church” includes office space for staff in its trip generation rates.

Table 2 summarizes the trip generation estimates for Full Build conditions.

Average Weekday Driveway Volumes				AM Peak Hour		PM Peak Hour	
Land Use	ITE Code	Size	Daily Trips	Enter	Exit	Enter	Exit
Multifamily Housing (Low-Rise)	210	3 Dwelling Units	22	0	1	1	1
Church	560	1000 Seats	440	5	5	12	18
Medical-Dental Office Building	720	7.7 Th.Sq.Ft. GFA	58	9	3	4	11
Arts and Craft Store	879	3.7 Th.Sq.Ft. GFA	209	0	0	11	12
Driveway Peak Hour Trips			729	14	9	28	42

It should be noted that the restaurant space is not included in the above since the area is not intended to be a commercial, high-customer coffee shop.

Conclusion

The proposed change in land use is estimated to result in around 250 more daily trips, with 10 more AM peak hour trips and 36 more PM peak hour trips. This equates to approximately one new vehicle every six minutes in the morning hours, and one new vehicle every 100 seconds in the evening hours.

Analysis shows that the proposed SEND Relief redevelopment will result in minor increases in daily and peak hour traffic, with correspondingly low impacts to the adjacent roadways and intersections.

Please contact me at 470.808.1252 or by email at scott@traffic-impact.com with any comments or questions.

CITY OF CLARKSTON

ITEM NO: E2

CLARKSTON CITY COUNCIL

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Resolution

MEETING DATE: January 29, 2019

SUBJECT: Rezoning of the property located at 3723 Debelle Street from NR-1 Low Density Neighborhood Residential to NR-2 Medium Density Residential.

DEPARTMENT:
Planning & Development

PUBLIC HEARING: YES NO

ATTACHMENT: YES NO
Pages:

INFORMATION CONTACT:
Shawanna Qawiy, Planning and Dev. Director
PHONE NUMBER: 404-296-6489

PURPOSE: Rezoning request from Christopher Malone to rezone the property located at 3723 Debelle Street-Clarkston, GA 30021, parcel 18 067 03 001 from NR-1 Low Density Neighborhood Residential to NR-2 Medium Density Residential. If approved the applicant will subdivide the property into two (2) lots to construct a new 1400+/- SF single family home on the vacant lot.

STAFF RECOMMENDATION: *Staff Analysis Attached*

Staff recommended approval of the rezoning request with conditions and to amend the zoning map.

PLANNING AND ZONING BOARD RECOMMENDATIONS:

Based on the January 22, 2019, planning and zoning Board public hearing meeting, the Board recommended approval of the rezoning request with conditions and to amend the zoning map.

ATTACHMENTS:

Rezoning application, staff rezoning analysis report, maps.

Report Prepared by: Shawanna N. Qawiy, MPA, MSCM
Planning & Development Director

Applicant: Christopher Malone DBA Sycamore Partners, LLC

Location: 3723 Debelle Street

Request: To rezone from NR-1-Low Density Neighborhood Residential District to NR-2 Medium Density Neighborhood Residential District.

Parcel ID(s): 18 067 03 001

Current Land Use: The property currently has a single family dwelling located on the property.

Sign Posted: **December 21, 2018**

Planning & Zoning Meeting: **January 22, 2019; 7PM**

City Council Meeting: **February 5, 2019; 7PM**

Lot Size: .3+/- acres (14, 521 sq. ft.)

Road Access: Debelle Street and Market Street

Public Utilities:

Water and Wastewater Treatment –. Public water service connections are available on this property. If additional public sewer service is warranted it will be made available via line extensions at the developer's/property owner's expense.

Zoning Overview: Currently the property is zoned NR-1 Low Density Neighborhood Residential. The request to rezone the subject property to NR-2 Medium Density Neighborhood Residential District is to create two (2) parcels of land that will house single family homes that are proposing to have the NR-2 zoning classification. The current homes on the property is approximately 927 SF. The proposed newly created lot will house a newly constructed home of 1400 SF. The requested zoning classification is not consistent with the zoning classification of adjacent properties as designated on the City's official zoning map (attached). A review of zoning files indicates that there has not been a previous zoning request regarding the subject property.

Table 1.0 illustrates the zoning and current land uses for the adjacent properties:

Table 1.0

	Current Zoning	Current Land Use
North	NC-1 Low Density Neighborhood Commercial	Single Family Residence
East	NR-2 Medium Density Neighborhood Residential District	Single Family Residence
South	NR-1 Low Density Neighborhood Residential District	Single Family Residence
West	NR-1 Low Density Neighborhood Residential District	Single Family Residence

Future Land Use: Single Family Home Areas: According to the Clarkston 2040 Comprehensive Plan, this area designates areas for preservation of single family homes both historic as well as new development. Townhomes and single family homes are allowed in this area.

Rezoning Review Criteria: Assessment of Application for Zoning Map Amendment
(Article III, Sec. 305):

When any request is made for a change in the zoning for any parcel of property, or when an amendment is requested to the zoning map, the following criteria points must be reviewed as follows;

Criteria Point 1: The effect upon the health, safety, morals or general welfare of the public compared to any hardship imposed upon the individual property owner seeking rezoning should rezoning be denied;

The current request to rezone the property will not have an effect upon the health, morals or general welfare of the public as compared to any hardship imposed upon the individual property owner seeking the rezoning. If approved, the rezoning request based on the requirements is proposing to construct a 1400 SF home. The impacts of post-development could affect property values and other uses of lands surrounding the property. The proposed rezoning request will not have an unhealthy effect or impact the morals of the public.

Criteria Points 2 and 3: Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property; whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

If the rezoning request is approved it would permit a use to be constructed that is suitable in view of the use of adjacent single family homes. The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. As outlined in the Clarkston 2040 Comprehensive Plan this area is designated for the preservation of single family homes both historic as well as new development. Townhomes and single family homes are allowed in this area.

Criteria Point 4: Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

According to the DeKalb County Tax Assessors department, the property is currently located within the City limits of Clarkston. It is reasonable to determine that by not approving the rezoning request, the property could continue with its current zoning classification of the current home being NR-1 Low Density Neighborhood Residential District, with no additional single family home being built. The single family home currently on the un-subdivided lot is currently being re-wired with outlets, smoke detectors added, replacing all light fixtures and framing for a screened in porch and to construct a deck.

The NR-1 zoning district has minimum lot size of 10,000 sq. ft. , front yard setback of 30', rear yard setback of 25', side yard setback of 10' and minimum lot width of 75'. The NR-2 zoning district has minimum lot size of 7,500 sq., front yard setback of 25', rear yard setback of 20', side yard setback of 7', with a minimum lot width of 60'.

Criteria Point 5: Whether the zoning proposal will result in a use that may cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

Schools: Indian Creek Elementary School, Freedom Middle School, Clarkston High School

Streets and Transportation Facilities:

The nature of the proposed use will not create increased volumes of vehicular traffic along Debelle Street and/or Market Street.

Utilities and Environment:

If approved the applicant would be required to follow all policies and procedures, best management practices (BMPs) for land disturbance and pertaining to storm water runoff and erosion/sedimentation control tree replacement and landscape plan, and all buffer requirements, while work is being performed at this site.

Public Safety:

The City's Public safety department will not have a significant impact based on the construction of a new single family dwelling.

Criteria Point 6: Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;

The property at 3723 Debelle Street, currently houses an 814-900 sq. ft. house. According to the applicant, the request to rezone is to subdivide the current lot into two (2) lots. The renovations will continue to the house that will face (3723) Debelle Street, with another newly constructed single family dwelling to be constructed on the newly created lot that will face Market Street.

The NR-1 zoning district allows for 50% of building coverage on a lot. The NR-2 zoning district allows for a 50% building coverage maximum on a lot. The NR-1 and NR-2 zoning districts allow single family residential dwellings.

Criteria Points 7and 8: Whether the zoning proposal is compatible with the principals of the city's long range plan as set forth in the Conceptual Master Land Use and Connectivity Plan for the City of Clarkston, a part of the Clarkston Livable Centers Initiative Study as adopted in March 2005, adopted as the city's comprehensive plan; Whether the zoning proposal is compatible with the most current adopted version of the Future Development Map of the Clarkston Comprehensive Plan;

The subject property is located in an area designated by the Clarkston 2040 (C-2040) Comprehensive Plan adopted in 2016, as Single Family Home Areas: According to the Clarkston 2040 Comprehensive Plan, this area designates areas for preservation of single family homes both historic as well as new development. Townhomes and single family homes are allowed in this area. It is encouraged to replace the aging housing units with new construction (Page 91 LCI) by enhancing the existing housing stock. Clarkston's residential and commercial real estate inventory tend to be significantly older and lower valued than elsewhere in DeKalb County and the Atlanta Region (Page 45 LCI.) Very few buildings have been added to the residential inventory in the past 20 years and the city homes are lacking the amenities and aesthetics needed to make them

economically competitive. While this makes Clarkston relatively affordable as a place to live or establish a business, it also reduces the economic incentive for Clarkston property owners to upgrade, renovate or redevelop their properties (Page 45 LCI.)

Recommendation):

Staff recommends **approval** of the rezoning request and to amend the zoning map to reflect the final approval of the property located at 3723 Debelle Street to rezone the property from NR-1 Low Density Neighborhood Residential to NR-2 Medium Density Neighborhood Residential District to with the following conditions;

1. To construct a 1400+/- sq. ft. single family dwelling that will meet all development, zoning requirements of the NR-2 zoning district and permitting requirements.
2. The applicant shall adhere to all requirements for a lot division with the City of Clarkston and DeKalb County.
3. The applicant shall submit to City Staff the final plat for review and final approval
4. The applicant shall submit to DeKalb County for review, and recording.
5. The new lot must adhere to Section 1103 Driveways and Curb Cuts of the Code of Ordinances
6. The corner lot shall adhere to Section 1208 Fences and hedges, corner visibility of the Code of Ordinances.

Additional Information:

Street Index Map
Aerial Map of location

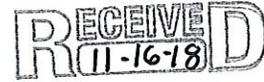
Current Zoning and Future Land Maps
Tax Map

Conceptual Site Plan



REZONING APPLICATION

Form # 200-RZ



This page must be completed by the Applicant. Please see Applicant Instructions for full requirements.

SUBMITTAL CHECKLIST

Your application must include the following items, or it will not be considered complete:

- Conceptual Site Plans to scale (see checklist for requirements) (survey boundary required component of conceptual plans)
- Written Legal Description of Property
- Property Deed
- Recorded Plat of Property (seven (7) copies)
- Campaign Contribution Disclosure Form
- Filing Fee (payable to The City of Clarkston)
- Check here if applicant seeks to annex the listed property into the City limits

FOR OFFICE USE/DETERMINATION

Review determination and fee: Review fee (payable to *The City of Clarkston*) depends on type of review(s). (See Fee Schedule):

_____ Rezoning (type(s)) _____ (Fee) \$1500

APPLICANT INFORMATION

Christopher Malone
Applicant Name _____ Company _____

720 Sycamore Dr
Mailing Address _____ Suite/Apt. # _____ City, State Decatur GA Zip Code 30030

618-977-0868
Primary Phone # _____ Alternate Phone # _____ Fax # _____

malone-christopher.j@gmail.com
Email Address _____

PROJECT SUMMARY

3723 DeBelle St Rezoning
Name of Project _____

Detailed Project Description (Include proposed use(s) and square footage of floor area for each use):
The scope of this project is to Rezone our parcel of land from NR-1 to NR-3. This will create (2) parcels of land with single family homes that fit within the NR-3 zoning criteria. 937 Floor area for the existing home and about 1400 SF on the proposed new construction.

Total Number of Parcels Involved: 1 Total Project Acreage: .3
 Total Number of Buildings: 1 Total Estimated Cost of Planned Improvements: 120000

- Development of Regional Impact (see table for thresholds that trigger DRI review)
- Project Submittal Checklist and all documents, plans, written analysis, and fees required therein accompany this application form.

I hereby certify that all information provided herein and in the accompanying documents is true and correct.

Pre-Application Date: _____ City Plnr/Engr Project # _____ Rev. 05/01/12
 Case # REZ18-03 Page 1 of 3

PROPERTY INFORMATION/OWNER AUTHORIZATION

If more than one parcel is the subject of review, owner-applicant shall complete information for each parcel on additional page attachments; authorized agent-applicants must complete this page for EACH parcel.

PROPERTY # 1 OF 1 TOTAL

PARCEL (PROPERTY) INFORMATION

<u>3723 Dehelle St</u>		<u>Clarkston, GA</u>	<u>30021</u>
Property Address/Location	Suite/Apt. #	City, State	Zip Code
<u>18 067 03 001</u>		<u>3</u>	
Parcel ID/Property Tax Identification Number		Total Acreage	
<u>Single Family NR-1</u>		<u>NR-1</u>	
Present Use(s)		Present Zoning (Official Zoning Map)	
<u>Single Family NR-3</u>			
Proposed Use(s)			

PROPERTY OWNER

<u>Screamers Partners LLC</u>			
Owner (Person, Firm, Corporation, or Agency)		Company Name	
<u>P.O. Box 2661</u>		<u>Deerfield, GA</u>	<u>30031</u>
Mailing Address	Suite/Apt. #	City, State	Zip Code
<u>618-977-0868</u>			
Primary Phone #	Alternate Phone #	Fax #	
<u>malone.christopher.j@gmail.com</u>			
Email Address			

PROPERTY OWNER'S AGENT (If applicable; must match applicant contact information on page #1)

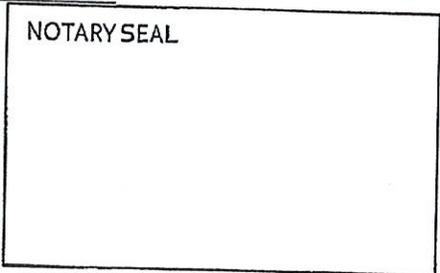
<u></u>			
Name and Company (Owner's Agent or Attorney)			
<u></u>		<u></u>	<u></u>
Mailing Address	Suite/Apt. #	City, State	Zip Code
<u></u>	<u></u>	<u></u>	<u></u>
Primary Phone #	Alternate Phone #	Fax #	
<u></u>			
Email Address			

AUTHORIZATION FOR AGENT (If applicable)

<u></u>	<u></u>
Owner Signature	Date
<u></u>	<u></u>
Print Name	

Subscribed and sworn before me this _____ day of _____, 20____.

Signature of Notary Public in the State of Georgia



**CITY OF CLARKSTON:
Disclosure of Campaign Contributions**

Disclosure of Campaign Contributions

City of Clarkston

Pursuant to OCGA, Section 36-67A-3(a), the following disclosure is mandatory when an applicant or any representative has made campaign contributions aggregating \$250.00 or more to a local government within two (2) years immediately preceding the filing of this application.

It shall be the duty of the applicant and the attorney representing the applicant to file a disclosure with the governing authority of the respective local government. The following questions **must** be answered:

Have you, the applicant, made \$250.00 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application?

Yes No

If the answer is **yes**, you must file a disclosure report with the governing authority of City of Clarkston showing:

1. The name and official position of the local governing authority in City of Clarkston to whom the campaign contribution was made.

Name and official position of the applicant/representative (Please Print)

2. The dollar amount and description of each campaign contribution made during the two (2) years immediately preceding the filing of this application and the date of each such contribution was made.

_____ Description of Campaign Contribution (Please Print)	\$ _____ Dollar Amount
---	---------------------------

This disclosure must be filed within ten (10) days after the application is first filed and must be submitted to the City of Clarkston, 3921 Church Street, Clarkston, GA 30021.

[Signature]
Signature (choose one) Applicant Owner

[Signature]
Notary Signature

11-15-18
Date

11-15-18
Date and Seal



After Recording Return To:

THE FRYER LAW FIRM
70 LENOX POINTE, NE
ATLANTA, GA 30324

File No.: 2018-01726A

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF DEKALB

THIS INDENTURE made this 1st day of August, 2018 between Pedro Moscoso Andrade, as party or parties of the first part, hereinafter called Grantor, and Sycamore Partners, LLC, a GEORGIA LLC, as party or parties of the second part, hereinafter called Grantees (the words "Grantor" and "Grantees" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN Dollars (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

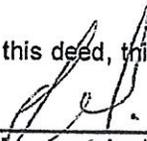
ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 67 OF THE 18TH DISTRICT, DEKALB COUNTY, GEORGIA, BEING LOT #1 OF SUBDIVISION OF THE PROPERTY OF R.W. DENICKE, , AS PER PLAT RECORDED IN PLAT BOOK 16, PAGE 166, DEKALB COUNTY, GEORGIA RECORDS, WHICH PLAT IS BY REFERENCE INCORPORATED HEREIN AND MADE A PART HEREOF. SAID PROPERTY BEING KNOWN AS 3723 DEBELLE STREET ACCORDING TO THE PRESENT SYSTE, OF NUMBERING PROPERTY IN DEKALB COUNTY, GEORGIA.

SUBJECT to restrictive covenants and general utility easements of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in Fee Simple.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons owning, holding or claiming by, through or under the said Grantor.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, this 1st day of August, 2018.



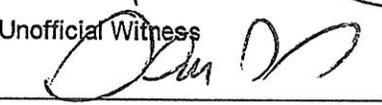
Pedro Moscoso Andrade

Signed, sealed and delivered in the

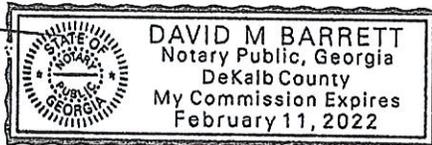
presence of



Unofficial Witness



Notary Public

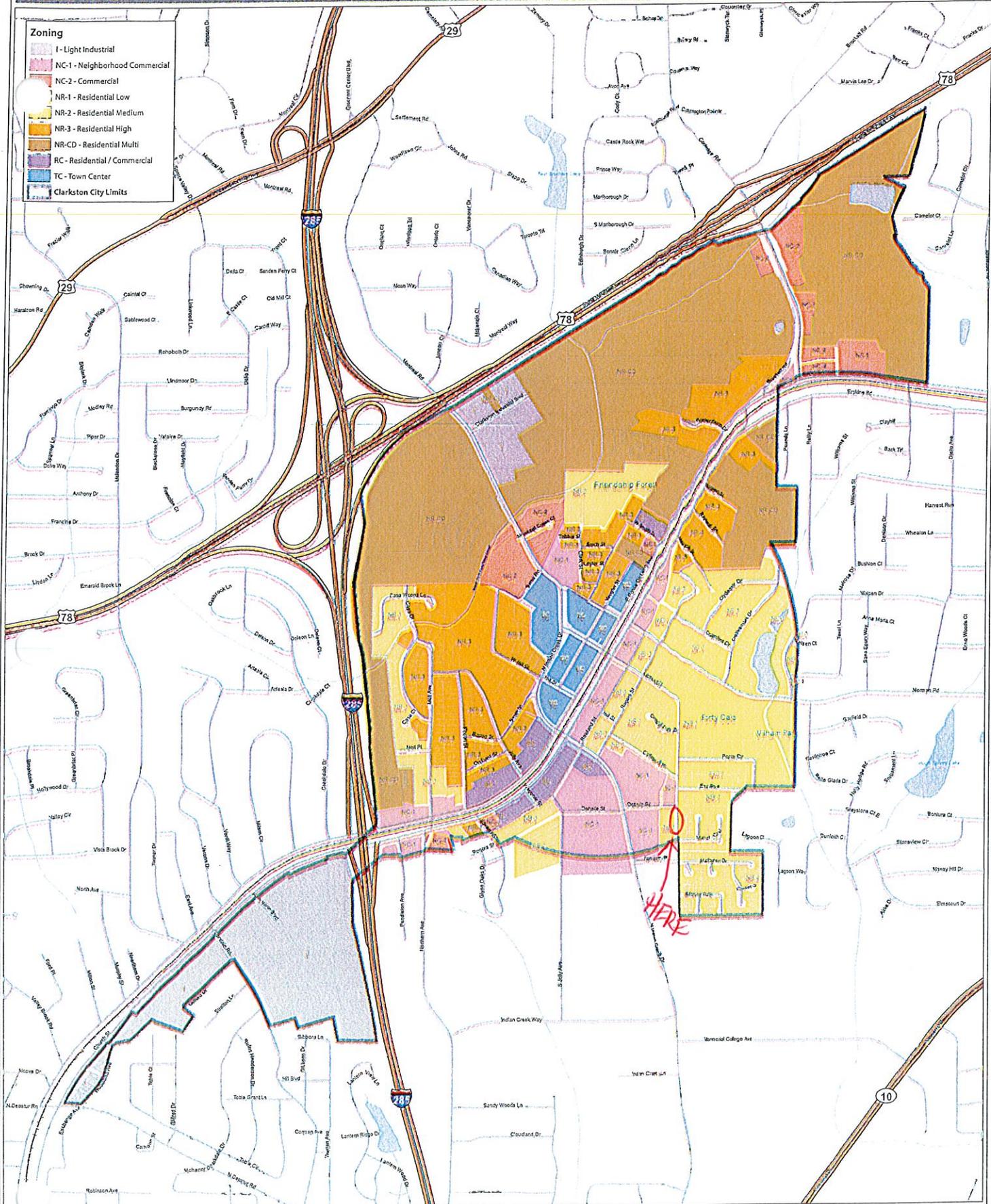


My commission expires:

ZONING - CITY OF CLARKSTON, GA

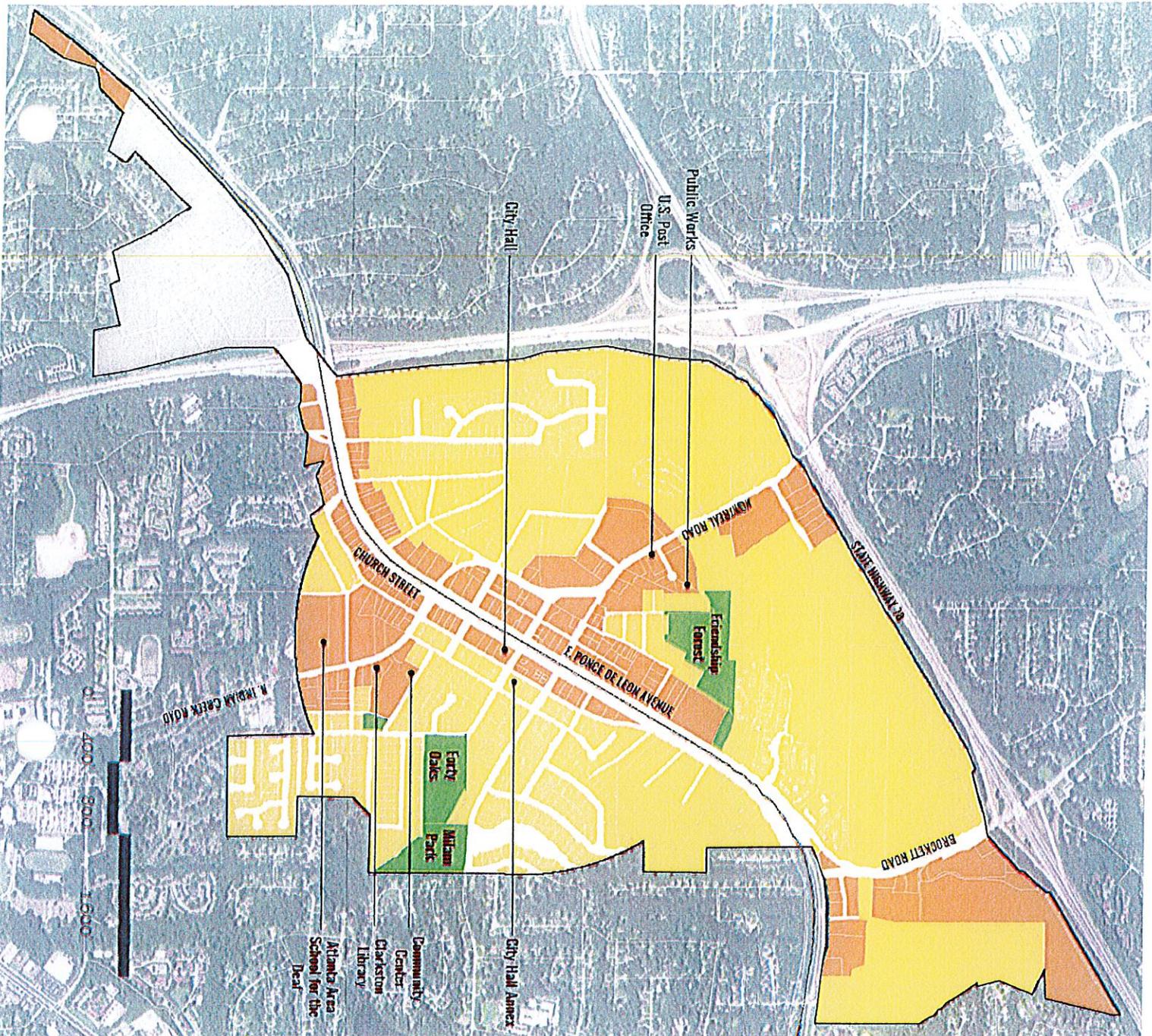
Zoning

- I - Light Industrial
- NC-1 - Neighborhood Commercial
- NC-2 - Commercial
- NR-1 - Residential Low
- NR-2 - Residential Medium
- NR-3 - Residential High
- NR-CD - Residential Multi
- RC - Residential / Commercial
- TC - Town Center
- Clarkston City Limits



ADOPTED: January 1, 2016





FUTURE LAND USE //

Legend

- Various Uses
- Traditional Neighborhood Development
- Single-Family Home Areas
- Parks/Open Spaces
- Division City Limits





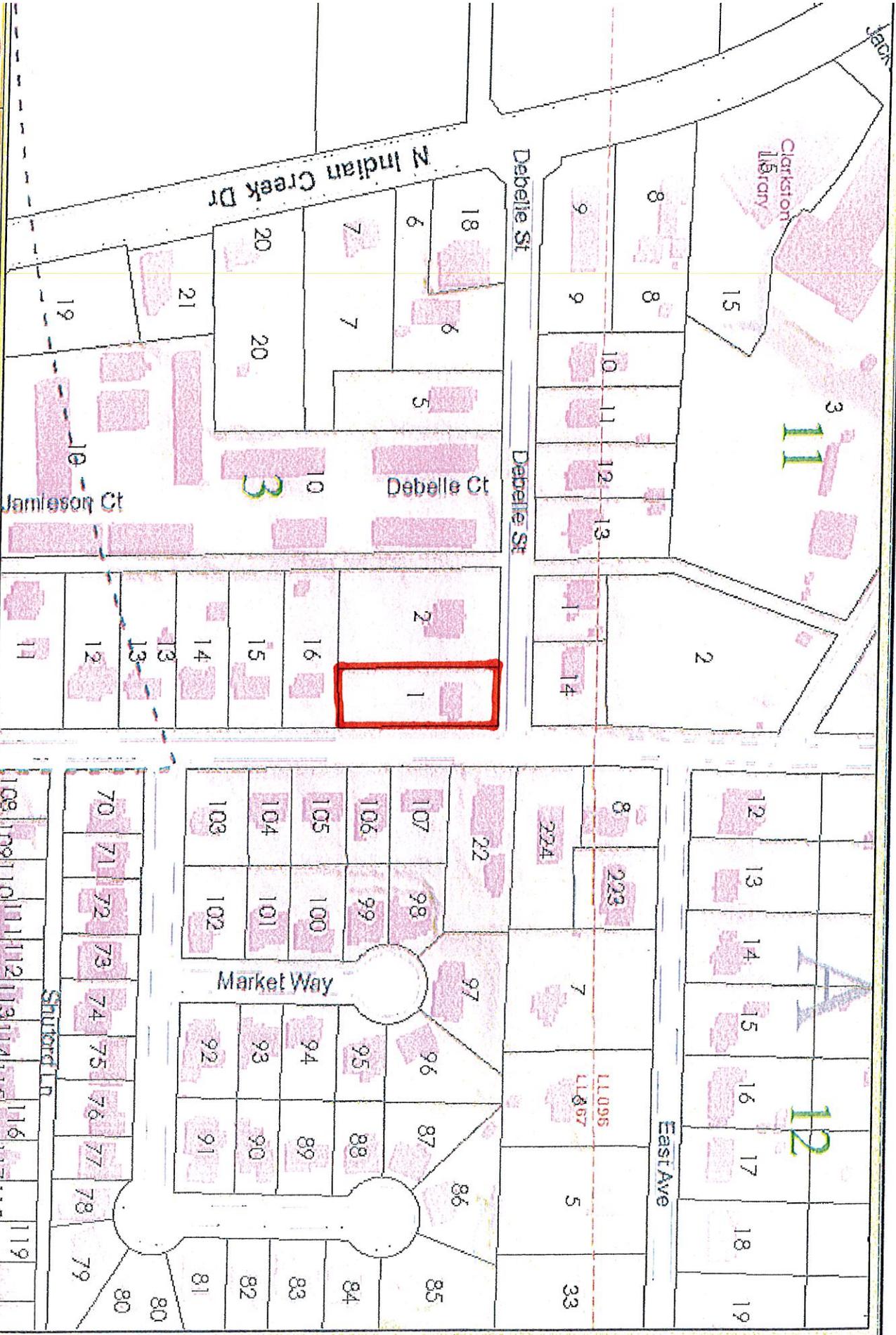
3723 Debelle St.-Rezoning

0 40 80 160 240 320 Feet

Date Printed: 11/19/2018



Dekalb County GIS Department
The maps and data contained on Dekalb County's Geographic Information System (GIS) are subject to constant change. While Dekalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or endorsement of any kind by the County. Dekalb County explicitly disclaims all responsibility for any errors, omissions, inaccuracies, or damages of any kind, including those resulting from the use of the maps and data. Dekalb County is not liable for any action, liability, or damages, including those resulting from the use of the maps and data, or for any action, liability, or damages, including those resulting from the use of the maps and data, or for any action, liability, or damages, including those resulting from the use of the maps and data. The maps and data are not suitable for site-specific decision-making for construction or other engineering purposes. The maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.



11

12

1

3

A

East Ave

Debelle St

Debelle St

N Indian Creek Dr

Debelle Ct

Jamieson Ct

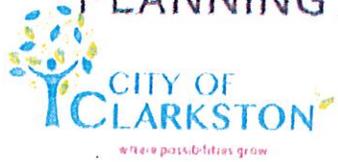
Market Way

Shuford Dr

Clarkston Library

LL 096
LL 867

109	108	107	106	105	104	103	102	101	100	99	98	97	96	95	94	93	92	91	90	89	88	87	86	85	84	83	82	81	80	80	79	78	77	76	75	74	73	72	71	70									
110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150									
151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200
201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250



CITY of CLARKSTON

PLANNING AND DEVELOPMENT DEPARTMENT

VARIANCE APPLICATION

1055 ROWLAND STREET
CLARKSTON, GA 30021
404.296.6489

Footage ~~is~~ need per lot, is less than (250) sqm, we could have one parcel conform and the other would need a variance for about 475 SF to qualify under NR-2 zoning

Total Number of Parcels Involved:	<u>1</u>	Total Project Area (acre/sf):	<u>14521.01</u> ^{SF}	Total Disturbed Area:	<u>~ 1400</u>
Total Number of Buildings:		Total Estimated Construction Cost:	<u>120000</u>		

Project Submittal Checklist and all documents, plans, written analysis, and fees required therein accompany this application form.

I hereby certify that all information provided herein and in the accompanying documents is true and correct.

Applicant Signature

Property Owner

Owner's Agent

12-12-18
Date

CITY of CLARKSTON
VARIANCE ANALYSIS

Report Prepared by: Shawanna N. Qawiy, MPA, MSCM
Planning and Development Director

Applicant: Christopher Malone

Location: 3723 Debelle Street, Clarkston, GA 30021

Parcel ID(s): 18 067 03 001

Lot Size: .3 + acres (14,521 sq. ft.)

Current Use: One (1) single family residential home

Proposed Use: Two (2) single family residential homes

Zoning: NR-1 Low Density Residential*
*(*Currently zoned NR-1 Low Density Residential District pursuant to a rezoning request to be heard on January 22, 2019/ February 5, 2019 the property is proposing a NR-2 Medium Density Residential zoning.)*

Zoning and Use of Surrounding Properties:

	Zoning	Land Use
North	NC-1	Single Family Residential
South	NR-1	Single Family Residential
East	NR-2	Single Family Residential
West	NR-1	Single Family Residential

Request: A variance request to vary from Section 702 NR-2- Medium Density Neighborhood Residential (f) *Bulk and area regulations* of minimum lot size of 7500 sq. ft. to allow the minimum lot size to be 7400 sq. ft. per lot.

Sign Posted: **December 21, 2018**

P&Z Meeting: **January 22, 2019**

City Council Meeting: **February 5, 2019**

Analysis:

The applicant is proposing to vary **Section 702 NR-2 Medium Density Neighborhood Residential (f) Bulk and area regulations –of minimum lot size of 7500 to construct an additional single family home that will front on Market Street.** The parcel at 3723 Debelle Street which is currently zoned NR-1 Low Density Neighborhood Residential* (****an approved rezoning request will zone the parcel as NR-2 Medium Density Residential***) currently houses one (1) single family residential home. The attached proposed conceptual site plan includes one parcel that will be subdivided into two (2) parcels that will adhere to all other development and zoning requirements outlined in the NR-2 zoning district in the Code of Ordinances.

Criteria for Granting a Variance (Article III, Sec. 308):

Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.

The size of the parcel is rectangular in shape with the dimensions of (70' x 208' x 70' x 208') 70' (Debelle Street) x 208' (Market Street) 208' (side) x and 70' (rear) shape or topography. The exceptional condition is that the lot has road frontage on two (2) streets, Debelle and Market Streets.

Criteria 2: Such conditions are peculiar to the particular piece of property involved.

It is not peculiar or uncommon to subdivide a lot into two (2) buildable lots or for property to have road frontage on two (2) streets.

Criteria 3: Such conditions are not a result of the actions of the applicant.

The request to vary from the minimum lot size of the NR-2 zoning district to allow the property to be subdivided to construct a new single family home, is as a result of the applicant. The request is to allow more than one (1) home on a 14,521 sq. ft. lot that will be subdivided to accommodate an existing single family residence (3723 Debelle Street) and a new single family home that will front on Market Street. The single family home that is currently located on the property is permitted and is undergoing renovations.

Criteria 4: A literal interpretation of the provisions of this ordinance would create an unnecessary hardship.

A literal interpretation of the provisions of the ordinance would create an unnecessary hardship. The applicant would be able perform the proposed renovations on the vacant home and also, divide the lot to construct an additional single family residential home that based on the adjacent homes would fit into the neighborhood.

Criteria 5: The variance requested will not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance.

The variance requested will not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance.

Criteria 6: The variance is not a request to permit a structure or use of land not authorized in the applicable district.

The applicants variance request is not to permit a structure or use of land not authorized in the applicable zoning district. The request is to vary the minimum lot size requirements as outlined in the NR-2 zoning district. The Clarkston 2040 has this area designated as single family residential.

Staff Recommendation:

Staff recommends **APPROVING** the variance request with the following conditions;

1. To construct a 1484+/- sq. ft. single family dwelling that will meet all development, zoning requirements of the NR-2 zoning district and permitting requirements.
2. The 14, 521sq. ft. lot will be subdivided equally between the lot that has the existing dwelling and the newly constructed dwelling. Each lot will be platted at 7, 260 sq. ft.
3. The applicant shall adhere to all requirements for a lot division with the City of Clarkston and DeKalb County.
4. The applicant shall submit to City Staff the final plat for review and final approval before commencing construction.
5. The new lot must adhere to Section 1103 Driveways and Curb Cuts of the Code of Ordinances
6. The corner lot shall adhere to Section 1208 Fences and hedges, corner visibility of the Code of Ordinances.

Attachments:

- Application package including site plan
- Pictures of the site.
- Sections of the Clarkston Zoning Code and Ordinance referenced in the analysis



CITY of CLARKSTON
PLANNING AND DEVELOPMENT DEPARTMENT
VARIANCE APPLICATION

1055 ROWLAND STREET
CLARKSTON, GA 30021
404.296.6489

This page must be completed by the Applicant. Please see Applicant Instructions for full requirements.

SUBMITTAL CHECKLIST

Your application must include the following items, or it will not be considered complete:

- Plan(s) to scale demonstrating variance requested
- Survey
- Property Deed
- Recorded Plat of Property (seven (7) copies)
- Campaign Contribution Disclosure Form
- Filing Fee (payable to The City of Clarkston)

FOR OFFICE USE/DETERMINATION

Review determination and fee: Review fee (payable to *The City of Clarkston*) depends on type of review(s). (See Fee Schedule):

_____ Variance _____ (Fee)
Please indicate if this is an Administrative Variance

APPLICANT INFORMATION

Christopher Malone
Applicant Name _____ Company _____

618-977-0868
Primary Phone # _____ Alternate Phone # _____ Fax # _____

malone.christopher.j@gmail.com
Email Address _____

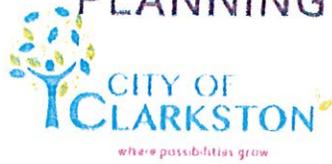
PROJECT SUMMARY

3723 Debelte St Project Rezone and subdivision
Name of Project _____

Detailed Description of Variance. Include: Variance needed (code section, square footage or other dimension); Proposed use(s) and square footage of floor area for each use; and written explanation of hardship involved with need for variance (see checklist).

We would like to Rezone the parcel at 3723 Debelte St to M-R 2 and then subdivide the lot into (2) conforming parcels. Each parcel would be about 7260 SF which is just under the Min lot SF. The code section is Sec. 700-MR-2(f). The total square

Case #: 19-01



CITY of CLARKSTON
PLANNING AND DEVELOPMENT DEPARTMENT
VARIANCE APPLICATION

1055 ROWLAND STREET
 CLARKSTON, GA 30021
 404.296.6489

PROPERTY INFORMATION/OWNER AUTHORIZATION

If more than one parcel is the subject of review, owner-applicant shall complete information for each parcel on additional page attachments; authorized agent-applicants must complete this page for EACH parcel.

PARCEL (PROPERTY) INFORMATION

3723 Dabelle St Clarkston GA 30021
 Property Address/Location Suite/Apt. # City, State Zip Code
18 067 03 001 _____
 Parcel ID/Property Tax Identification Number Total Acreage
Single Family NR-1 _____
 Present Use(s) Present Zoning (Official Zoning Map)
Single Family NR-2 _____
 Proposed Use(s)

Indicate here if there are more than one subject parcels (attach information accordingly)

Legal description includes: Or: Indicate here that an exhibit identifying property location is attached.

Subdivision Name _____ Lot # _____ Block # _____

PROPERTY OWNER

Sycamore Partners LLC _____
 Owner (Person, Firm, Corporation, or Agency) Company Name
P.O. Box 2221 Decatur GA 30031
 Mailing Address Suite/Apt. # City, State Zip Code
678-9577-0568 _____
 Primary Phone # Fax # malone.christopher.j@gmail.com
 Email Address

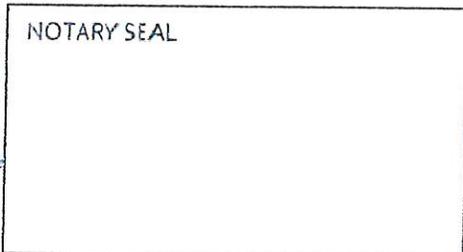
PROPERTY OWNER'S AGENT (If applicable; must match applicant contact information on page #1)

Name and Company (Owner's Agent or Attorney) _____
 Mailing Address _____ Suite/Apt. # _____ City, State _____ Zip Code _____
 Primary Phone # _____ Fax # _____ Email Address # _____

AUTHORIZATION FOR AGENT (If applicable)

Owner Signature _____ Date _____
 Print Name _____

Subscribed and sworn before me this _____



**CITY OF CLARKSTON:
Disclosure of Campaign Contributions**

Disclosure of Campaign Contributions
City of Clarkston

Pursuant to OCGA, Section 36-67A-3(a), the following disclosure is mandatory when an applicant or any representative has made campaign contributions aggregating \$250.00 or more to a local government within two (2) years immediately preceding the filing of this application.

It shall be the duty of the applicant and the attorney representing the applicant to file a disclosure with the governing authority of the respective local government. The following questions **must** be answered:

Have you, the applicant, made \$250.00 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application?

Yes No

If the answer is yes, you must file a disclosure report with the governing authority of City of Clarkston showing:

1. The name and official position of the local governing authority in City of Clarkston to whom the campaign contribution was made.

Name and official position of the applicant/representative (Please Print)

2. The dollar amount and description of each campaign contribution made during the two (2) years immediately preceding the filing of this application and the date of each such contribution was made.

_____ Description of Campaign Contribution (Please Print)	\$ _____ Dollar Amount
---	---------------------------

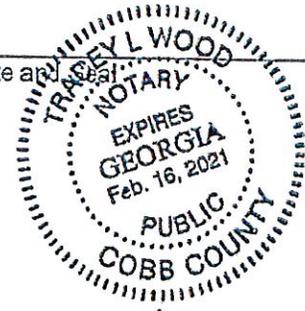
This disclosure must be filed within ten (10) days after the application is first filed and must be submitted to the City of Clarkston, 3921 Church Street, Clarkston, GA 30021.

[Signature]
Signature (choose one) Applicant Owner

11-15-18
Date

[Signature]
Notary Signature

11-15-18
Date and Year

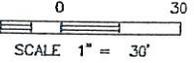
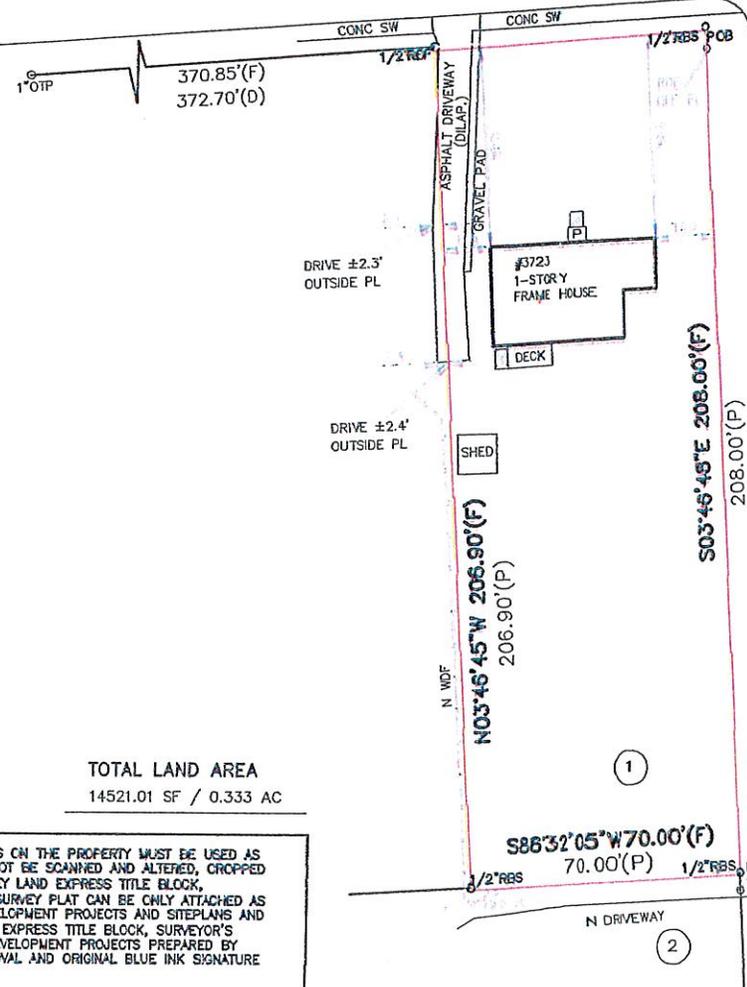


SURVEY NOTES

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAVED OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE SURVEYOR. LOCATION OF UNDERGROUND MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROCESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, TELEPHONE, ELECTRIC, WATER AND SEWER, GAS COMPANIES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS.
2. THIS PLAT WAS PREPARED TO SHOW THE APPROXIMATE LOCATION OF THE IMPROVEMENTS AND IS NOT RECORDABLE. FENCES SHOULD NOT BE LOCATED USING SIDE DIMENSIONS FROM THE HOUSE. ALL MATTERS OF THE TITLE ARE EXCEPTED. THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHT OF WAY PUBLIC OR PRIVATE.
3. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD RECORDED AND NOT RECORDED, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
4. THIS SURVEY WAS MADE WITHOUT THE BENEFIT OF CURRENT TITLE COMMITMENT, EASEMENTS AND ENCUMBRANCES MAY EXIST WHICH BENEFIT OR BURDEN THIS PROPERTY. MATTERS OF TITLE ARE EXCEPTED. PROPERTY OWNER OR PERSON ORDERING THE SURVEY IS RESPONSIBLE TO CONTACT CLOSING ATTORNEY OR TITLE COMPANY FOR A FULL TITLE SEARCH AND COMMITMENT INCLUDING ALL THE EXCEPTIONS.
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- APD AS PER DEED
 - AE ACCESS EASEMENT
 - AF AS PER FIELD
 - AI ANGLE IRON FOUND
 - APP AS PER PLAT
 - APR AS PER RECORD
 - BC BACK OF CURB
 - BLK BLOCK
 - BLS BUILDING LINE SETBACK
 - BRK BRICK
 - BSMT BASEMENT
 - BSI CABLE BOX
 - C CONCRETE
 - CB CATCH BASIN
 - CL CENTER LINE
 - CLF CHAIN LINK FENCE
 - CMP CORRUGATED METAL PIPE
 - C.O.A. CITY OF ATLANTA
 - CO SAN SEWER CLEANOUT
 - COA CRAWL SPACE
 - CP CALCULATED POINT
 - CPT CARPORT
 - CIP CRIMP TOP PIPE FOUND
 - D DECK
 - DE DRAINAGE EASEMENT
 - DI DRAINAGE INLET
 - EB ELECTRIC POWER BOX
 - EM ELECTRIC METER
 - EP EDGE OF PAVEMENT
 - F FIELD
 - FP FENCE POST
 - FC FENCE CORNER
 - FR FIRE HYDRANT
 - FR FRAME
 - GL GAS LINE
 - GM GAS METER
 - GV GAS VALVE
 - GW GUY WIRE
 - H/W H/WOOD TRAIL
 - IPF IRON PIN FOUND
 - IFS IRON PIN SET
 - W/W WET WEATHER
 - Y YARD INLET
 - IR IRON ROO FOUND
 - IV IRRIGATION VALVE
 - JB JUNCTION BOX
 - LLL LAND LOT LINE
 - MAG MAGNETIC READING IP
 - MGN MAGNOLIA TREE
 - MH MAN HOLE
 - MTF METAL FENCE
 - N N'BOSS
 - NH OVERHANG
 - OTIP OPEN TOP PIPE FOUND
 - OU OWNERSHIP UNCLEAR
 - P PORCH
 - PC PROPERTY CORNER
 - PL PROPERTY LINE
 - PH PINE TREE
 - POB POINT OF BEGINNING
 - PP POWER POLE
 - PW POWER LINE
 - F PLAT
 - (P) PLAT
 - R RECORD
 - REF REINFORCING BAR FOUND
 - RES REINFORCING BAR SET
 - RCP REINFORCED CONC. PIPE
 - R/W RIGHT-OF-WAY
 - SN SIGN
 - SSL SANITARY SEWER LINE
 - SSE SANITARY SEWER EASEMENT
 - SP SCREENED PORCH
 - SW SIDEWALK
 - TB TOP OF BANK
 - UE UTILITY EASEMENT
 - WD WOOD
 - WDF WOOD FENCE
 - WCK WOOD DECK
 - WL WATER LINE
 - WM WATER METER
 - WF WIRE FENCE
 - WV WATER VALVE
 - WY WET WEATHER
 - W/W WET WEATHER
 - Y YARD INLET
- INDICATES STAIRS
 [Hatched Box] INDICATES WALLS

DEBELLE STREET ~ 40' R/W
 N85°38'04"E 70.00'(F)
 25'± BC/BC 70.00'(P)



TOTAL LAND AREA
 14521.01 SF / 0.333 AC

THIS SURVEY PLAT OF EXISTING CONDITIONS ON THE PROPERTY MUST BE USED AS A SINGLE STAND ALONE DOCUMENT. CAN NOT BE SCANNED AND ALTERED, CROPPED OUT COPY/PASTE OR MODIFIED WITH SURVEY LAND EXPRESS TITLE BLOCK, SURVEYOR'S STAMP AND SIGNATURE. THIS SURVEY PLAT CAN BE ONLY ATTACHED AS A SEPARATE DOCUMENT BY ITSELF TO DEVELOPMENT PROJECTS AND SITEPLANS AND CAN NOT BE INSERTED WITH SURVEY LAND EXPRESS TITLE BLOCK, SURVEYOR'S STAMP AND SIGNATURE TO SOME OTHER DEVELOPMENT PROJECTS PREPARED BY ANY OTHER PARTY WITHOUT WRITTEN APPROVAL AND ORIGINAL BLUE INK SIGNATURE OF THE SURVEYOR OF RECORD.

LOT 1	BLOCK
SUBDIVISION OF THE PROPERTY OF R.W. DENICKE UNIT	
LAND LOT 67	18H DISTRICT
DEKALB COUNTY, GEORGIA DB.27070/PG.117 PB.16/PG.166	
FIELD WORK DATE NOV 06, 2018	PRINTED/SIGNED NOV 13, 2018
ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED PAPER SIZE: 11" x 17"	

PLAT PREPARED FOR: SHEET 1 OF 1
CHRISTOPHER MALONE

PROPERTY ADDRESS:
 3723 DEBELLE ST
 CLARKSTON, GA 30021



OB
 COORD #20182587
 DWG #20182587

SURVEY LAND EXPRESS, INC
 LAND SURVEYING SERVICES

24 LENOX POINT
 ATLANTA, GA 30324
 FAX 404-601-0941
 TEL 404-252-5747
 INFO@SURVEYLANDEXPRESS.COM

IN ANY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED HEREON AND HAS BEEN PREPARED IN CONFORMITY WITH THE USUAL STANDARDS AND REQUIREMENTS OF LAW.

SURVEY NOTES

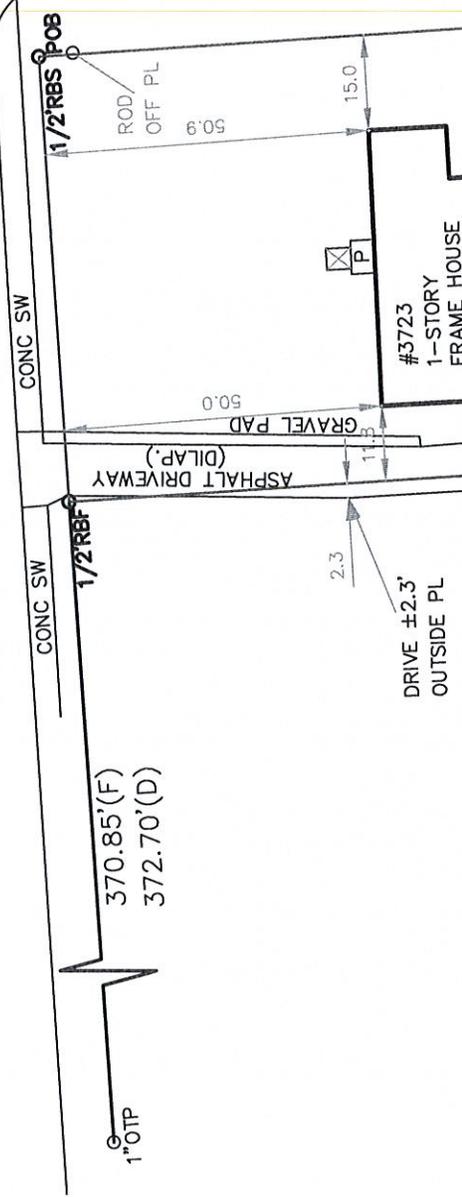
1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAVED OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE SURVEYOR. LOCATION OF UNDERGROUND MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROCESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, TELEPHONE, ELECTRIC, WATER AND SEWER, GAS COMPANIES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS.
2. THIS PLAT WAS PREPARED TO SHOW THE APPROXIMATE LOCATION OF THE IMPROVEMENTS AND IS NOT RECORDABLE. FENCES SHOULD NOT BE LOCATED USING SIDE DIMENSIONS FROM THE HOUSE. ALL MATTERS OF THE TITLE ARE EXCEPTED. THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHT OF WAY PUBLIC OR PRIVATE.
3. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD RECORDED AND NOT RECORDED, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
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* LEGEND *

APD	AS PER DEED	IR	IRON ROD FOUND
AE	ACCESS EASEMENT	IV	IRRIGATION VALVE
APF	AS PER FIELD	JB	JUNCTION BOX
AI	ANGLE IRON FOUND	LLL	LAND LOT LINE
APP	AS PER PLAT	MAG	MAGNETIC READING IP
APR	AS PER RECORD	MGN	MAGNOLIA TREE
BC	BACK OF CURB	MH	MAN HOLE
BLK	BLOCK	MTF	METAL FENCE
BLS	BUILDING LINE SETBACK	N'BO'S	N'BO'S OVERHANG
BRK	BRICK	OH	OPEN TOP PIPE FOUND
BSMT	BASEMENT	OTP	OWNER'SHIP UNCLEAR
CBX	CABLE BOX	P	PORCH
C	CONCRETE	PC	PROPERTY CORNER
CB	CATCH BASIN	PL	PROPERTY LINE
CL	CENTER LINE	PN	PINE TREE
CLF	CHAIN LINK FENCE	POB	POINT OF BEGINNING
CMP	CORRUGATED METAL PIPE	PP	POWER POLE
C.O.A.	CITY OF ATLANTA	PW	POWER LINE
CO	SAN SEWER CLEANOUT	P	PORCH
CRWL	CRAWL SPACE	(P)	PLAT
CP	CALCULATED POINT	R	RECORD
CPT	CARPOT	R	REINFORCING BAR FOUND
CTP	CRIMP TOP PIPE FOUND	RBF	REINFORCING BAR SET
DE	DEED	RBS	REINFORCED CONC. PIPE
DI	DRAINAGE EASEMENT	R/W	RIGHT-OF-WAY
DI	DRAINAGE INLET	SN	SIGN
EB	ELECTRIC POWER BOX	SSL	SANITARY SEWER LINE
EM	ELECTRIC METER	SSE	SANITARY SEWER EASEMENT
EP	EDGE OF PAVEMENT	SP	SCREENED PORCH
F	FIELD	SW	SIDEWALK
FP	FENCE POST	TB	TOP OF BANK
FC	FENCE CORNER	UE	UTILITY EASEMENT
FH	FIRE HYDRANT	UE	UTILITY EASEMENT
FR	FRAME	WD	WOOD
GL	GAS LINE	WDF	WOOD FENCE
GM	GAS METER	WDK	WOOD DECK
GV	GAS VALVE	WL	WATER LINE
GW	GUY WIRE	WM	WATER METER
HDW	HEAD WALL	WRF	WIRE FENCE
HW	HARDWOOD TREE	WV	WATER VALVE
IPF	IRON PIN FOUND	WV	WATER VALVE
IPS	IRON PIN SET	W/W	WET WEATHER WITH
		YI	YARD INLET

INDICATES STAIRS
INDICATES WALLS

DEBELLE STREET ~ 40' R/W
N85°38'04"E 70.00'(F)
70.00'(P)



~ 50' R/W

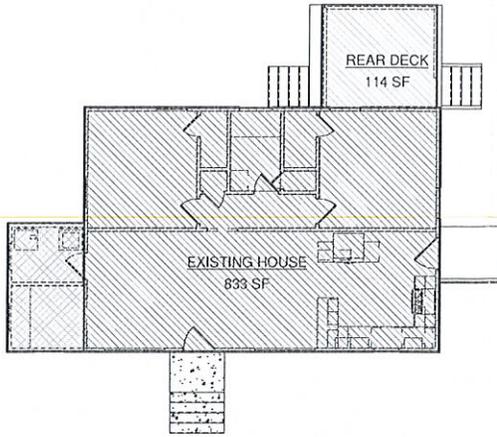


FLOOR AREA RATIO (FAR) (MAX)
 MIN. RESIDENTIAL UNIT SIZE (F)
 BUILDING COVERAGE (MAX. A %)
 MIN. OPEN SPACE
 MAX. BUILDING HEIGHT
 MIN. LOT SIZE
 MIN. LOT WIDTH
 MINIMUM FRONT YARD SETBACK
 MINIMUM SIDE YARD SETBACK
 MINIMUM REAR YARD SETBACK

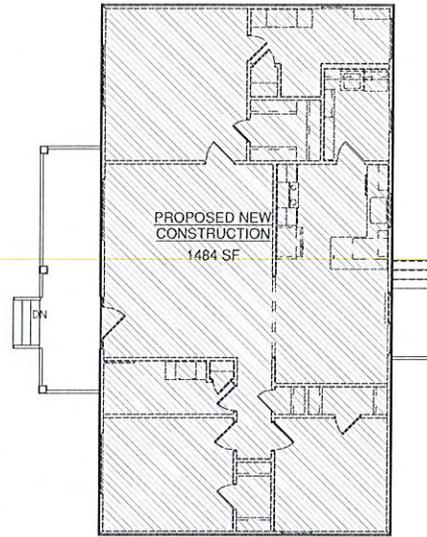
NR-3 ZONING

PROPOSED FLOOR AREA RATIO
 PROPOSED FLOOR AREA RATIO
 PROPOSED BUILDING HEIGHT F

PROPOSED ZONING



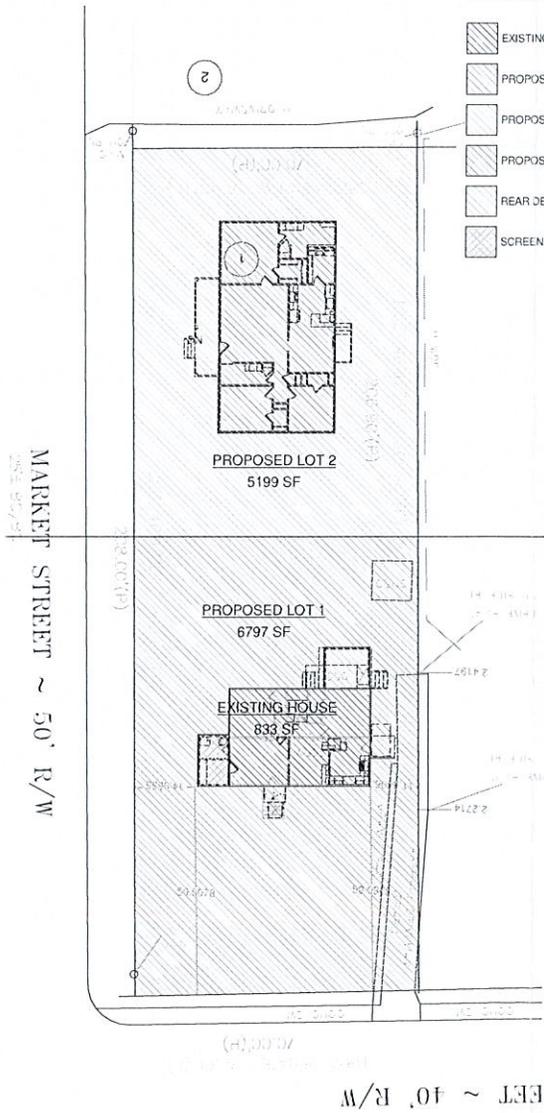
3 PROPOSED AREA
 1/8" = 1'-0"



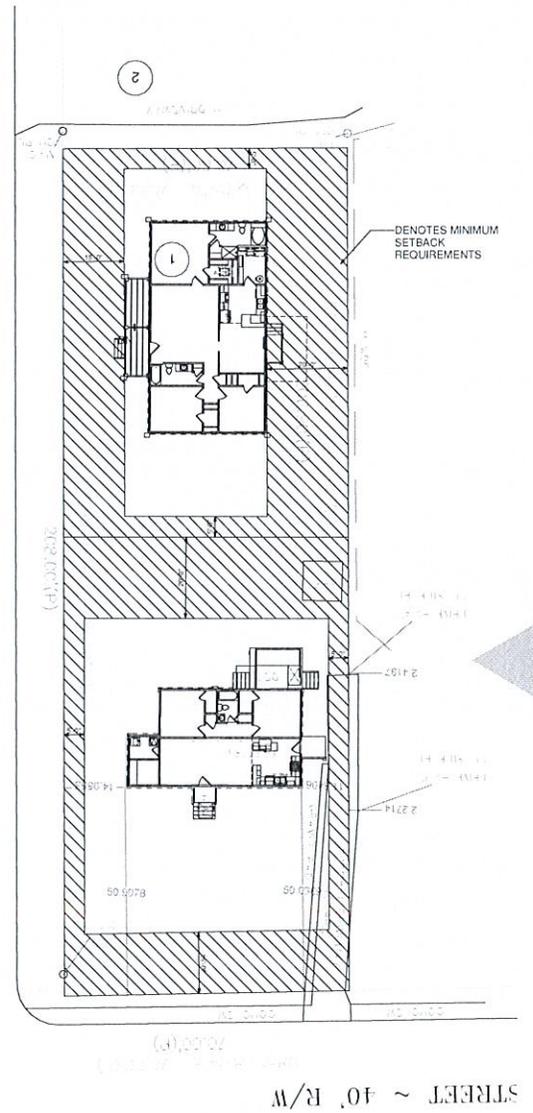
5 PROPOSED AREA
 1/8" = 1'-0"

Building Area Legend

- EXISTING HOUSE
- PROPOSED LOT 1
- PROPOSED LOT 2
- PROPOSED NEW CONSTRUCTION
- REAR DECK
- SCREENED PORCH



2 LOT AREA CALCULATIONS
 1" = 20'-0"



1 CONCEPTUAL SITE PLAN
 1" = 20'-0"

CITY OF CLARKSTON

ITEM NO: E3

CLARKSTON CITY COUNCIL

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Resolution

MEETING DATE: January 29, 2019

SUBJECT: Variance from Section 702 NR-2 Medium Density Neighborhood Residential (f) Bulk and area regulations.

DEPARTMENT:
Planning & Development

PUBLIC HEARING: YES NO

ATTACHMENT: YES NO
Pages:

INFORMATION CONTACT:
Shawanna Qawiy, Planning and Dev. Director
PHONE NUMBER: 404-296-6489

PURPOSE: Variance request from Christopher Malone to vary from Section 702 NR-2 Medium Density Neighborhood Residential (f) Bulk and area regulations of minimum lot size of 7500 sq. ft. to subdivide the lot into two (2) lots.

STAFF RECOMMENDATION: *Staff Analysis Attached*

Staff recommends approval of the variance request with conditions.

PLANNING AND ZONING BOARD RECOMMENDATIONS: *01.22.19 Meeting minutes attached*

Based on the January 22, 2019, planning and zoning Board public hearing meeting, the Board recommends approval of the variance request with conditions and to amend the zoning map.

ATTACHMENTS:

Rezoning application, staff rezoning analysis report, maps.

CITY OF CLARKSTON

ITEM NO: E4

CLARKSTON CITY COUNCIL MEETING

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Ordinance

MEETING DATE: January 29, 2019

SUBJECT: Adopt Required Stormwater Ordinances and Regulations: Georgia Erosion & Sedimentation Act, Enforcement Response Plan and Green Infrastructure / Low Impact Development Program.

DEPARTMENT: City Administration

PUBLIC HEARING: YES NO

ATTACHMENT: YES NO
Pages: 76

INFORMATION CONTACT: ROBIN I. GOMEZ,
PHONE NUMBER: 404-296-6489

PURPOSE:

In a letter dated December 5th, 2018, the Georgia Environmental Protection Division (EPD) commented on the city's 2017-2018 MS4 (Municipal Separate Storm Sewer System) Annual Report. The letter requested that the city respond to twelve questions from the EPD by a January 18, 2019, deadline. A majority of the responses were addressed through additional clarification of the report contents or information that was omitted from the Annual Report. Three EPD questions dealt with outdated city stormwater ordinances or missing regulations and codes that were not included in prior Annual Reports.

Consequently, the City's Response letter to EPD stated that these ordinances, codes, and/or regulations would be adopted by City Council by February 5, 2019, followed by city implementation immediately thereafter.

NEED/ IMPACT:

To comply with the EDP's request, the following three (3) ordinances and regulations require council review and approval by February 5th:

GEORGIA EROSION & SEDIMENTATION ACT

The state legislature approved of a revised Erosion & Sedimentation Act (E&SC) Act in 2016. All governments that are Local issuing Authorities (LIA's); i.e. governments that review Erosion & Sedimentation Control Plans as opposed to EPD staff, were required to adopt this ordinance. The City did not adopt this new legislation.

The primary differences between the former and revised Act is as follows:

- Refinement of state buffer encroachment language and limits of disturbance
- Refinement of language defining structures within state water buffer

ENFORCEMENT RESPONSE PLAN

The National Pollutant Discharge Elimination Plan (NPDES) for MS4 PH I agencies require the development and implementation of an Enforcement Response Plan (ERP). This plan outlines the city's response to various potential stormwater violations including enforcement action to correct said stormwater violations. The City adopted an ordinance approximately 5 years ago but EPD's review of the program

identified a lack of sufficient detail in all stormwater areas of violation and lack of specificity regarding enforcement response.

The updated ERP attached herein includes the following components:

- ✓ Ordinance Text
- ✓ Types of enforcement mechanisms to be utilized
- ✓ Possible violations, use of enforcement actions, and corrective actions
- ✓ Time frames for investigation and use of enforcement actions
- ✓ Description of tracking violations

The components outlined above will pertain to the following types of stormwater violations:

- Illicit Discharge and Illegal Connections to Storm Sewers
- Soil Erosion, Sedimentation and Pollution Control
- Post Development Stormwater Management for New Development and Redevelopment
- Solid Waste Disposal / Offenses Against Public Health
- Highly Visible Pollutant Sources
- Industrial Facility Storm Water Discharge Control

GREEN INFRASTRUCTURE / LOW IMPACT DEVELOPMENT

The city is required to develop a Green Infrastructure – Low Impact Development Program (GI/LID) to encourage the use of Green Infrastructure & Low Impact Development practices and track the progress and implementation of said practices through development and re-development reviews.

Although the attached document is a “development regulation”, it is recommended that city council approve the GI/LID Program, which will ultimately be included in the City of Clarkston Development Code. Once approved by council, the Director of Planning & Development will move forward to incorporate this process into the city development review process.

RECOMMENDATIONS:

Staff recommends Council approve the required Stormwater Ordinances and Regulations: Georgia Erosion & Sedimentation Act ordinance, the Enforcement Response Plan and the Green Infrastructure / Low Impact Development Program at February 5, 2019, Council meeting.

MEMO

FROM: City Manager Gomez

TO: Mayor & City Council

RE: EPD Response to City MS4 2017-2018 Phase I Annual Report
Required Adoption of Various Stormwater Ordinances and Regulations

Background

In a letter dated December 5th, 2018, the Environmental Protection Division commented on the city's 2017-2018 MS4 Annual Report. The letter requested that the city respond to twelve questions from the EPD by January 18th, 2019 deadline.

A majority of the responses were addressed through additional clarification of the report contents or information that was omitted from the Annual Report. Three EPD questions dealt with outdated city stormwater ordinances or missing regulations and codes that were not included in prior Annual Reports.

Consequently, the City's Response letter to EPD stated that these ordinances, codes and/or regulations would be adopted by City Council by February 5th, 2019 followed by city implementation immediately thereafter.

The following are the ordinances and regulations that will require council review and approval by February 5th. Each will be briefly described as follows:

GEORGIA EROSION & SEDIMENTATION ACT

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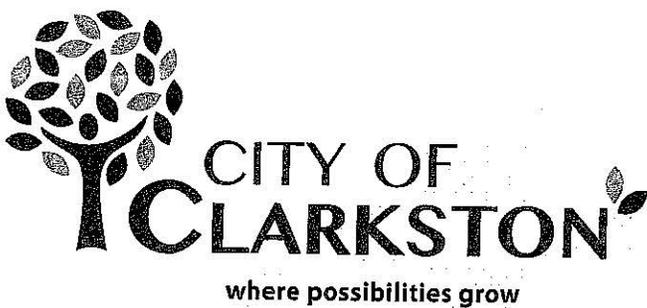
The GI/LID Program is attached herein.

NEXT STEPS

Adopt the attached ordinances and regulations by February 5th, 2019.

City staff will subsequently move forward with implementation of all three ordinances and regulations including moving forward with modifications to the appropriate code sections.

Attachments (3)



Mayor Ted Terry

City Council

YT Bell

Jamie Carroll

Andrea Cervone

Awet "Howard" Eyasu

Ahmed Hassan

Mario Williams

January 17, 2019

Ms. Lisa A. Perrett
Environmental Specialist
Stormwater Unit
Environmental Protection Division
2 Martin Luther King Jr. Drive
Atlanta, GA 30334

Re: City of Clarkston Phase I MS4 2017-2018 Annual Report
Review Comment Response Letter

Dear Ms. Perrett:

On behalf of the City of Clarkston, we are providing additional information for Clarkston's 2017-2018 NPDES Phase I Annual Report. On December 5, 2018, the EPD provided comments to the City of Clarkston on the City's 2017-2018 Annual Report. This letter and referenced attachments are provided in response to those comments. Please note that your comments are *italicized* and our response is in regular font.

General

The signature page submitted with the annual report is a copy. Submit the original signed cover page for the annual report.

The City has included the original signed cover page in the attachments. Refer to Attachment A.

Part 2 – Implementation Status of SWMP Components

1. *Part 2.A.1.a-b – requests the inventory of MS4 structures. The NPDES Permit requires the inventory to include four types of structures: catch basins, City-owned detention/retention ponds, ditches, and pipes. It was noted that the City has included numerous other types of structures on their inventory (e.g. junction boxes, flumes, headwalls, etc.). The City should be aware that they are required to inspect 100% of the structures listed on the inventory within a 5-year period. By including these additional types of structures on the inventory, the City is increasing the number of structures that must be inspected. The City has two options. It is acceptable for the City to submit the existing comprehensive inventory. The City also has the option to retain the entire inventory in their files for the City's use and submit an inventory to the Division containing only the required four structure types. If the City decides to only include the four structure types on the inventory, submit a revised inventory and map to the Division only showing the required structures.*

The City will retain the existing inventory previously submitted with the 2017-2018 annual report.

The annual report indicates that the City has 8 detention ponds, 5,427 linear feet of ditches and 66,928 linear feet of pipes. The map provided by the City does show these structures. However, the inventory provided by the City does not appear to include these structure types. Provide a revised inventory showing, at a minimum, the four required types of structures.

The file "Overall MS4 Inventory Table" has the merged inventories for all storm structures, storm pipes, and ditches. It has always been reported that the City has 8 detention ponds, because the City was under the assumption that private ponds had to be reported. Currently the City does not have any ponds, but does have one under construction. After the pond has been completed, it will be added to inventory to be inspected once every five years. Refer to Attachment B.

2. *Part 2.A.1.d – addresses the inspection of MS4 structures. The Permit requires that the City inspect 100% of the structures within a 5-year period. The Permit will expire on June 10, 2019. Therefore, the City must complete inspections on 100% of the structures prior to the end of the 2018-2019 annual report, April 20, 2019. The City must provide the number and percentage of the MS4 structures inspected during each of the reporting periods from 2014-2018 in order to document that the City is on track to inspect 100% of the structure prior to the April 30, 2019 annual report end date.*

The City is on track to have 100% of the City's MS4 structures inspected by April 30, 2019. This will satisfy the requirement to have 100% inspected within the 5-year period.

The City indicated that they have 8 ponds. The City did not submit any information on the inspection of ponds conducted during the 2017-2018 reporting period. If inspections were performed, provide copies of inspection reports. If inspections were not performed, explain the reason and provide the number of ponds inspected between 2014-2018.

It has always been reported that the City has 8 detention ponds, because the City was under the assumption that private ponds had to be reported. Currently, the City does not have any City owned ponds, but will have two under construction in 2019. After these ponds are constructed, they will be added to the inventory to be inspected once every five years.

- 3. Part 2.A.1.e – addresses the maintenance of MS4 structures. The City indicated that they maintained 2 ditches and 1 headwall during the reporting period. It was noted that inspections conducted in February 2018 and March 2018 identified a large number of structures requiring maintenance and that work orders were prepared. Provide documentation of any work orders completed since the February – March 2018 work order preparation. If the information is not available, explain the reason and the steps the City will take during the 2018-2019 reporting period to ensure that maintenance issues are resolved.*

The City inadvertently forgot to include routine maintenance work tasks. The City performed numerous other maintenance tasks but considered these to be "routine". In the future all work order tasks will be provided. Refer to Attachment C.

- 4. Part 2.A.3 – addresses street maintenance. The City indicated that employees removed 6,087 pounds of litter from the streets. The City did provide a list of the amount of litter picked up each month. However, the City must provide some type of documentation, such as log sheets or other tracking mechanism, to support the claim regarding the amount of litter removed. If the documentation is not available, explain the reason and the steps the City will take during future reporting periods to document the activity.*

The City does not have any supporting documentation for the amount of litter picked up during the 2017-2018 reporting period. During the 2018-2019 reporting period the City has implemented since January 2019 trash total sheets that are filled out each time employees remove litter from City streets. An example of the form that will be used "Street Litter forms – Clarkston" has been included in the attachments. Refer to Attachment D.

5. *Part 2.A.6 – discusses the inspection of municipal facilities with the potential to cause pollution. The City provided an inventory listing 8 facilities. It was noted that the City inspected 6 of the 8 facilities during the reporting period. The Permit requires the City to inspect 100% of the facilities during the 5-year period. Provide the dates during 2014-2018 that the other two facilities were inspected. If the facilities have not yet been inspected, the City must ensure the facilities are inspected during the 2018-2019 reporting period.*

The City Cemetery and Friendship Forest Pavilion were inspected during the 2016-2017 reporting period. The City has inspected 100% of the municipal facilities within the 5-year period. The City inadvertently forgot to include the inspection forms. Refer to the inspections of both facilities during the 2017-2018 reporting period. Refer to Attachment E.

6. *Part 2.A.8 – addresses municipal employee training related to pollution prevention. The City provided a list of 5 employees and stated that they were trained at various times between February-April 2018. In the future, the City must provide a sign-in sheet containing the actual date of the training, the topic of the training, and the signature of the employee receiving the training.*

It was noted that the employee training was provided by a consultant. The City can easily provide the training to their employees, without using a consultant. One of the most popular methods is to hold a training class and show stormwater related videos from YouTube. The sign-in sheet can list the topics and the URL of the videos, along with the training date and employee signatures.

The City inadvertently forgot to include the sign-in sheet. The training sign-in sheet was for the power point training (presentation provided in the 207-2018 report) and a 2nd training session included a video of maintenance of stormwater structures. In the future the City intends to take EPD's advice and utilize YouTube as a training guide and ensure that a sign-in sheet is provided which includes signatures, training date, and training topic. Refer to Attachment F.

7. *Part 2.B.2.a – states there are 118 outfalls within the City and that the City screened 46 outfalls during this reporting period (2017-2018). The City must inspect 100% of the*

outfalls within a 5-year period, which means all of the outfalls must be inspected prior to April 30, 2019. Provide the number and percentage of outfalls inspected each reporting period from 2014-2018 (i.e. 2014-2015, 2015-2016, 2016-2017) to demonstrate that the City is on track to comply with the goal of 100% in 5 years.

During the 2017-2018 reporting period the outfall map was reviewed and determined that changes needed to be made due to the recently annexed area. The revised inventory and map were included with the 2017-2018 report. The remaining outfalls will be inspected during the 2018-2019 reporting period. The City is on track to complete 100% within the 5-year period.

8. *Part 2.B.2.b.8 – addresses source tracing of identified dry weather flows. On March 28, 2018, the City found a flow at Outfall #1090, Brockett Trail at Springdale Glen apartments. The source was determined to be a potable water leak. Provide documentation to the Division that the City ensured the illicit discharge was eliminated.*

The water line leak was repaired by the Apartment maintenance staff. Leak was on private property. Refer to the attached “before” and “after” pictures - Attachment G.

9. *Part 2.C.2 – addresses the inspection of industrial facilities. It was noted that the City inspected Martin Sprocket on March 29, 2018. This inspection was actually a re-inspection due to problems identified at the facility on December 13, 2017. On the 2018 inspection form, the City noted the problems that still exist and stated that the facility would be re-inspected in early 2019. The City must begin to address violations identified at the industrial facilities through an enforcement mechanism, such as a Notice of Violation. If necessary, the City should then escalate enforcement against a facility, not just continue to re-inspect the facility. The City should immediately re-inspect this facility. If the noncompliance issues are still present, then the City must take enforcement to attempt to bring the facility into compliance. Provide the results of the re-inspection and documentation of any enforcement action taken. If enforcement action is not taken, explain why.*

The City re-inspected Martin Sprocket on January 10, 2019. All issues discovered on inspections conducted on December 13, 2017 and March 29, 2018 has been corrected. The re-inspection form “Martin Sprocket Re-Inspection 1-10-2019” has been included in the attachments. Refer to Attachment H.

10. *Part 2.D.1 – discusses the legal authority to implement a construction management program. The City is a Local Issuing Authority (LIA). The Georgia Erosion and*

Sedimentation Act (GESA) was revised in 2015. The LIAs were notified by the Division that their Erosion and Sedimentation (E&S) ordinance must be revised to comply with the 2015 GESA revisions by December 2016. In an August 14, 2018 email (i.e. Frank Carubba to Keith Barker), the Division notified the City that we still had not received the revised ordinance. The City must immediately take steps to revise the ordinance to comply with the GESA. Either submit the revised ordinance by January 18, 2019, or provide a deadline date for when the ordinance will be submitted.

The City is in the process of revising the E&S ordinance in order to comply with GESA revised in 2015. City Council will adopt these changes during the next City Council Meeting; February 5th, 2019. The City will forward to EPD the minutes from the meeting & the revised ordinance documenting that it has been adopted.

11. *Part 2.E.1 – the City provided an inventory containing 304 highly visible pollutant sources (HVPS). It was noted that this inventory appears to contain all commercial businesses located within the City, including such businesses as attorneys, accountants, travel agencies, etc. The City is allowed to define what they consider an HVPS facility. The determination should be based on the potential the HVPS facility has to impact the MS4. Therefore, the City should only consider including facilities on the inventory that store chemicals outdoors (e.g. businesses with nurseries attached, such as Walmart or Home Depot), conduct activities that use potential pollutants (e.g. car repair, oil change, car washes) or have another potential to cause pollution (e.g. restaurants with dumpsters, gas stations, veterinarian or kennel facilities, etc.). If the City does not have reason to believe the facility will cause pollution, then the facility should be removed from the list. The City can make this determination based on an inspection of the facility or based on best judgement. Because the Permit requires the City to inspect 100% of the HVPS facilities within a 5-year period, it is important that the City cull the inventory to remove facilities that are not considered HVPS. The City can retain the existing inventory, or submit an updated inventory to the Division by January 18, 2019.*

It has been determined that the City will retain the current inventory. Clarkston is a unique City because of the number of immigrants who own businesses. The City was identified as a Refugee Resettlement City by the federal government in the 1980's. Most of the businesses are owned or operated by recent immigrants or refugees. There are 59 languages spoken in the city. The city population is over 50% refugees. This has presented a challenge to the City as other cultures around the world do not have the same cleaning standards as we do in the United States. Being able to inspect a wide range of businesses has not only allowed the City to identify cleanliness and pollution issues, but has also provided the opportunity to educate business owners on the importance of proper cleanup and disposal.

12. *Part 2.E.2 – addresses the inspection of HVPS facilities. The City is required to inspect 100% of the HVPS facilities within a 5-year period. The Permit will expire on June 10, 2019, so the inspections must be completed prior to April 20, 2019, the end of the 2018-2019 reporting period. Provide the number and percentage of HVPS facilities inspected each reporting period from 2014-2018 to demonstrate that the City is on track to comply with the 100% goal. The City should ensure that the remaining facilities are inspected during the 2018-2019 reporting period.*

The City is on track to have 100% of the HVPS facilities inspected by April 30, 2019.

The City indicated that they inspected 74 HVPS facilities and did submit inspection forms to document this activity. However, a review of the inspection forms revealed the following concerns:

- *On 3 of the 74 inspection forms, the inspector failed to include a date. Therefore, there is no way to document the date that the inspection occurred. The City must ensure that all future inspection forms are fully completed.*

In the future the City will make sure that inspection forms are fully completed.

- *Of the 74 inspections performed, 4 of the inspections were re-inspections of facilities where problems were noted (i.e. Decatur Pest, Revolutions Environmental, Atlanta Noddle, Alex Car). The City cannot count re-inspections of facilities towards the total number of inspections performed, because 100% of the facilities on the inventory must be inspected at least once during the 5-year period. Therefore, the City only inspected 70 facilities during the reporting period and will need to ensure that the remaining facilities are inspected prior to April 30, 2019.*

The number of inspected facilities has been revised on Page 18 of the annual report and included in the attachments. Refer to Attachment I.

- *During the inspections, many problems were noted on the inspection forms. In almost all cases, at the bottom of the inspections form, the City indicated that they would re-inspect within 30 days (19 facilities). For one facility, Family Dollar, the City indicated they would re-inspect within 5 days. However, the City did not provide documentation of any re-inspections performed on the facilities, even though the majority were inspected in December 2017 and January 2018. If re-inspections were performed, provide documentation. If re-inspections were not performed, then explain why and describe how the City will address this issue.*

Re-inspections have not been performed yet. The City has made these re-inspections a top priority and will have these re-inspected by April 30, 2019. The City will report on these re-inspection and any possible violations issued with the annual report due June 15, 2019.

- *One of the inspections, Maraki Coffee, contains an inspection date of January 9, 2017. If the inspection was performed on this date, then it is outside of the reporting period. If the date was a typographical error, provide the correct inspection date.*

That is the correct inspection date. The City was incorrect to include in the 2017-2018 reporting period and should have included in the 2016-2017 reporting period. The City will provide improved quality control on future inspection reports.

- *A review of the inspection reports indicates that the City is inspecting items outside of the stormwater purview. The inspector is inspecting inside the facility and noting things like grease on the kitchen floor or non-working toilets. If the inspector is outside of the facility and sees indications that a discharge is exiting the facility and can impact stormwater, then an inspection of the interior is reasonable. Otherwise, the inspector should just be performing an inspections of the exterior and checking for potential sources of pollution. Explain why the inspector is inspecting the interior of facilities and if the city will continue to take this approach.*

As mentioned before, Clarkston is a unique City because of the number of immigrants who own businesses. This has presented a challenge to the City as other cultures around the world do not have the same cleaning standards as we do in the United States. Being able to inspect not only outside but also inside has not only allowed the City to identify cleanliness and pollution issues, but has also provided the opportunity to educate business owners on the importance of proper cleanup and disposal.

Part 4 – Enforcement Response Plan (ERP)

The ERP submitted by the City consists entirely of reiterated sections of ordinances. Section 3.3.6 of the Permit (pages 15-16) specifies what an ERP must consist of. The City needs to revise the ERP to contain at least four sections (i.e. Illicit Discharge, construction, industrial, HVPS). In each of these sections, the City needs to include all of the required components, as follows:

- *The ordinance text;*
- *Types of enforcement mechanisms available for each of the sections;*
- *Possible violations and the enforcement mechanism to be used, including path of escalation;*
- *Time frames for investigation, use of enforcement actions, corrective actions, re-inspection, etc.; and*
- *Description of how this information will be tracked*

The ERP must be revised to include all of the required information.

The ERP has been revised and included in the attachments for EPDs review and approval. Refer to Attachment J.

Part 5 – Impaired Waterbodies

1. *The Impaired Waters Plan (IWP) provided by the City requires revision. Section 3.3.7 of the Permit (page 16) specifies what must be included in the IWP. The IWP provided by the City does not include the required information, such as the list of impaired waters, map showing the impaired waters (and outfalls and monitoring location), information on sample collection, information on practices (BMPs) to be issued to address the pollutant of concern, etc. The IWP must be revised to include all of the required information.*

The City has indicated that the monitoring is being performed by DeKalb County. The IWP can be written to state this. However, the City must write the IWP to clearly state that if DeKalb County fails to conduct the required monitoring, then the City will conduct the monitoring. Also, the City must attach a copy of the Memorandum of Agreement between DeKalb County and the City stating who is responsible for the monitoring.

The City's IWP has been revised and included in the attachments for EPDs review and approval. Additional documentation includes the IGA between Clarkston and DeKalb County. Refer to Attachment K.

2. *The 2016 303(d) list was approved on October 4, 2018. The Permit requires the City to evaluate this list and determine if any revisions to the Impaired Waters Plan are required. Ensure that this most recent list is used during the IWP revision.*

During the IWP revision, the City reviewed the latest 303(d) list to determine if any new streams have been added or removed. This discussion also occurred with the County since they are responsible party for monitoring. No additional impaired water designations were identified within the city limits. This includes the annexed areas. The only impaired stream in the city limits is South Fork Peachtree Creek for fecal and TSS.

Part 6 – Public Education/Public Involvement

1. *The City used the website to distribute educational materials. The City should be aware that when the NPDES Permit is reissued in 2019, the City will be required to implement two public education activities per reporting period. The City will be required to revise the SWMP within 180 days of the permit reissuance, with a submittal date of December 8, 2019. The City will need to describe in the SWMP the activities to be implemented, the frequency at which they will be implemented and the documentation of these activities that will be provided in each annual report. The City should begin considering the public education activities that they will be able to implement and will include in the revised SWMP.*

The City has started discussing two possible public education activities for the next 5-year period. Once decided, these will be included in the SWMP due by December 8, 2019.

2. *The City failed to conduct any public involvement activities during the reporting period. As with public education, when the NPDES Permit is reissued, the City will need to implement two public involvement activities per reporting period. The City will need to describe in the SWMP the two activities, the frequency the activities will be performed, and the documentation that they City will accrue to provide in each annual report.*

The City has started discussing two possible public involvement activities for the next 5-year period. Once decided, these will be included in the SWMP due by December 8, 2019.

Part 7 – Post-Construction

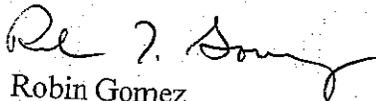
Ms. Lisa A. Perrett
January 17, 2019
Page 11 of 11

The NPDES Permit required that the City develop a Green Infrastructure/Low Impact Development (GI/LID) program and submit it to EPD by June 15, 2017. In Part 7.B.2 of the annual report, the City stated that they have not developed this program. The City must submit the GI/LID program by January 18, 2019.

The GI/LID program has been created and included in the attachments for EPDs review and approval. The City intends to begin utilizing this document immediately. It should be noted that the City has been implementing "Green Infrastructure" on "city transportation projects" over the past 2 years. This includes bio-retention and bioswales on the City Streetscape and Rowland "Green" Street projects. The former is under construction and the latter will be under construction in mid-2019. Both are anticipated to be completed in early 2020. Refer to Attachment L.

We believe that the attachments and information included herein will address your comments. If you have any questions, please contact Lawrence Kaiser, P.E. at 404-909-5619 or Jason Ray at ISE at (678) 552-2106.

Sincerely,



Robin Gomez
City Manager

Cc: Lawrence Kaiser, P.E.
Collaborative Infrastructure Services, Inc.

Jason Ray
Integrated Science & Engineering

Attachments (A-L)

City of Clarkston Soil Erosion, Sedimentation And Pollution Control Ordinance

NOW, THEREFORE, BE IT ORDAINED,
BY

SECTION I TITLE

This ordinance will be known as “City of Clarkston Soil Erosion, Sedimentation and Pollution Control Ordinance.”

SECTION II DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

1. **Best Management Practices (BMPs):** These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the ‘Manual for Erosion and Sediment Control in Georgia’ published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.
2. **Board:** The Board of Natural Resources.
3. **Buffer:** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
4. **Certified Personnel:** A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
5. **Coastal Marshlands:** Shall have the same meaning as in O.C.G.A. 12-5-282.
6. **Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).
7. **CPESC:** Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.
8. **Cut:** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
9. **Department:** The Georgia Department of Natural Resources (DNR).
10. **Design Professional:** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
11. **Director:** The Director of the Environmental Protection Division or an authorized representative.
12. **District:** The DeKalb County Soil and Water Conservation District.
13. **Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.
14. **Drainage Structure:** A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.
15. **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.
16. **Erosion, Sedimentation and Pollution Control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and

requirements in section IV.C. of this ordinance.

17. **Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
18. **Final Stabilization:** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.
19. **Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
20. **Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
21. **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.
22. **Land-Disturbing Activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section III, Paragraph 5.
23. **Larger Common Plan of Development or Sale:** A contiguous area where multiple separate and distinct

construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

24. **Local Issuing Authority:** The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.
25. **Metropolitan River Protection Act (MRPA):** A state law referenced as O.C.G.A. 12-5-440 et.seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
26. **Natural Ground Surface:** The ground surface in its original state before any grading, excavation or filling.
27. **Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.
28. **NOI:** A Notice of Intent form provided by EPD for coverage under the State General Permit.
29. **NOT:** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
30. **Operator:** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized

- to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.
31. **Outfall:** The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.
 32. **Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
 33. **Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.
 34. **Phase or Phased:** Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
 35. **Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.
 36. **Properly Designed:** Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
 37. **Roadway Drainage Structure:** A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
 38. **Sediment:** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
 39. **Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
 40. **Soil and Water Conservation District Approved Plan:** An erosion, sedimentation and pollution control plan approved in writing by the DeKalb County Soil and Water Conservation District.
 41. **Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
 42. **State General Permit:** The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of O.C.G.A. 12-5-30.
 43. **State Waters:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
 44. **Structural Erosion, Sedimentation and Pollution Control Practices:** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the

purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

45. **Trout Streams:** All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.epd.georgia.gov. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

46. **Vegetative Erosion and Sedimentation Control Measures:** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
- b. Temporary seeding, producing short-term vegetative cover; or
- c. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

47. **Watercourse:** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert,

drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

48. **Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

SECTION III EXEMPTIONS

This ordinance shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

1. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".
2. Granite quarrying and land clearing for such quarrying;
3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
4. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control

Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;

5. Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section IV C. of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years

after completion of such forestry practices;

7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
8. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;
9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway

Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
11. Any public water system reservoir.

SECTION IV MINIMUM REQUIREMENTS FOR EROSION, SEDIMENTATION AND POLLUTION CONTROL USING BEST MANAGEMENT PRACTICES

A. GENERAL PROVISIONS

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Section IV B. & C. of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.

B. MINIMUM REQUIREMENTS/ BMPs

1. Best management practices as set forth in Section IV B. & C. of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design

specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).

2. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
 3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
 4. The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
 5. The LIA may set more stringent buffer requirements than stated in C.15,16 and 17, in light of O.C.G.A. § 12-7-6 (c).
- C. The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
1. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 2. Cut-fill operations must be kept to a minimum;
 3. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
 4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
 5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
 6. Disturbed soil shall be stabilized as quickly as practicable;
 7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
 8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
 9. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et seq.;
 10. Adequate provisions must be provided to minimize damage from surface water

to the cut face of excavations or the sloping of fills;

11. Cuts and fills may not endanger adjoining property;
12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
14. Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section IV B. 2. of this ordinance;
15. Except as provided in paragraph (16) and (17) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water

is not a source of water; and for which runoff from precipitation is the primary source of water flow, unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings

- for water lines; or (ii) Stream crossings for sewer lines; and
16. There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed ; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for

- his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
17. There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if

such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her

own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat; and

- b. The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- c. The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- d. Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification

shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.

- D. Nothing contained in O.C.G.A. 12-7-1 et seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section IV B. & C. of this ordinance.
- E. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

SECTION V APPLICATION/PERMIT PROCESS

A. GENERAL

The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.

B. APPLICATION REQUIREMENTS

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Clarkston without first obtaining a permit from the City Planning and Development Department to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
2. The application for a permit shall be submitted to the City Planning and Development Department and must include the applicant's erosion,

sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section V C. of this ordinance. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section IV B. & C. of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by three (3) copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.

3. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
4. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan.

The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section IV C. 15, 16 and 17 have been obtained, all fees have been paid, and bonding, if required as per Section V B.6., have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the revised Plan submittal.

5. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
6. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

C. PLAN REQUIREMENTS

1. Plans must be prepared to meet the minimum requirements as contained in Section IV B. & C. of this ordinance, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. 12-7-20.
2. Data Required for Site Plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

D. PERMITS

1. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after

receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.

2. No permit shall be issued by the Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section IV C. 15, 16 and 17 are obtained, bonding requirements, if necessary, as per Section V B. 6. are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
3. Any land-disturbing activities by a Local Issuing Authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the Local Issuing Authority.
4. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
5. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
6. The LIA may reject a permit application if the applicant has had two or more

violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

SECTION VI INSPECTION AND ENFORCEMENT

- A. The City Inspector or designee will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the Local Issuing Authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance.
- B. The Local Issuing Authority must amend its ordinances to the extent appropriate within

twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.

- C. The City Inspector or designee shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- D. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- E. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
- F. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the District and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify

the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the Division, the Division shall revoke the certification of the county or municipality as a Local Issuing Authority.

SECTION VII PENALTIES AND INCENTIVES

- A. **FAILURE TO OBTAIN A PERMIT FOR LAND-DISTURBING ACTIVITY**
If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.
- B. **STOP-WORK ORDERS**
 - 1. For the first and second violations of the provisions of this ordinance, the City Inspector, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the City Inspector, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the City Inspector, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;

2. For a third and each subsequent violation, the City Inspector, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the City Inspector, the Local Issuing Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the City Inspector, the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

C. BOND FORFEITURE

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section V B. 6. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may

use the proceeds to hire a contractor or use City staff and equipment to stabilize the site of the land-disturbing activity and bring it into compliance.

D. MONETARY PENALTIES

1. Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director or the City Inspector issued as provided in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

**SECTION VIII
EDUCATION AND
CERTIFICATION**

- A. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.
- B. For each site on which land-disturbing activity occurs, each entity or person acting

as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

- C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
- D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

SECTION IX ADMINISTRATIVE APPEAL JUDICIAL REVIEW

- A. **ADMINISTRATIVE REMEDIES**
The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sedimentation and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the City Magistrate Court within thirty (30) days after receipt by the Local Issuing Authority of written notice of appeal.

B. JUDICIAL REVIEW

Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of DeKalb County.

SECTION X EFFECTIVITY, VALIDITY AND LIABILITY

A. EFFECTIVITY

This ordinance shall become effective on the 5th day of February, 2019.

B. VALIDITY

If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.

C. LIABILITY

1. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.
2. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.
3. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

ATTEST:

Signature

Signature

Enforcement Response Plan



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INTRODUCTION

As required in the National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) permit effective June 11, 2014, the City of Clarkston (City) must develop and implement an Enforcement Response Plan (ERP) that describes the action to be taken for violations associated with this permit and the Stormwater Management Program (SWMP). The ERP will detail the permittee's responses to any noted stormwater violations, including escalating enforcement responses to address repeat and continuing violations.

ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS TO STORM SEWERS [CHAPTER 22, ARTICLE III]

Purpose [Sec. 22-90(a)]

The City of Clarkston, through the Illicit Discharges and Illegal Connections to Storm Sewers ordinance, and through the ERP actions, seeks to protect the public health, safety, environment and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the City of Clarkston separate storm sewer system to the maximum extent practicable as required by federal law. The objectives of the ordinance are to:

- a) Regulate the contribution of pollutants to the MS4 by any person;
- b) Prohibit illicit discharges and illegal connections to the MS4;
- c) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the MS4; and
- d) To establish legal authority to carry out all inspection, surveillance monitoring and enforcement procedures necessary to ensure compliance with this article.

Responsibility for administration [Sec. 22-90.(e)]

The director of public works or his or her designee of the City of Clarkston shall administer, implement, and enforce the provisions of the Illicit Discharges and Illegal Connections to Storm Sewers ordinance.

Violations, enforcement and penalties [Sec. 22-96]

The following enforcement mechanisms will be used in the event a person violates the Illicit Discharges and Illegal Connections to Storm Sewers ordinance:

- (a) *Violations.*
 - (1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
 - (2) In the event the violation constitutes an immediate danger to public health or public safety, the director of public works is authorized to enter upon the subject

private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The director of public works is authorized to seek costs of the abatement as outlined in subsection 22-96(e).

- (b) *Notice of violations.* Whenever the director of public works finds that a violation of this article has occurred, the director of public works may order compliance by written notice of violation.
- (1) The notice of violation shall contain:
- a. The name and address of the alleged violator;
 - b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to restore compliance with this article 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; and
 - f. A statement that the determination of violation may be appealed to the director of public works by filing a written notice of appeal within thirty (30) days of service of notice of violation.
- (2) Such notice may require without limitation:
- a. The performance of monitoring, analyses, and reporting;
 - b. The elimination of illicit discharges and illegal connections;
 - c. That violating discharges, practices, or operations shall cease and desist;
 - d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - e. Payment of costs to cover administrative and abatement costs; and,
 - f. The implementation of pollution prevention practices.
- (c) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the director of public works. The notice of appeal must be received within thirty (30) days from the date of the notice of violation. Hearing on the appeal before the mayor and city council of the director of public works or his/her designee shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the appropriate authority or their designee shall be final.
- (d) *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 appropriate authority upholding the decision of the director of public works of the City of Clarkston, then representatives of the director of public works may 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.

- (e) *Cost of abatement of the violation.*
 - (1) Within thirty (30) working 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 assessment or to the amount of the assessment within five (5) days of such notice. If the amount due is not paid within thirty (30) days after a decision on said 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.
 - (2) Any person violating any of the provisions of this article shall become liable to the City of Clarkston by reason of such violation.

- (f) *Civil penalties.* In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the director of public works shall deem appropriate, after the director of public works has taken one (1) or more of the actions described above, the director of public works may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

- (g) *Criminal penalties.* For intentional and flagrant violations of this article, the police department of the City of Clarkston may issue a citation to the alleged violator requiring such person to appear in municipal court of the City of Clarkston to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

- (h) *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, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

- (i) *Remedies not exclusive.*
 - (1) The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and the director of public works may seek cumulative remedies.
 - (2) The City may recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

(Ord. No. 338-A, § 1(Attach. § 7), 9-1-09)

Tracking

Enforcement of the Illicit Discharges and Illegal Connections to Storm Sewers ordinance is shared between the Department of Public Works and the Department of Planning and Development Services. A list of all identified violations and enforcement actions will be maintained. The list will include pertinent information including:

- Dates
 - Violation reported/discovered
 - Inspections and re-inspections
 - Notice of violation issued
 - Appeals, protests, communications
- Property
 - Address / Location
 - Owner / Operator
- Description of noncompliance
- Type of enforcement action
 - Notice of violation
 - Action by city
- Required timeframe to correct violation
- Final resolution
 - Date
 - Verification

Notice of violations provided to violators as well as any other correspondence will be maintained on file.

Summary of enforcement measures

The Department of Public Works will take primary responsibility for investigating and enforcing the ERP for any Illicit Discharges and Illegal Connections to Storm Sewers violations not related to Soil and Erosion Control. A summary of the enforcement process is contained herein:

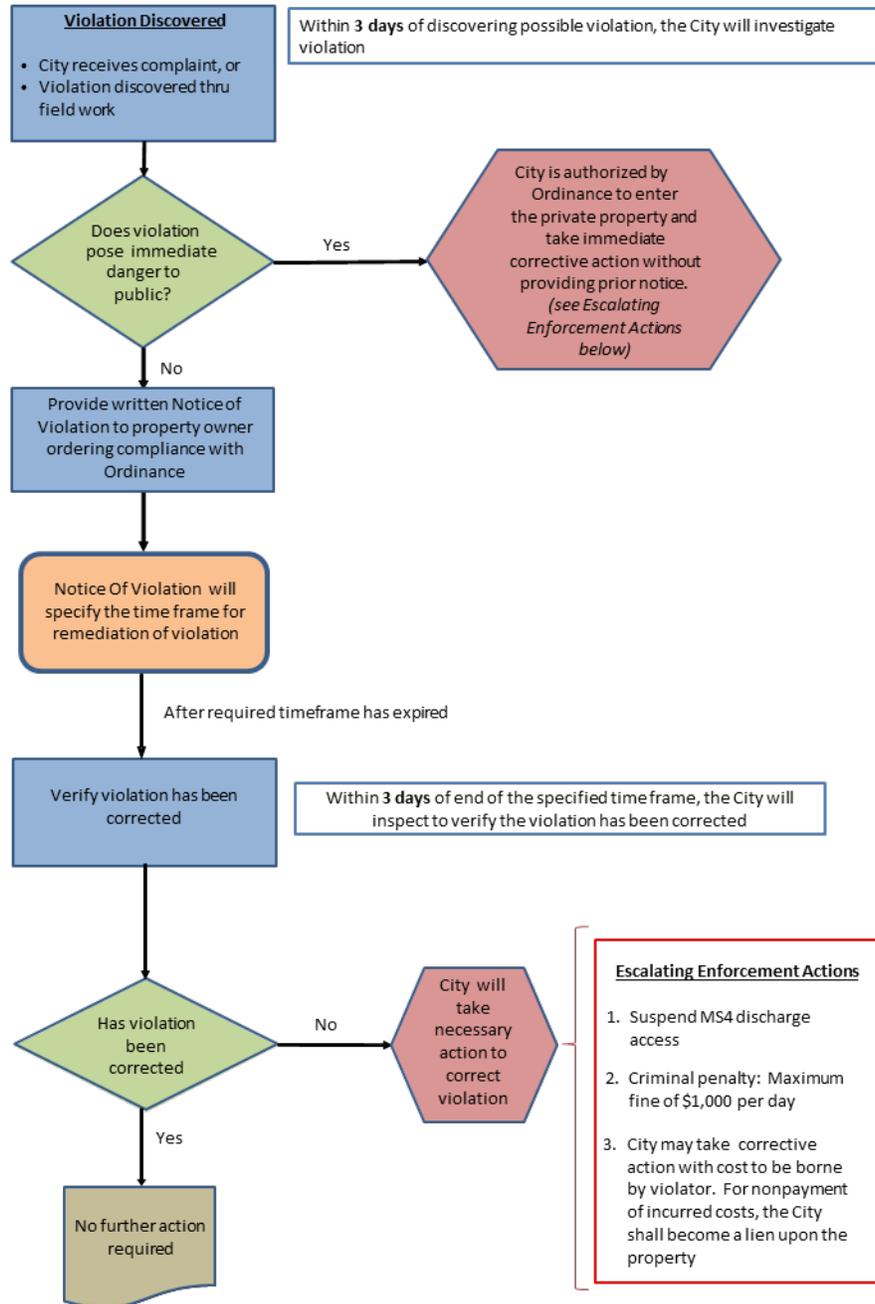
TABLE 1 ILLICIT DISCHARGE / ILLEGAL CONNECTION ENFORCEMENT TABLE

Violations	Action Required of Violator	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
Illicit Discharge or Illegal Connection	Elimination or cessation of violating discharges, practices, operations or illegal connection	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96

FIGURE 1 ILLICIT DISCHARGE / ILLEGAL CONNECTION ENFORCEMENT FLOW CHART

Enforcement Procedures for Violations of City of Clarkston Illicit Discharges and Illegal Connections to Storm Sewers Ordinance

Enforcement Responsibility: City of Clarkston Code Compliance Officer



SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL [CHAPTER 21]

Purpose [Sec. 21-4(a)]

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the Soil Erosion, Sedimentation and Pollution Control Ordinance and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES general permit.

Inspection and enforcement [Sec. 21-6]

- (a) The director of public works will periodically inspect the sites of land disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate both primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land disturbing activities. If, through inspection, it is deemed that a person engaged in land disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this chapter, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter.
- (b) The local issuing authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- (c) The director of public works shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land disturbing activities.

(Ord. No. 347, § 1 (Attach. § VI), 9-7-10)

Penalties and incentives [Sec. 21-7]

The following enforcement mechanisms will be used in the event a person violates the Soil Erosion, Sedimentation and Pollution Control ordinance.

- (a) *Failure to obtain a permit for land disturbing activity.* If any person commences any land disturbing activity requiring a land disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.

- (b) *Stop work orders.*
 - (1) For the first and second violations of the provisions of this chapter, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the director or the local issuing authority shall issue a stop work order requiring that land disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land disturbing activities are conducted without obtaining the necessary permit, the director or the local issuing authority shall issue an immediate stop work order in lieu of a warning;
 - (2) For a third and each subsequent violation, the director or the local issuing authority shall issue an immediate stop work order; and;
 - (3) All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
 - (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the Director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the Director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

- (c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection 21-5(b)(6). The local issuing

authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land disturbing activity and bring it into compliance.

(d) *Monetary penalties.*

- (1) Any person who violates any provisions of this chapter, or any permit condition or limitation established pursuant to this chapter, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per day. For the purpose of enforcing the provisions of this chapter, notwithstanding any provisions in any City Charter or any other provision of law to the contrary, the municipal courts shall be authorized to impose a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(Ord. No. 347, § 1 (Attach. § VII), 9-7-10)

Tracking

Enforcement of the Soil Erosion, Sedimentation and Pollution Control ordinance is shared between the Department of Public Works and the Department of Planning and Development Services. The Department of Planning and Development Services will maintain a list of all identified violations and enforcement actions. The list will include pertinent information including:

- Dates
 - Inspections and re-inspections
 - Violation reported/discovered
 - Notice of violation issued
 - Stop work orders
- Land disturbance permit
 - Address / location
 - Owner / permit applicant
- Description of noncompliance
- Type of enforcement action
 - Notice of violation
 - First, second, or subsequent
 - Stop work order
- Required timeframe to correct violation
- Final resolution
 - Re-inspection date

Inspection reports and notice of violations provided to violators as well as any other correspondence will be maintained on file by the Department of Planning and Development Services.

Summary of enforcement measures

The Department of Planning and Development Services (Code Enforcement Officer) will take primary responsibility for investigating and enforcing the ERP for any Soil Erosion, Sedimentation and Pollution Control violations. A summary of the enforcement process is contained herein:

TABLE 2 SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL ENFORCEMENT TABLE

Violations	Action Required by Site	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
No Level 1A on site	Get a certified person on site as soon as possible	Give a written warning for the 1 st and 2 nd offense. For the 3 rd offense a Stop Work is to be issued	Work may resume once a Level 1A is on site	21-7 (b)
No permit	Stop work	Post a Stop Work order, issue a site inspection form, and log into the E&S list	Work may resume once a permit is granted	21-7 (a)
Silt fence is more than 1/2 full	Remove the built up silt	For the 1 st and 2 nd offense post a Notice of Violation. On the 3 rd and subsequent offense post a stop work order. With each of these actions issue a site inspection form listing all violations with a time and date to complete remediation, and log into the E&S list	This is to be completed by the end of the work day. Special considerations can be made by the inspector, but in no case shall more than 24 hours be given for this repair as the contractor is to inspect E&S on a daily basis	21-7 (b)
Silt fence fabric is falling	Replace silt fence and remove any built up silt	For the 1 st and 2 nd offense post a Notice of Violation. On the 3 rd and subsequent offense post a stop work order. With each of these actions issue a site inspection form listing all violations with a time and date to complete remediation, and log into the E&S list	This is to be completed by the end of the work day. Special considerations can be made by the inspector, but in no case shall more than 24 hours be given for this repair as the contractor is to inspect E&S on a daily basis	21-7 (b)
Construction exit not in place	Immediately stop all site activity until the construction exit is in place. No vehicles should leave the site unless the sediment is removed from their tires	Post a Stop Work order, issue a site inspection form, and log into the E&S list	24 hours at most as this is required maintenance and should be checked weekly by the site	21-7 (b)

ENFORCEMENT RESPONSE PLAN

Violations	Action Required by Site	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
Construction exit is in disrepair and tracking is occurring	Maintain pad to original specifications	For the 1 st and 2 nd offense post a Notice of Violation. On the 3 rd and subsequent offense post a stop work order. With each of these actions issue a site inspection form listing all violations with a time and date to complete remediation, and log into the E&S list	24 hours at most as this is required maintenance and should be checked weekly by the site	21-7 (b)
Inlet sediment trap not installed correctly	Replace as specified on plans	For the 1 st and 2 nd offense post a Notice of Violation. On the 3 rd and subsequent offense post a stop work order. With each of these actions issue a site inspection form listing all violations with a time and date to complete remediation, and log into the E&S list	24 hours	21-7 (b)
Inlet sediment trap is more than half full	Remove the built up silt	For the 1 st and 2 nd offense post a Notice of Violation. On the 3 rd and subsequent offense post a stop work order. With each of these actions issue a site inspection form listing all violations with a time and date to complete remediation, and log into the E&S list	This is to be completed by the end of the work day. Special considerations can be made by the inspector, but in no case shall more than 24 hours be given for this repair as the contractor is to inspect E&S on a daily basis	21-7 (b)
Failure to maintain a stream buffer	Immediately stop all work in the buffer. Take every action to repair the buffer. Replace double row of type C silt fence at the buffer to prevent future encroachments	Post a Stop Work order, issue a site inspection form, and log into the E&S list	As soon as possible, but not more than 24 hours	21-7 (b)
Significant amounts of sediment leaving site	Immediately stop work and clean up the sediment which has left the site. Repair and update erosion control to prevent a future reoccurrence	Post a Stop Work order, issue a site inspection form, and log into the E&S list	As soon as possible, but not more than 24 hours	21-7 (b)

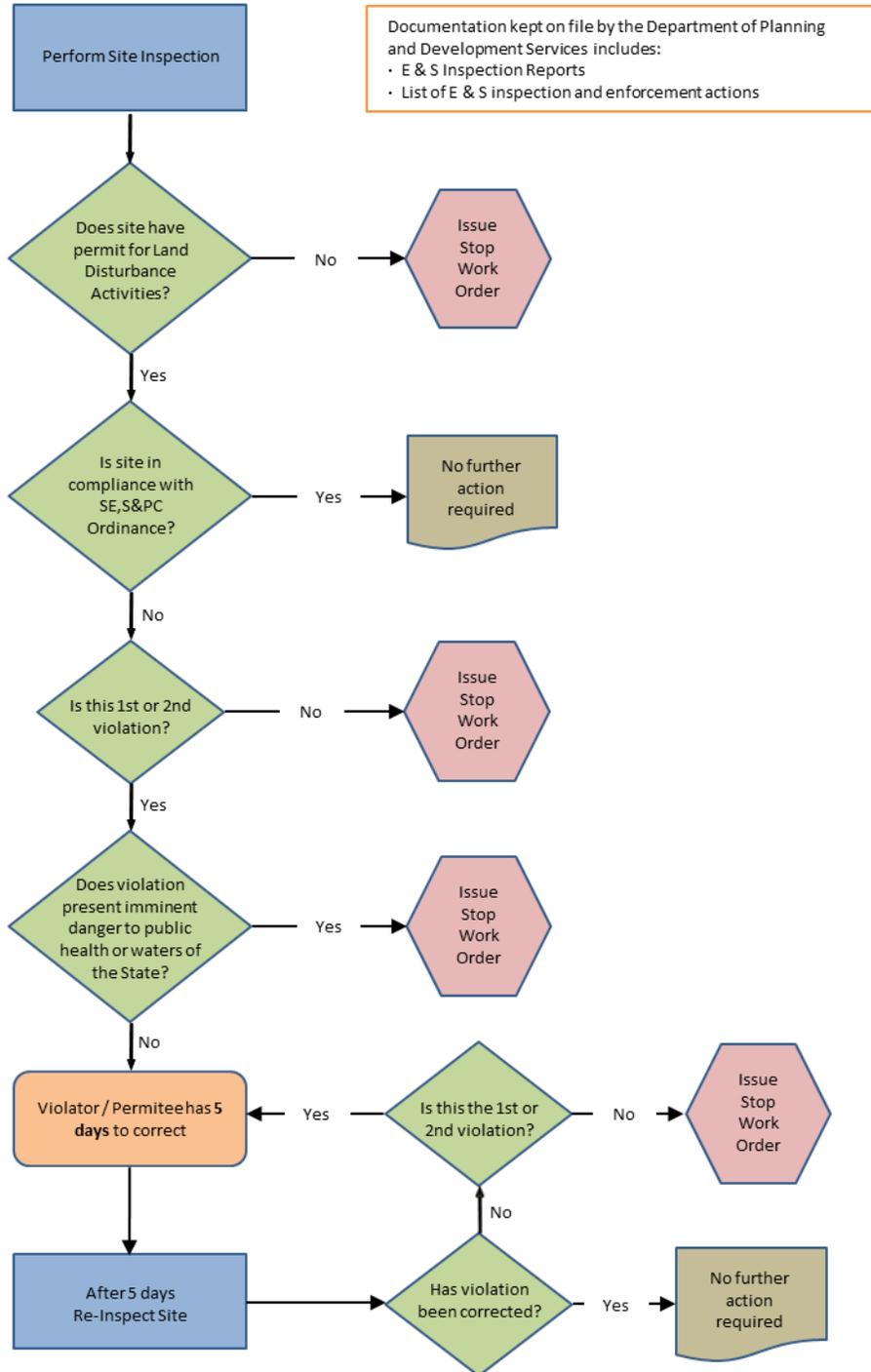
ENFORCEMENT RESPONSE PLAN

Violations	Action Required by Site	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
An area has gone longer than 14 days without grading	Stabilized site in accordance with site plan	For the 1 st and 2 nd offense post a Notice of Violation. On the 3 rd and subsequent offense post a stop work order. With each of these actions issue a site inspection form listing all violations with a time and date to complete remediation, and log into the E&S list	48 hours	21-7 (b)
Failure to maintain BMPs in accordance with the plans and the Georgia Manual For Erosion and Sediment Control	Perform maintenance as outlined on the plans or the Georgia Manual For Erosion and Sediment Control	For the 1 st and 2 nd offense post a Notice of Violation. On the 3 rd and subsequent offense post a stop work order. With each of these actions issue a site inspection form listing all violations with a time and date to complete remediation, and log into the E&S list	In no case shall more than 24 hours be given for actions requiring daily inspections	21-7 (b)

FIGURE 2 SOIL EROSION, SEDIMENTATION & POLLUTION CONTROL ENFORCEMENT FLOW CHART

Enforcement Procedures for Violations of City of Clarkston Soil Erosion, Sedimentation and Pollution Control Ordinance

Enforcement Responsibility: City of Clarkston Code Compliance Officer



POSTDEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT

[CHAPTER 22, ARTICLE I]

Purpose [Sec. 22-1]

The City of Clarkston, through the Postdevelopment Stormwater Management for New Development and Redevelopment ordinance, and through the ERP actions, seeks to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard public health, safety, environment and general welfare of the public, and protect water resources.

Designation of article administrator [Sec. 22-3]

The director or public works or his designee (of the City of Clarkston) is hereby appointed to administer, implement and enforce the provisions of the Postdevelopment Stormwater Management for New Development and Redevelopment ordinance.

Stormwater design manual [Sec. 22-5]

The City of Clarkston will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the Georgia Stormwater Management Manual and any relevant local addenda, for the proper implementation of the requirements of the Postdevelopment Stormwater Management for New Development and Redevelopment ordinance.

Failure to maintain [Sec. 22-20]

If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the city, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The city may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

Violations, enforcement and penalties [Sec. 22-21]

The following enforcement mechanisms will be used in the event a person violates the Postdevelopment Stormwater Management for New Development and Redevelopment ordinance.

- (a) Any action or inaction which violates the provisions of this article or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with

respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

- (b) *Notice of violation.* If the city determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this article, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this article without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

- (c) The notice of violation shall contain:
 - (1) The name and address of the owner or the applicant or the responsible person;
 - (2) The address or other description of the site upon which the violation is occurring;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this article and the date for the completion of such remedial action;
 - (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
 - (6) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal with thirty (30) days of service of notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient);

- (d) *Penalties.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one (1) or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the city shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the city may take any one (1) or more of the following actions or impose any one (1) or more of the following penalties.
 - (1) *Stop work order.* The City of Clarkston may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

- (2) *Withhold certificate of occupancy.* The city may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (3) *Suspension, revocation or modification of permit.* The city may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated [upon such conditions as the City of Clarkston may deem necessary] to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (4) *Civil penalties.* In the event the applicant or other such responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the city shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient) after the city has taken one (1) or more of the actions described above, the city may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (5) *Criminal penalties.* For intentional and flagrant violations of this article, the city may issue a citation to the applicant or other such responsible person, requiring such person to appear in city court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. 295, § 1, 9-6-05)

Tracking

Enforcement of the Postdevelopment Stormwater Management for New Development and Redevelopment ordinance is shared between the Department of Public Works and the Department of Planning and Development Services. A list of all identified violations and enforcement actions will be maintained. The list will include pertinent information including:

- Dates
 - Violation reported/discovered
 - Inspections and re-inspections
 - Notice of violation issued
 - Appeals, protests, communications
- Property
 - Address / Location
 - Owner / Permit Applicant
- Description of noncompliance
- Type of enforcement action
 - Notice of violation
 - Action by city
- Required timeframe to correct violation
- Final resolution
 - Date
 - Verification

Notice of violations provided to violators as well as any other correspondence will be maintained on file.

Summary of enforcement measures

The Department of Planning and Development Services (Code Enforcement Officer) will take primary responsibility for investigating and enforcing the ERP for any Postdevelopment Stormwater Management for New Development and Redevelopment violations. A summary of the enforcement process is contained herein:

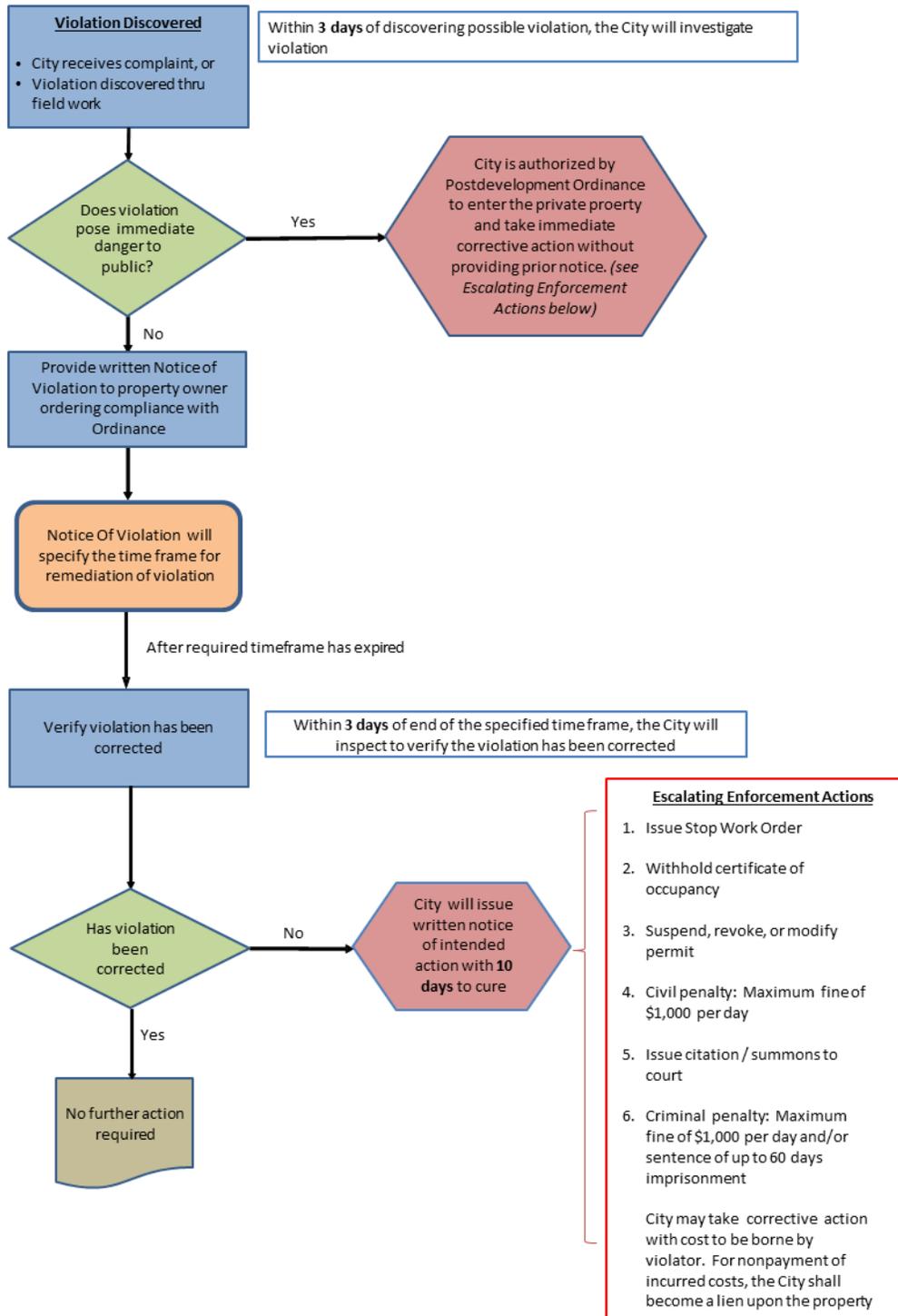
TABLE 3 POSTDEVELOPMENT STORMWATER MANAGEMENT ENFORCEMENT TABLE

Violations	Action Required by Site	Action Required by Inspector	Time to Complete Remediation	Ordinance Section
Dam, Side Slopes, Pond floor, Outlet Structure, Emergency Spillway, Outfalls into Detention Pond, Sediment Forebay, and Trash/Debris	Correct the deficiency noted during inspection	If a deficiency exists, the owner of the structure will be issued a Notice of Violation (NOV). If the deficiency remains unresolved, the City may issue a stop work order, refuse certificate of occupancy, suspend/revoke/modify permit, correct the deficiency, or fine the violator \$1,000 per day	Time schedule for completion varies and is specified in the Notice of Violation	22-21

FIGURE 3 POSTDEVELOPMENT STORMWATER MANAGEMENT ENFORCEMENT FLOW CHART

Enforcement Procedures for Violations of City of Clarkston Postdevelopment Stormwater Management for New Development and Redevelopment Ordinance

Enforcement Responsibility: City of Clarkston Code Compliance Officer



SOLID WASTE DISPOSAL / OFFENSES AGAINST PUBLIC HEALTH [CHAPTER 19, ARTICLE III / CHAPTER 12, ARTICLE V]

Purpose

The purpose of these ordinances is to protect the public health, safety, environment and general welfare through the regulation and prevention of litter. The City of Clarkston's Solid Waste Disposal ordinance and Offenses Against Public Health ordinance include regulations for litter/garbage disposal. Trash and litter can ultimately reach streams and water bodies by way of contaminating stormwater runoff. These substances could potentially degrade water and aquatic resources.

Applicability [Sec. 19-51]

This chapter applies to the preparation and storage, collection, transportation and disposal of all refuse in the area under jurisdiction of the city as presently or hereafter established. It prescribes rules and regulations therefor, regulates the private collection of garbage and refuse, provides for the licensing and regulation of private garbage and refuse collection, prescribing rules and regulations for hauling garbage, refuse and other waste material within or through the city, and prohibits the deposit of litter within the city limits of the City of Clarkston.

(Ord. No. 185, 9-7-93)

Disposal of refuse and garbage generally [Sec. 19-53]

- (a) It shall be unlawful for any person to dump or to cause to be dumped any garbage, refuse, litter, junk, appliances, equipment, cans, bottles, paper, lumber, trees, tree limbs, brush or parts thereof anywhere in the city except as may be permitted by city regulations.
- (b) The provisions of subsection (a) of this section do not apply to the dumping on private property with the owner's permission of sand, dirt, broken blocks, broken pavement or other suitable material for use as a fill to raise the elevation of the land, provided it is not maintained in an unsightly condition and provided the owner or owners of the property on which such material is dumped agrees to level such dumped material with appropriate grading equipment and assess the cost thereof against the real property on which such material was dumped.
- (c) If any of the matter or material dumped in violation of the provisions of subsection (a) of this section can be identified as having last belonged to, been in the possession of, sent to or received by, or to have been the property of any person prior to its being dumped as prohibited therein, this identification shall be presumed to be prima facie evidence that the owner dumped or caused to be dumped such matter and material in violation of this chapter.
- (d) For information leading to the arrest and conviction of any person violating the provisions of this chapter or the provisions of any state law prohibiting the dumping of garbage, refuse or litter on any public or private property within the city, the city council shall pay a reward in the amount established by action of the city council, a copy of which is on file in the office of the city clerk, to the person furnishing such information

leading to such arrest and conviction and such monies as may be a necessary cost of the operation and administration of the city government.

(Ord. No. 185, 9-7-93)

Waste and disposal thereof [Sec. 12-52]

- (a) It shall be unlawful for any person to throw or deposit any slops, garbage, or filth of any kind into any street, or other public or private place.
- (b) It shall be unlawful for any person to throw or deposit upon the streets or other public places, or on private property without the consent of the owner, except at such places as may be properly designated by the city, any glass, broken ware, dirt, paper, rubbish, garbage, or filth or any kind.
- (c) It shall be unlawful to set on fire any leaves, rubbish, or trash of any kind anywhere within the city.
- (d) It shall be unlawful for any person to deposit offal or dead animals at any place within the city.
- (e) It shall be unlawful for any person to place any gutter or spout so as to convey filth from kitchens or elsewhere into any street of the city.
- (f) It shall be unlawful for any person to use the streets, sidewalks, or gutters as a means of drainage to carry off any used and dirty water or other filthy fluids.
- (g) It shall be unlawful for any person to throw or discharge from any lot or building any water, fluid, or liquid substance so as to injuriously affect the surface of any city street or sidewalk so as to make it unsafe for travel.
- (h) It shall be unlawful for any person within the city to allow waste water from washing cars or from other sources to run across the sidewalk, and such person shall provide an adequate means of disposal thereof. Operations of filling stations may not wash their premises between the hours of 7:30 a.m. and 6:00 p.m.
- (i) It shall be unlawful to sweep or push litter from sidewalks into the streets. Such litter shall be deposited in a proper receptacle which shall be covered to prevent scattering by wind and animal.
- (j) It shall be unlawful for any person to haul or transport for any distance any dirt, soil, sand, rubbish or other material, over or upon or in the streets of the city, in any wagon, cart, wheelbarrow, truck, or other vehicle from which such dirt, soil, sand, rubbish, or any like substance escapes or leaks.

For the purposes of this section, every tenant or occupant of a house or other premises, opposite or nearest to which such garbage, slops or filth may be found, shall be presumed to be the offender.

(Ord. No. 280, § 1, 3-2-04)

General penalty; continuing violations [Sec. 1-7]

Whenever in this Code or in any ordinance or resolution of the city, or rule or regulation or order promulgated by any officer or agency of the city under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or a

misdemeanor, or wherever the doing of any act is required or the failure to do any act is declared to be unlawful or an offence or a misdemeanor, and no specific penalty is provided therefor and not otherwise limited by law, the violation of any such provision of this Code or any ordinance, resolution, rule, regulation or order, shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding six (6) months or by work on the city work gang not exceeding six (6) months or by any combination of such punishments. Each day any violation of any provision of this Code or of any such ordinance, resolution, rule, regulation or order shall continue shall constitute a separate offense.

Any such punishment shall not preclude the enforced abatement of a prohibited condition, or the pursuit of any other lawful remedy by the city.

(Ord. No. 267a, § 2, 3-4-03)

Tracking

Enforcement of the Solid Waste Disposal and Offenses Against Public Health ordinances is shared between the Department of Public Works and the Department of Planning and Development Services. A list of all identified violations and enforcement actions will be maintained. The list will include pertinent information including:

- Dates
 - Violation reported/discovered
 - Inspections and re-inspections
- Property
 - Address / Location
 - Owner
- Description of violation
- Type of punishment
 - Fine
 - Imprisonment
 - Work on city work gang
- Final resolution
 - Date
 - Verification

Inspection reports and citations of violators as well as any other correspondence will be maintained on file.

Summary of enforcement measures

The Department of Planning and Development Services (Code Enforcement Officer) will take primary responsibility for investigating and enforcing the ERP for any Litter violations. A summary of the enforcement process is contained herein:

TABLE 4 LITTER ENFORCEMENT TABLE

Violations	Action Required by Site	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
Littering, dumping, depositing on or in the premises of another, streets, streams, lakes, including public or private waters	Correct violation	Issue a citation; fine the violator a maximum \$1,000 per day, or imprisonment not exceeding six (6) months or by work on the city work gang not exceeding six (6) months or any combination thereof	Immediately	1-7

HIGHLY VISIBLE POLLUTANT SOURCES (HVPS)

Purpose

The City has an HVPS inventory and is required by the permit to inspect 100% of these facilities over the course of the permit. The City uses an EPD approved site inspection form to complete these inspections. The inspections look for any possible illicit discharges, improper on site storage of liquids or any other poor housekeeping procedures:

Violations, enforcement mechanisms, appropriate responses and time frames

The following enforcement mechanisms will be used in the event a person violates the Illicit Discharges and Illegal Connections to Storm Sewers ordinance at an HVPS site:

- (a) *Violations.*
 - (1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
 - (2) In the event the violation constitutes an immediate danger to public health or public safety, the director of public works is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The director of public works is authorized to seek costs of the abatement as outlined in subsection 22-96(e).
- (b) *Notice of violations.* Whenever the director of public works finds that a violation of this article has occurred, the director of public works may order compliance by written notice of violation.
 - (1) The notice of violation shall contain:
 - a. The name and address of the alleged violator;
 - b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - c. A statement specifying the nature of the violation;

- d. A description of the remedial measures necessary to restore compliance with this article 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; and
 - f. A statement that the determination of violation may be appealed to the director of public works by filing a written notice of appeal within thirty (30) days of service of notice of violation.
- (2) Such notice may require without limitation:
- a. The performance of monitoring, analyses, and reporting;
 - b. The elimination of illicit discharges and illegal connections;
 - c. That violating discharges, practices, or operations shall cease and desist;
 - d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - e. Payment of costs to cover administrative and abatement costs; and,
 - f. The implementation of pollution prevention practices.
- (c) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the director of public works. The notice of appeal must be received within thirty (30) days from the date of the notice of violation. Hearing on the appeal before the mayor and city council of the director of public works or his/her designee shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the appropriate authority or their designee shall be final.
- (d) *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 appropriate authority upholding the decision of the director of public works of the City of Clarkston, then representatives of the director of public works may 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.
- (e) *Cost of abatement of the violation.*
- (1) Within thirty (30) working 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 assessment or to the amount of the assessment within five (5) days of such notice. If the amount due is not paid within thirty (30) days after a decision on said 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.
 - (2) Any person violating any of the provisions of this article shall become liable to the City of Clarkston by reason of such violation.

- (f) *Civil penalties.* In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the director of public works shall deem appropriate, after the director of public works has taken one (1) or more of the actions described above, the director of public works may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (g) *Criminal penalties.* For intentional and flagrant violations of this article, the police department of the City of Clarkston may issue a citation to the alleged violator requiring such person to appear in municipal court of the City of Clarkston to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (h) *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, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.
- (i) *Remedies not exclusive.*
 - (1) The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and the director of public works may seek cumulative remedies.
 - (2) The City may recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

(Ord. No. 338-A, § 1(Attach. § 7), 9-1-09)

Tracking

Enforcement of the Illicit Discharges and Illegal Connections to Storm Sewers ordinance is shared between the Department of Public Works and the Department of Planning and Development Services. A list of all identified violations and enforcement actions will be maintained. The list will include pertinent information including:

- Dates
 - Violation reported/discovered
 - Inspections and re-inspections
 - Notice of violation issued
 - Appeals, protests, communications
- Property
 - Address / Location
 - Owner / Operator
- Description of noncompliance
- Type of enforcement action
 - Notice of violation
 - Action by city
- Required timeframe to correct violation
- Final resolution
 - Date
 - Verification

Notice of violations provided to violators as well as any other correspondence will be maintained on file.

Summary of enforcement measures

The Department of Public Works will take primary responsibility for investigating and enforcing the ERP for any Illicit Discharges and Illegal Connections to Storm Sewers violations at HVPS sites. A summary of the enforcement process is contained herein:

TABLE 5 HVPS INSPECTIONS ENFORCEMENT TABLE

Violations	Action Required of Violator	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
Illicit Discharge	Elimination or cessation of violating discharges, practices, or operations	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96

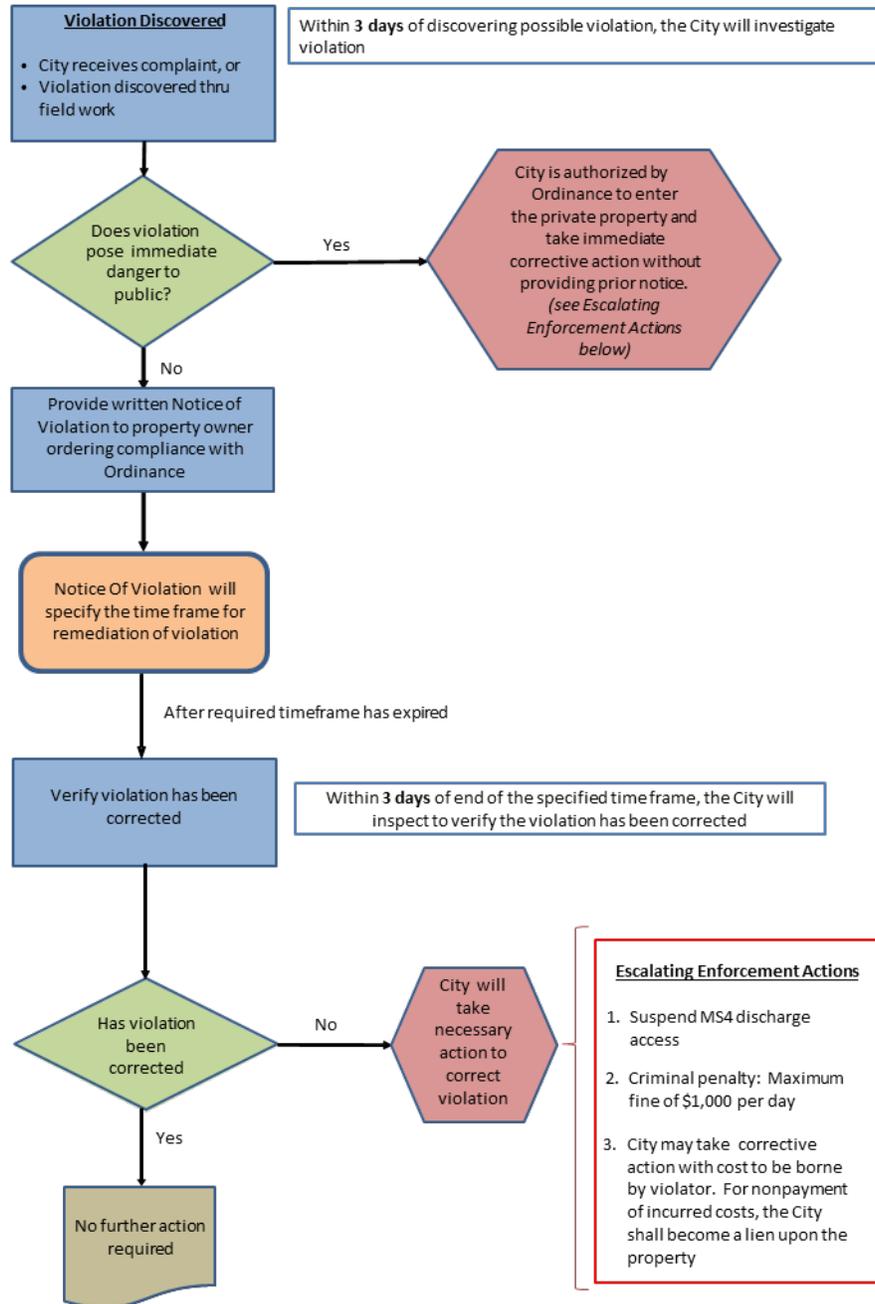
ENFORCEMENT RESPONSE PLAN

Violations	Action Required of Violator	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
Illegal Connection	Removal of illegal connection	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96
Open, Unmarked and/or Leaking Container(s) of Hazardous Material	Place Potential Stormwater Pollutants in Proper Storage	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96
Inadequate or Inaccessible Spill Response Equipment	Obtain Absorbent Material or Emergency Spill Kit	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96
Improper Outdoor Storage of Potential Stormwater Pollutants	Place Potential Stormwater Pollutants in Proper Storage	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96

FIGURE 4 ILLICIT DISCHARGE / ILLEGAL CONNECTION ENFORCEMENT FLOW CHART

Enforcement Procedures for Violations of City of Clarkston Illicit Discharges and Illegal Connections to Storm Sewers Ordinance

Enforcement Responsibility: City of Clarkston Code Compliance Officer



INDUSTRIAL FACILITY STORM WATER DISCHARGE CONTROL

Purpose

The City has an Industrial facility inventory and is required by the permit to inspect 100% of these facilities over the course of the permit. The City uses an EPD approved site inspection form to complete these inspections. The inspections look for any possible illicit discharges, improper on site storage of liquids or any other poor housekeeping procedures:

Violations, enforcement mechanisms, appropriate responses and time frames

The following enforcement mechanisms will be used in the event a person violates the Illicit Discharges and Illegal Connections to Storm Sewers ordinance at an Industrial facility:

- (a) *Violations.*
 - (1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
 - (2) In the event the violation constitutes an immediate danger to public health or public safety, the director of public works is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The director of public works is authorized to seek costs of the abatement as outlined in subsection 22-96(e).
- (b) *Notice of violations.* Whenever the director of public works finds that a violation of this article has occurred, the director of public works may order compliance by written notice of violation.
 - (1) The notice of violation shall contain:
 - a. The name and address of the alleged violator;
 - b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to restore compliance with this article 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; and
 - f. A statement that the determination of violation may be appealed to the director of public works by filing a written notice of appeal within thirty (30) days of service of notice of violation.
 - (2) Such notice may require without limitation:
 - a. The performance of monitoring, analyses, and reporting;
 - b. The elimination of illicit discharges and illegal connections;
 - c. That violating discharges, practices, or operations shall cease and desist;

- d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - e. Payment of costs to cover administrative and abatement costs; and,
 - f. The implementation of pollution prevention practices.
- (c) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the director of public works. The notice of appeal must be received within thirty (30) days from the date of the notice of violation. Hearing on the appeal before the mayor and city council of the director of public works or his/her designee shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the appropriate authority or their designee shall be final.
- (d) *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 appropriate authority upholding the decision of the director of public works of the City of Clarkston, then representatives of the director of public works may 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.
- (e) *Cost of abatement of the violation.*
- (1) Within thirty (30) working 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 assessment or to the amount of the assessment within five (5) days of such notice. If the amount due is not paid within thirty (30) days after a decision on said 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.
 - (2) Any person violating any of the provisions of this article shall become liable to the City of Clarkston by reason of such violation.
- (f) *Civil penalties.* In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the director of public works shall deem appropriate, after the director of public works has taken one (1) or more of the actions described above, the director of public works may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (g) *Criminal penalties.* For intentional and flagrant violations of this article, the police department of the City of Clarkston may issue a citation to the alleged violator requiring such person to appear in municipal court of the City of Clarkston to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Each act

of violation and each day upon which any violation shall occur shall constitute a separate offense.

- (h) *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, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.
- (i) *Remedies not exclusive.*
 - (1) The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and the director of public works may seek cumulative remedies.
 - (2) The City may recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

(Ord. No. 338-A, § 1(Attach. § 7), 9-1-09)

Tracking

Enforcement of the Illicit Discharges and Illegal Connections to Storm Sewers ordinance is shared between the Department of Public Works and the Department of Planning and Development Services. A list of all identified violations and enforcement actions will be maintained. The list will include pertinent information including:

- Dates
 - Violation reported/discovered
 - Inspections and re-inspections
 - Notice of violation issued
 - Appeals, protests, communications
- Property
 - Address / Location
 - Owner / Operator
- Description of noncompliance
- Type of enforcement action
 - Notice of violation
 - Action by city
- Required timeframe to correct violation
- Final resolution
 - Date
 - Verification

Notice of violations provided to violators as well as any other correspondence will be maintained on file.

Summary of enforcement measures

The Department of Public Works will take primary responsibility for investigating and enforcing the ERP for any Illicit Discharges and Illegal Connections to Storm Sewers violations at Industrial facilities. A summary of the enforcement process is contained herein:

TABLE 6 INDUSTRIAL FACILITY INSPECTION ENFORCEMENT TABLE

Violations	Action Required of Violator	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
Illicit Discharge	Elimination or cessation of violating discharges, practices, or operations	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96

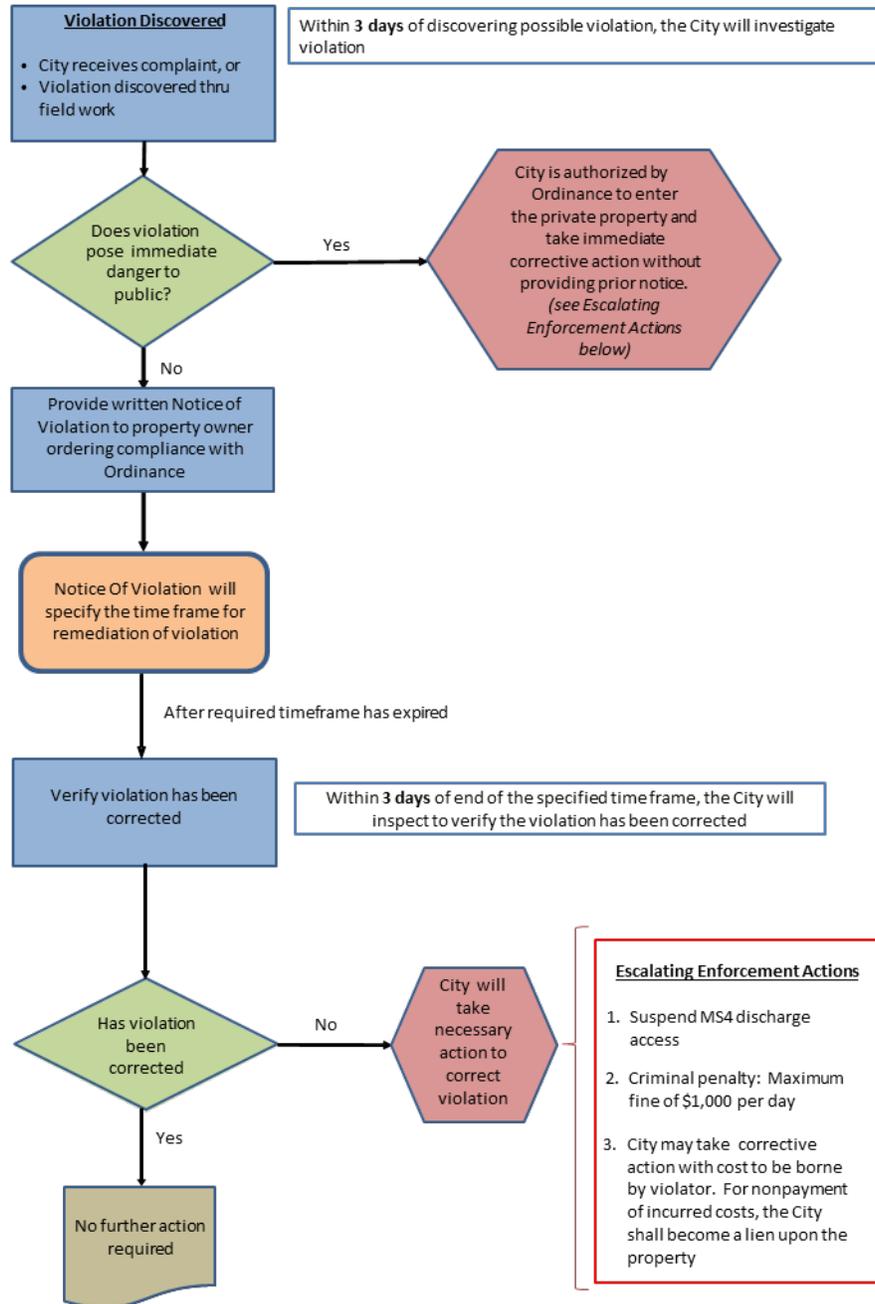
ENFORCEMENT RESPONSE PLAN

Violations	Action Required of Violator	Enforcement Mechanisms	Time to Complete Remediation	Ordinance Section
Illegal Connection	Removal of illegal connection	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96
Open, Unmarked and/or Leaking Container(s) of Hazardous Material	Place Potential Stormwater Pollutants in Proper Storage	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96
Inadequate or Inaccessible Spill Response Equipment	Obtain Absorbent Material or Emergency Spill Kit	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96
Improper Outdoor Storage of Potential Stormwater Pollutants	Place Potential Stormwater Pollutants in Proper Storage	Issue notice of violation (NOV). If violation is not corrected in accordance with the NOV, the City will take any and all measures necessary to correct the violation and impose appropriate penalties	Not specified	22-96

FIGURE 5 ILLICIT DISCHARGE / ILLEGAL CONNECTION ENFORCEMENT FLOW CHART

Enforcement Procedures for Violations of City of Clarkston Illicit Discharges and Illegal Connections to Storm Sewers Ordinance

Enforcement Responsibility: City of Clarkston Code Compliance Officer



CONCLUSION

Clarkston has a complaint form located on the City's website for citizens to report any suspected water quality complaints and erosion and sedimentation issues. Complaints with photos can be emailed directly from the website or called into the City. Once the complaint has been received, the Clarkston Code Enforcement Officer is responsible for investigating the complaint and taking appropriate action per the procedures in the Enforcement Response Plan.

If a violation has occurred, the violation and subsequent actions will be documented on the tracking list maintained by the Code Enforcement Officer. Each violation or complaint on the list will be tracked until the violation has been corrected.



Green Infrastructure/Low Impact Development Program

National Pollutant Discharge Elimination System
Phase I Municipal Separate Storm Sewer System
Permit

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1. BACKGROUND

As required in the National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) permit effective June 11, 2014, the City of Clarkston (City) must develop a Green Infrastructure (GI)/Low Impact Development (LID) program to further encourage, and track the use of GI/LID stormwater best management practices (BMPs). The purpose of this program will be to describe the City’s procedures for evaluating the feasibility and site applicability of different GI/LID techniques and practices. The program will also highlight which GI/LID practices/structures the City already implements or would consider. Finally, the program will describe how the City will inspect and maintain GI/LID structures.

The City is located in DeKalb County and is 1.1 square miles in size. The City sits along the Eastern Continental Divide and is surrounded by Atlanta, Decatur and Stone Mountain. South Fork Peachtree Creek is the only major stream that flows through the City.

2. PHASE I PERMIT REQUIREMENTS

The City’s Phase I MS4 permit describes in detail what is expected of the City when reporting on its GI/LID activities. Table 2.1 below outlines the GI/LID program elements within the permit.

2.1 Table 2.1 GI/LID Program Elements

GI/LID Program Elements	Measurable Goals
1. Legal Authority	1.a. Evaluate, and if necessary, modify existing ordinance(s). If the ordinance(s) are revised during the reporting period, submit a copy of the adopted ordinance(s) with the annual report.
2. GI/LID Program	2.a. Develop a program describing the GI/LID techniques and practices to be implemented by the permittee. The program shall include procedures for evaluating the feasibility and site applicability of different GI/LID techniques and practices, and various structures and practices to be considered. The program must be submitted to EPD for review with the 2016-2017 annual report, due June 15, 2017. Upon approval, the program will become a part of the SWMP.
3. GI/LID Structure Inventory	3.a. Develop an inventory of privately owned non-residential and publicly owned water quality-related GI/LID structures located within the permittee’s jurisdiction and at a minimum, constructed after the effective date of the permit, including the total number of each type of structure. Provide the inventory with the 2016-2017 annual report, due June 15, 2017. 3.b. Track the addition of new water quality related GI/LID structures through the plan review process and ensure the structures are added to the inventory. Provide an updated inventory in each annual report, beginning with the 2017-2018 annual report, due June 15, 2018.

4. Inspection Program	<p>4.a. Conduct inspections and/or ensure that inspections are conducted on 100% of the total privately owned non-residential and publicly owned GI/LID structures within a 5-year period, beginning in June 2017. Provide the number and/or percentage of the total structures inspected during the reporting period in each annual report</p> <p>4.b. Conduct maintenance on the publicly owned GI/LID structures, as needed, beginning in June 2017. Provide the number and/or percentage of the total structures maintained during the reporting period in each annual report.</p> <p>4.c. Develop procedures for ensuring privately-owned non-residential GI/LID structures are maintained as needed. Provide the procedures to EPD for review with the 2016-2017 annual report, due June 15, 2017. Upon EPD approval, implement the procedures and provide documentation in each subsequent annual report.</p>
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3. GREEN INFRASTRUCTURE/LOW IMPACT DEVELOPMENT PRACTICES/STRUCTURES

The City has identified three practices and five structures, outlined in Table 3.1, which would compose the City’s GI/LID Program and inventory. This inventory will contain all publicly owned and non-residential GI/LID structures constructed after June 11, 2014. The inventory includes bioswales, pervious pavements, rain gardens, green roofs and cisterns. These have been outlined in further detail in Table 3.1 below. Additionally, any other structure/practice deemed appropriate by the Stormwater Coordinator may be included. The initial inventory will be reported in a table format that will include the following information:

- Type of Structure
- Location of Structure (Latitude & Longitude)
- Date Constructed
- Ownership (Private or Public)

In addition to the type and location of each structure, the table will also include a summary of the total number of each structure. In the future, all new structures identified during the plan review process shall be added to the inventory. An updated inventory will be included with each annual report.

3.1 Table 3.1 GI/LID Practices and Structures

Structure	Practice	Description
Bioswales	Infiltration	Bioswales are vegetated, mulched, or xeriscaped channels that provide treatments and retention as they move stormwater from one place to another. Vegetated swales slow, infiltrate, and filter stormwater flows. As linear features, they are particularly well suited to being placed along streets and parking lots. (“What is Green Infrastructure,” 2016)
Pervious Pavements	Infiltration	Pervious pavement is a special mixture with a high void space that allows water to infiltrate into the subsoil through the pavement surface and base layers. This aggregate base layer acts as both a structural layer and a container to temporarily hold stormwater runoff until it can infiltrate into subsoil or drainage system. (“Georgia Stormwater Management Manual,” 2016)
Rain Gardens	Filtration	Rain gardens are versatile features that can be installed in almost any unpaved space. These structures are also known as bioretention, or bioinfiltration cells. They are typically shallow, vegetated basins that collect and absorb runoff from rooftops, sidewalks, and streets. This practices mimics natural hydrology by infiltrating, and evaporating and transpiring – or “evapotranspiring” – stormwater runoff. (“What is Green Infrastructure,” 2016)

Structure	Practice	Description
Green Roofs	Filtration	Green roofs are covered with growing media and vegetation that enable rainfall infiltration and evapotranspiration of stored water. They are particularly cost-effective in dense urban areas where land values are high and on large industrial or office buildings where stormwater management costs are likely to be high. ("What is Green Infrastructure," 2016)
Cisterns	Rainwater Harvesting	Cisterns are watertight receptacles to catch and store stormwater off of roofs and other impervious surfaces. Cisterns are often large and can be located underground, at ground level, or on an elevated stand. ("Types of Green Infrastructure," 2017)

3.2 Procedures for Evaluating GI/LID Practices and Structures

As required in the NPDES Phase I MS4 permit effective June 11, 2014, the City must include procedures for evaluating the feasibility and site applicability of different GI/LID techniques and practices, and various structure and practices to be considered. These procedures will include the use of the requirements of the Metropolitan North Georgia Water Planning District and Georgia Stormwater Management Manual (GSMM) as adopted by reference. By no means is the City requiring future development to incorporate GI/LID structures and techniques. The City encourages the use of GI/LID, but understands that GI/LID structures are not always the most feasible option (e.g. unsuitable soils, project cost, and property size limitation).

It is the City's understanding that the NPDES Permit will expire and be reissued in 2019. At that time, the Permit wording will be revised to clarify that the MS4 must address runoff reduction with GI/LID first before any traditional post-construction practices and structures can be considered. In Appendix B, a flow chart has been developed to determine the feasibility of using GI/LID practices. Once the permit has been reissued, the City will begin to use this feasibility flow chart during the site plan review stage.

4. INSPECTION AND MAINTENANCE

4.1 Inspection

As directed by GAEPD, the City will inspect 100 percent of its public and non-residential GI/LID within the 5-year reporting period.. The inspection checklists provided in the latest edition of the Georgia Stormwater Management Manual (GSMM) will be used during the inspection process. Inspection checklists used to inspect each structure during the reporting period will be provided in each annual report. An example of the inspection checklists have been provided in Appendix A.

4.2 Evaluating Effectiveness of BMPs

During the inspection process all implemented BMPs will be evaluated for effectiveness. Using the approved checklist for each BMP, the inspector will evaluate if the BMP is operating as it was designed. If the inspector determines that the BMP is not operating properly, then a maintenance recommendation will be made. Section 4.3 outlines the maintenance protocol the City will use for both public and private non-residential BMPs.

4.3 Maintenance

Like all stormwater infrastructure, green infrastructure requires regular inspections and maintenance to assure proper function. Appropriate operation and maintenance activities ensure that green infrastructure will continue to function properly and produce expected water quality and environment benefits, protect public safety, meet legal standards, and protect the City’s financial investment. The City is responsible for maintenance of all public (owned by the City) GI/LID structures. At this time the City intends on using the Post-Construction ordinance to enforce maintenance requirements of GI/LID structures that are considered non-residential. It is the responsibility of the property owner to maintain all GI/LID structures considered private non-residential. If during the inspection process a deficiency is found, the City will notify the owner, by letter, and will be given a timeframe to remediate the problem. The City’s Enforcement Response Plan (ERP) will be used during this process to assist the violators in reaching and maintaining compliance, while providing escalating enforcement responses to address repeat and/or continuing violations.

Maintenance plans will vary depending on the type of structure and practice. Table 4.3 provides an on overview of green infrastructure strategies and the general types of associated maintenance activities and maintenance frequency. This table shall be used as guide when determining maintenance needs for both public and non-residential private structures.

4.4 Table 4.3 GI/LID Maintenance Activities

Strategy	Maintenance Activities	Frequency
Bioswales	Check for any water that does not properly drain	After heavy rain
	Check for trash and debris collected around the bioswale	After heavy rain

	Check for and remove any materials that may cause clogging	Spring and fall, or as needed
	Prune or trim vegetation	Annually or as needed during the growing season
	Check for bare areas, exposed roots, and cracks in soil	Spring and fall
	Remove and replace any dead and diseased plants	Spring and fall
Pervious Pavements	Check to ensure the pavement surface is not clogging	As needed
	Remove trash and debris	As needed
	Vacuum sweep to help prevent clogging and ensure water passes through the pavement (consult product recommendations)	As needed if sediment or ponding is observed
	Make sure that there is no evidence of deterioration or cracking of the concrete	Monthly during warm weather
	Repair or replace any damage to the asphalt	Monthly
	Flush underdrain system and check for signs of cloggings	Annually
Rain Gardens	Check and remove litter and plant debris	Spring and fall, or as needed
	Thin crowded vegetation	Spring and fall, or as needed
	Check and correct any erosion in the rain garden	As needed
	Add new mulch if appropriate	Spring
	Remove and replace any dead an diseased plants	Spring and fall
	Mow turf areas, trim vegetation back	As needed during the growing season
	Check for and remove unwanted vegetation (e.g., weeds, invasive species)	As needed during the growing season
	Water plants	As needed during extended hot and/or dry periods
Green Roofs	Remove dead, diseased, overgrown, or unwanted vegetation (e.g., weeds, invasive species)	Spring and fall
	Check for bare areas and replace vegetation	Spring and fall
	Inspect roof for damage and/or leaking	Spring and fall
	Check for any clogging and repair	As needed
Cisterns	Check for visible damage or leaks and repair	As needed
	Check for any debris or obstructions in the gutter, downspout, or diverter	Spring and fall, or as needed
	Drain and clean the cistern or rain barrel	Annually before winter
	Store empty rain barrel	Over winter
	Empty barrel if rainfall is predicted	As needed

Table 2. Green infrastructure strategy maintenance activities, frequency, and equipment needs. Retrieved May 30, 2017, from http://www.epa.gov/sites/production/files/2015-10/documents/mmsd_tech_assistance.pdf. Copyright April 2015.

4.5 References

“Low Impact Development/Green Infrastructure/ Best Management Practices” Retrieved from https://nacto.org/docs/usdg/sustainable_stormwater_management_hudson_county.pdf, Accessed May 29, 2017.

“Types of Green Infrastructure” Retrieved from http://www.nyc.gov/html/dep/html/stormwater/combined_sewer_overflow_bmps.shtml, Accessed May 29, 2017.

“Elements of a Green Infrastructure Maintenance Business Plan” (2015, April). Retrieved from https://www.epa.gov/sites/production/files/2015-10/documents/mmsd_tech_assistance.pdf, Accessed May 29, 2017.

Atlanta Regional Commission. Georgia Stormwater Management Manual 2016 Edition, <http://atlantaregional.org/georgia-stormwater-management-manual>, Accessed May 30, 2017.

Appendix A

Bioswale Inspection Checklist

Facility Name:	
Facility Location:	
Inspector:	
Date of Inspection:	
Time:	

Bioswale					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
General Inspection					
Access to the site is adequately maintained for inspection and maintenance					
Area is clean (trash, debris, grass clippings, etc. removed)					
Inlet Structure					
Drainage ways (overland flow or pipes) to the practice are free of trash, debris, large branches, etc.					
Area around the inlet structure is mowed and grass clippings are removed.					
No evidence of gullies, rills, or excessive erosion around the inlet structure					
Water is going through structure (i.e. no evidence of water going around the structure).					
Pretreatment (choose one)					
Forebay – area is free of trash, debris, and sediment.					
Weir – areas is free of trash, debris, and sediment is less than 25% of the total depth of the weir.					
Filter Strip or Grass Channels – area is free of trash debris and sediment. Area has been mowed and grass clippings are removed. No evidence of erosion.					
Rock Lined Plunge Pools – areas is free of trash debris and sediment. Rock thickness in pool is adequate.					

Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A	
Main Treatment					
Main treatment area is free of trash, debris, and sediment.					
Erosion protection is present on site (i.e. turf reinforcement mats). Comment on types of erosion protection and evaluate condition.					
For dry enhanced swale, no evidence of long-term ponding or standing water in the ponding area of the practice (examples include: stains, odors, mosquito larvae, etc.)					
Vegetation within and around practice is maintained per landscaping plan. Grass clippings are removed					
Structure seems to be working properly. No settling around the structure. Comment on overall condition of structure.					
No evidence of undesirable vegetation.					
No evidence of use of fertilizer on plants (fertilizer crusting on the surface of the soil, tips of leaves turning brown or yellow, blackened roots, etc.).					
Plants seem to be healthy and in good condition. Comment on condition of plants.					
No evidence of erosion around the sides of the check dam.					
Cleanout caps are in place and in good condition (for dry enhanced swale).					
The underdrain appears to be unclogged evidenced by water exiting the practice freely (for dry enhanced swale).					
Pea gravel diaphragm or other flow spreader is clean and working properly.					
Emergency Overflow					
Emergency overflow is free of trash, debris, and sediment.					
No evidence of erosion, scour, or flooding around the structure.					
Outlet Structure					
Outlet structure is free of trash, debris, and sediment.					
No evidence of erosion, scour, or flooding around the structure.					

Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
Results					
Overall condition of Bioswale:					
Additional Comments					
Notes: *If a specific maintenance item was not checked, please explain why in the appropriate comment box.					

Cisterns Inspection Checklist

Facility Name:	
Facility Location:	
Inspector:	
Date of Inspection:	
Time:	

Cisterns					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
General Inspection					
Access to the site is adequately maintained for inspection and maintenance					
Area is clean (trash, debris, grass clippings, etc. removed)					
Gutters and downspouts are free of trash, debris, etc.					
Leaf screens are clean and in good condition.					
First flush diverter is working properly and in good condition (if applicable).					
Roof washer is working properly and in good condition (if applicable).					
Cistern inlet and downspout fits tightly.					
Cistern tank is clean and free of sediment.					
Cistern is free of indication of algae blooms.					
Plants being watered from the rainwater harvesting system seem to be healthy and in good condition. Comment on condition of plants.					
No signs of overflow valve leaking (stains, dampness).					
Cistern is in good condition structurally, no signs of cracking or leaking					
Performance of pump matches pumping details (if applicable)					

Results					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
Overall condition of Cisterns:					
Additional Comments					
Notes: *If as specific maintenance item was not checked, please check N/A and explain why in the appropriate comment box.					

Green Roofs Inspection Checklist

Facility Name:	
Facility Location:	
Inspector:	
Date of Inspection:	
Time:	

Green Roofs					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
General Inspection					
Access to the site is adequately maintained for inspection and maintenance					
Area is clean (trash, debris, grass clippings, etc. removed)					
Inlet and outlet pipes are free of trash, debris, etc.					
Inspect waterproof membrane.					
No signs of structural deficiency or settling. Comment on overall condition of roof.					
Water can flow freely in the drainage routes, no obstructions.					
Native Plants were used in the practice according to the landscaping plan. Plants seem to be in good condition. Comment on condition of plants.					
No unwanted vegetation in the practice.					
No evidence of use of fertilizer on plants (fertilizer crusting on the surface of the soil, tips of leaves turning brown or yellow, blackened roots, etc.).					
No evidence of long-term ponding or standing water (examples include: stains, odors, mosquito larvae, etc).					
Results					
Overall condition of Green Roof:					

Additional Comments
Notes: *If as specific maintenance item was not checked, please check N/A and explain why in the appropriate comment box.

Pervious Pavements Inspection Checklist

Facility Name:	
Facility Location:	
Inspector:	
Date of Inspection:	
Time:	

Pervious Pavements					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
General Inspection					
Access to the site is adequately maintained for inspection and maintenance					
Area is clean (trash, debris, grass clippings, etc. removed)					
Drainage ways (overland flow or pipes) to the practice are free of trash, debris, large branches, etc.					
Structure seems to be working properly. No signs of concrete settling or cracking. Comment on overall condition of concrete.					
Vegetation around practice is maintained. Grass clippings are removed.					
No exposed soil near the concrete.					
Cleanout caps are present and not missing (if applicable).					
The underdrain system or trench has been flushed properly and there is no sign of clogging.					
No evidence of erosion around the sides of the check dam.					
Cleanout caps are in place and in good condition (for dry enhanced swale).					
Results					
Overall condition of Pervious Pavements:					

Additional Comments

Notes: *If a specific maintenance item was not checked, please explain why in the appropriate comment box.

Raingarden Inspection Checklist

Facility Name:	
Facility Location:	
Inspector:	
Date of Inspection:	
Time:	

Raingarden					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
General Inspection					
Access to the site is adequately maintained for inspection and maintenance					
Area is clean (trash, debris, grass clippings, etc. removed)					
Inlet Structure					
Drainage ways (overland flow or pipes) to the practice are free of trash, debris, large branches, etc.					
Area around the inlet structure is mowed and grass clippings are removed.					
No evidence of gullies, rills, or excessive erosion around the inlet structure					
Water is going through structure (i.e. no evidence of water going around the structure).					
Pretreatment (choose one)					
Forebay – area is free of trash, debris, and sediment.					
Weir – areas is free of trash, debris, and sediment is less than 25% of the total depth of the weir.					
Filter Strip or Grass Channels – area is free of trash debris and sediment. Area has been mowed and grass clippings are removed. No evidence of erosion.					
Rock Lined Plunge Pools – areas is free of trash debris and sediment. Rock thickness in pool is adequate.					

Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A	
Main Treatment					
Main treatment area is free of trash, debris, and sediment.					
Erosion protection is present on site (i.e. turf reinforcement mats). Comment on types of erosion protection and evaluate condition.					
No evidence of long-term ponding or standing water in the ponding area of the practice (examples include: stains, odors, mosquito larvae, etc).					
Structure seems to be working properly. No settling around the structure. Comment on overall condition of structure.					
Vegetation within and around practice is maintained per landscaping plan. Grass clippings are removed.					
Mulching depth of 3-4 inches is maintained. Comment on mulch depth.					
Native plants were used in the practice according to the planting plan.					
No evidence of use of fertilizer on plants (fertilizer crusting on the surface of the soil, tips of leaves turning brown or yellow, blackened roots, etc.).					
Plants seem to be healthy and in good condition. Comment on condition of plants.					
Emergency Overflow					
Emergency overflow is free of trash, debris, and sediment.					
No evidence of erosion, scour, or flooding around the structure.					
Outlet Structure					
Outlet structure is free of trash, debris, and sediment.					
No evidence of erosion, scour, or flooding around the structure.					
Results					
Overall condition of Raingarden:					

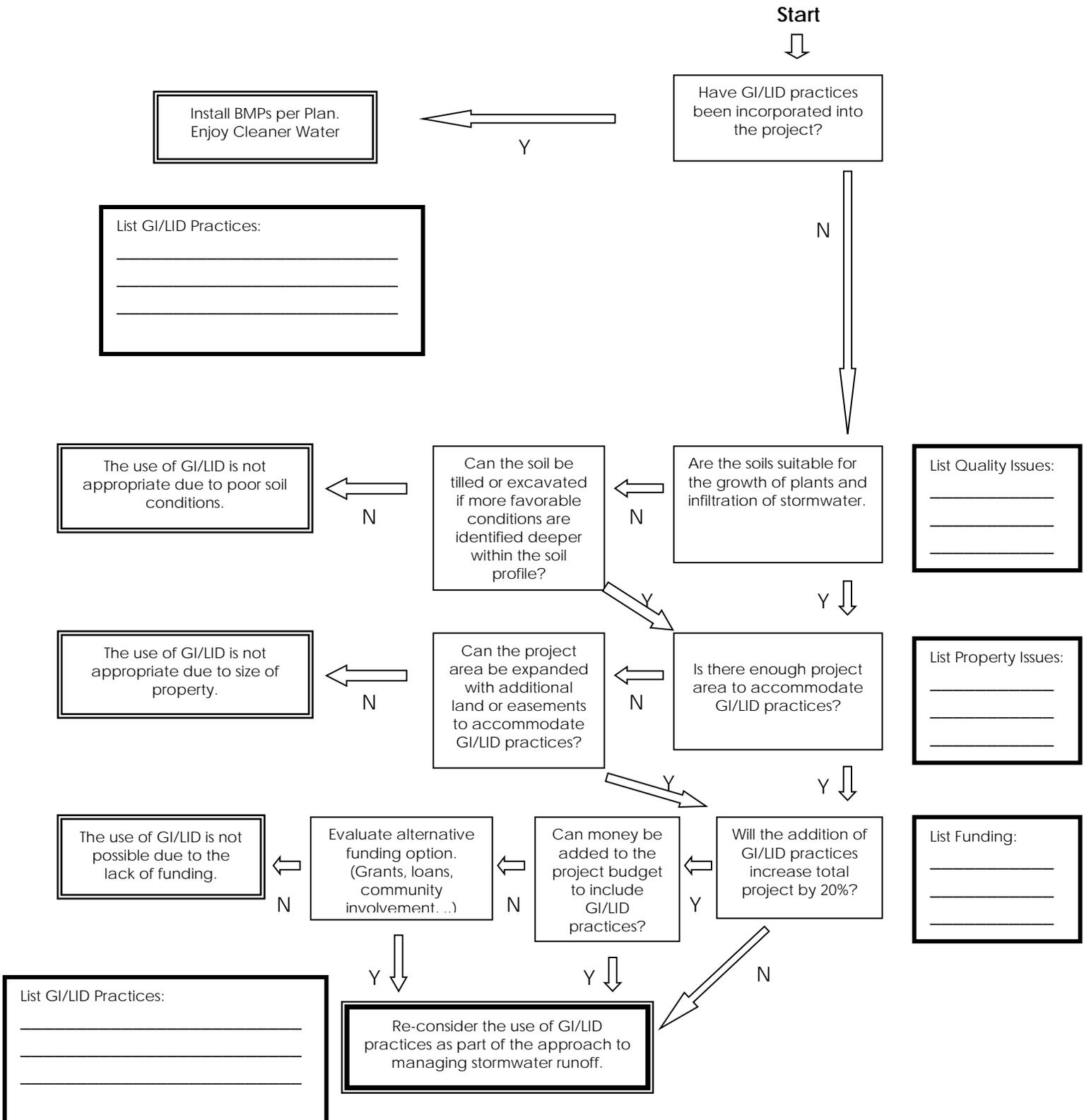
Additional Comments

Notes: *If a specific maintenance item was not checked, please explain why in the appropriate comment box.

Appendix B

GREEN INFRASTRUCTURE/LOW IMPACT DEVELOPMENT (GI/LID) EVALUATION

FACILITY NAME:	ANALYSIS BY:
FACILITY LOCATION:	FACILITY TYPE:
DATE OF ANALYSIS:	



CITY OF CLARKSTON

ITEM NO: E5

CLARKSTON CITY COUNCIL

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Ordinance

MEETING DATE: January 29, 2019

SUBJECT: 2018 International Property Maintenance Code

DEPARTMENT:
Planning & Development

PUBLIC HEARING: YES NO

ATTACHMENT: YES NO
Pages:

INFORMATION CONTACT:
Shawanna Qawiy, Planning and Dev. Director
PHONE NUMBER: 404-296-6489

PURPOSE: The International Property Maintenance Code (IPMC) establishes minimum requirements for the maintenance of existing buildings through model code regulations that contain clear and specific property maintenance and property improvement provisions. The code is intended to establish provisions that adequately protect public health, safety and welfare. A new edition of the code is circulated every 3 years.

Link to a Copy of the 2018 IPMC

https://allentownboronj.com/vertical/sites/%7B7748EEEEB-2391-4653-8B6A-4A64C85A6D79%7D/uploads/2018_International_Building_Code.pdf

STAFF RECOMMENDATION:

Adopt the 2018 International Property Maintenance Code

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INTERNATIONAL
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INTERNATIONAL PROPERTY MAINTENANCE CODE®



2018 International Property Maintenance Code®

First Printing: August 2017

ISBN: 978-1-60983-748-8 (soft-cover edition)

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Date of First Publication: August 31, 2017

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PREFACE

Introduction

The *International Property Maintenance Code*® (IPMC®) establishes minimum requirements for the maintenance of existing buildings through model code regulations that contain clear and specific property maintenance and property improvement provisions. This 2018 edition is fully compatible with all of the *International Codes*® (I-Codes®) published by the International Code Council® (ICC®), including the *International Building Code*®, *International Energy Conservation Code*®, *International Existing Building Code*®, *International Fire Code*®, *International Fuel Gas Code*®, *International Green Construction Code*®, *International Mechanical Code*®, *International Plumbing Code*®, *International Private Sewage Disposal Code*®, *International Residential Code*®, *International Swimming Pool and Spa Code*®, *International Wildland-Urban Interface Code*®, *International Zoning Code*® and *International Code Council Performance Code*®.

The I-Codes, including this *International Property Maintenance Code*, are used in a variety of ways in both the public and private sectors. Most industry professionals are familiar with the I-Codes as the basis of laws and regulations in communities across the U.S. and in other countries. However, the impact of the codes extends well beyond the regulatory arena, as they are used in a variety of nonregulatory settings, including:

- Voluntary compliance programs such as those promoting sustainability, energy efficiency and disaster resistance.
- The insurance industry, to estimate and manage risk, and as a tool in underwriting and rate decisions.
- Certification and credentialing of individuals involved in the fields of building design, construction and safety.
- Certification of building and construction-related products.
- U.S. federal agencies, to guide construction in an array of government-owned properties.
- Facilities management.
- “Best practices” benchmarks for designers and builders, including those who are engaged in projects in jurisdictions that do not have a formal regulatory system or a governmental enforcement mechanism.
- College, university and professional school textbooks and curricula.
- Reference works related to building design and construction.

In addition to the codes themselves, the code development process brings together building professionals on a regular basis. It provides an international forum for discussion and deliberation about building design, construction methods, safety, performance requirements, technological advances and innovative products.

Development

This 2018 edition presents the code as originally issued, with changes reflected in the 2003 through 2015 editions and further changes developed through the ICC Code Development Process through 2016. A new edition of the code is promulgated every 3 years.

This code is intended to establish provisions that adequately protect public health, safety and welfare; that do not unnecessarily increase construction costs; that do not restrict the use of new materials, products or methods of construction; and that do not give preferential treatment to particular types or classes of materials, products or methods of construction.

Maintenance

The *International Property Maintenance Code* is kept up to date through the review of proposed changes submitted by code enforcement officials, industry representatives, design professionals and other interested parties. Proposed changes are carefully considered through an open code development process in which all interested and affected parties may participate.

The ICC Code Development Process reflects principles of openness, transparency, balance, due process and consensus, the principles embodied in OMB Circular A-119, which governs the federal government's use of private-sector standards. The ICC process is open to anyone; there is no cost to participate, and people can participate without travel cost through the ICC's cloud-based app, *cdp-Access*[®]. A broad cross section of interests are represented in the ICC Code Development Process. The codes, which are updated regularly, include safeguards that allow for emergency action when required for health and safety reasons.

In order to ensure that organizations with a direct and material interest in the codes have a voice in the process, the ICC has developed partnerships with key industry segments that support the ICC's important public safety mission. Some code development committee members were nominated by the following industry partners and approved by the ICC Board:

- American Institute of Architects (AIA)
- National Association of Home Builders (NAHB)

The code development committees evaluate and make recommendations regarding proposed changes to the codes. Their recommendations are then subject to public comment and council-wide votes. The ICC's governmental members—public safety officials who have no financial or business interest in the outcome—cast the final votes on proposed changes.

The contents of this work are subject to change through the code development cycles and by any governmental entity that enacts the code into law. For more information regarding the code development process, contact the Codes and Standards Development Department of the International Code Council.

While the I-Code development procedure is thorough and comprehensive, the ICC, its members and those participating in the development of the codes disclaim any liability resulting from the publication or use of the I-Codes, or from compliance or noncompliance with their provisions. The ICC does not have the power or authority to police or enforce compliance with the contents of this code.

Code Development Committee Responsibilities (Letter Designations in Front of Section Numbers)

In each code development cycle, proposed changes to this code are considered at the Committee Action Hearings by the International Property Maintenance Code Development Committee, whose action constitutes a recommendation to the voting membership for final action on the proposed changes. Proposed changes to a code section having a number beginning with a letter in brackets are considered by a different code development committee. For example, proposed changes to code sections that have the letter [F] in front of them (e.g., [F] 704.1) are considered by the International Fire Code Development Committee at the Committee Action Hearings.

The content of sections in this code that begin with a letter designation is maintained by another code development committee in accordance with the following:

- [A] = Administrative Code Development Committee;
- [F] = International Fire Code Development Committee;
- [P] = International Plumbing Code Development Committee;
- [BE] = IBC—Egress Code Development Committee; and
- [BG]= IBC—General Code Development Committee.

For the development of the 2021 edition of the I-Codes, there will be two groups of code development committees and they will meet in separate years.

Group A Codes (Heard in 2018, Code Change Proposals Deadline: January 8, 2018)	Group B Codes (Heard in 2019, Code Change Proposals Deadline: January 7, 2019)
International Building Code – Egress (Chapters 10, 11, Appendix E) – Fire Safety (Chapters 7, 8, 9, 14, 26) – General (Chapters 2–6, 12, 27–33, Appendices A, B, C, D, K, N)	Administrative Provisions (Chapter 1 of all codes except IECC, IRC and IgCC, administrative updates to currently referenced standards, and designated definitions)
International Fire Code	International Building Code – Structural (Chapters 15–25, Appendices F, G, H, I, J, L, M)
International Fuel Gas Code	International Existing Building Code
International Mechanical Code	International Energy Conservation Code—Commercial
International Plumbing Code	International Energy Conservation Code—Residential – IECC—Residential – IRC—Energy (Chapter 11)
International Property Maintenance Code	International Green Construction Code (Chapter 1)
International Private Sewage Disposal Code	International Residential Code – IRC—Building (Chapters 1–10, Appendices E, F, H, J, K, L, M, O, Q, R, S, T)
International Residential Code – IRC—Mechanical (Chapters 12–23) – IRC—Plumbing (Chapters 25–33, Appendices G, I, N, P)	
International Swimming Pool and Spa Code	
International Wildland-Urban Interface Code	
International Zoning Code	
Note: Proposed changes to the ICC <i>Performance Code</i> ™ will be heard by the code development committee noted in brackets [] in the text of the ICC <i>Performance Code</i> ™.	

Code change proposals submitted for code sections that have a letter designation in front of them will be heard by the respective committee responsible for such code sections. Because different committees hold Committee Action Hearings in different years, proposals for the IPMC will be heard by committees in both the 2018 (Group A) and the 2019 (Group B) code development cycles.

For instance, every section of Chapter 1 of this code is designated as the responsibility of the Administrative Code Development Committee, which is part of the Group B portion of the hearings. This committee will hold its Committee Action Hearings in 2019 to consider code change proposals for Chapter 1 of all I-Codes except the *International Energy Conservation Code*, *International Residential Code* and *International Green Construction Code*. Therefore, any proposals received for Chapter 1 of this code will be assigned to the Administrative Code Development Committee for consideration in 2019.

It is very important that anyone submitting code change proposals understand which code development committee is responsible for the section of the code that is the subject of the code change proposal. For further information on the code development committee responsibilities, please visit the ICC website at www.iccsafe.org/scoping.

Marginal Markings

Solid vertical lines in the margins within the body of the code indicate a technical change from the requirements of the 2015 edition. Deletion indicators in the form of an arrow (➡) are provided in the margin where an entire section, paragraph, exception or table has been deleted or an item in a list of items or a table has been deleted.

Coordination of the International Codes

The coordination of technical provisions is one of the strengths of the ICC family of model codes. The codes can be used as a complete set of complementary documents, which will provide users with full integration and coordination of technical provisions. Individual codes can also be used in subsets or as stand-alone documents. To make sure that each individual code is as complete as possible, some technical provisions that are relevant to more than one subject area are duplicated in some of the model codes. This allows users maximum flexibility in their application of the I-Codes.

Italicized Terms

Words and terms defined in Chapter 2, Definitions, are italicized where they appear in code text and the Chapter 2 definition applies. Where such words and terms are not italicized, common-use definitions apply. The words and terms selected have code-specific definitions that the user should read carefully to facilitate better understanding of the code.

Adoption

The International Code Council maintains a copyright in all of its codes and standards. Maintaining copyright allows the ICC to fund its mission through sales of books, in both print and electronic formats. The ICC welcomes adoption of its codes by jurisdictions that recognize and acknowledge the ICC's copyright in the code, and further acknowledge the substantial shared value of the public/private partnership for code development between jurisdictions and the ICC.

The ICC also recognizes the need for jurisdictions to make laws available to the public. All I-Codes and I-Standards, along with the laws of many jurisdictions, are available for free in a nondownloadable form on the ICC's website. Jurisdictions should contact the ICC at adoption@iccsafe.org to learn how to adopt and distribute laws based on the *International Property Maintenance Code* in a manner that provides necessary access, while maintaining the ICC's copyright.

To facilitate adoption, several sections of this code contain blanks for fill-in information that needs to be supplied by the adopting jurisdiction as part of the adoption legislation. For this code, please see:

Section 101.1. Insert: [NAME OF JURISDICTION]

Section 103.5. Insert: [APPROPRIATE SCHEDULE]

Section 112.4. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS]

Section 302.4. Insert: [HEIGHT IN INCHES]

Section 304.14. Insert: [DATES IN TWO LOCATIONS]

Section 602.3. Insert: [DATES IN TWO LOCATIONS]

Section 602.4. Insert: [DATES IN TWO LOCATIONS]

EFFECTIVE USE OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE

The *International Property Maintenance Code* (IPMC) is a model code that regulates the minimum maintenance requirements for existing buildings.

The IPMC is a maintenance document intended to establish minimum maintenance standards for basic equipment, light, ventilation, heating, sanitation and fire safety. Responsibility is fixed among owners, operators and occupants for code compliance. The IPMC provides for the regulation and safe use of existing structures in the interest of the social and economic welfare of the community.

Arrangement and Format of the 2018 IPMC

Before applying the requirements of the IPMC it is beneficial to understand its arrangement and format. The IPMC, like other codes published by ICC, is arranged and organized to follow sequential steps that generally occur during an inspection. The IPMC is divided into eight different parts:

Chapters	Subjects
1	Scope and Administration
2	Definitions
3	General Requirements
4	Light, Ventilation and Occupancy Limitations
5	Plumbing Facilities and Fixture Requirements
6	Mechanical and Electrical Requirements
7	Fire Safety Requirements
8	Referenced Standards

The following is a chapter-by-chapter synopsis of the scope and intent of the provisions of the *International Property Maintenance Code*:

Chapter 1 Scope and Administration. This chapter contains provisions for the application, enforcement and administration of subsequent requirements of the code. In addition to establishing the scope of the code, Chapter 1 identifies which buildings and structures come under its purview. Chapter 1 is largely concerned with maintaining “due process of law” in enforcing the property maintenance criteria contained in the body of the code. Only through careful observation of the administrative provisions can the building official reasonably expect to demonstrate that “equal protection under the law” has been provided.

Chapter 2 Definitions. All terms that are defined in the code are listed alphabetically in Chapter 2. While a defined term may be used in one chapter or another, the meaning provided in Chapter 2 is applicable throughout the code.

Where understanding of a term’s definition is especially key to or necessary for understanding of a particular code provision, the term is shown in italics. This is true only for those terms that have a meaning that is unique to the code. In other words, the generally understood meaning of a term or phrase might not be sufficient or consistent with the meaning prescribed by the code; therefore, it is essential that the code-defined meaning be known.

Guidance is provided regarding tense, gender and plurality of defined terms as well as terms not defined in this code.

Chapter 3 General Requirements. Chapter 3, “General Requirements,” is broad in scope. It includes a variety of requirements for the exterior property areas as well as the interior and exterior elements of the structure. This chapter provides requirements that are intended to maintain a minimum level of safety and sanitation for both the general public and the occupants of a structure, and to maintain a building’s structural and weather-resistance performance. Chapter 3 provides specific criteria for regulating the installation and maintenance of specific building components; maintenance requirements for vacant structures and land; requirements regulating the safety, sanitation and appearance of the interior and exterior of structures and all exterior property areas; accessory structures; vehicle storage regulations and establishes who is responsible for complying with the chapter’s provisions. This chapter also contains the requirements for swimming pools, spas and hot tubs and the requirements for protective barriers and gates in these barriers. Chapter 3 establishes the responsible parties for exterminating insects and rodents, and maintaining sanitary conditions in all types of occupancies.

Chapter 4 Light, Ventilation and Occupancy Limitations. The purposes of Chapter 4 are to set forth these requirements in the code and to establish the minimum environment for occupiable and habitable buildings, by establishing the minimum criteria for light and ventilation and identifying occupancy limitations including minimum room width and area, minimum ceiling height and restrictions to prevent overcrowding. This chapter also provides for alternative arrangements of windows and other devices to comply with the requirements for light and ventilation and prohibits certain room arrangements and occupancy uses.

Chapter 5 Plumbing Facilities and Fixture Requirements. Chapter 5 establishes the minimum criteria for the installation, maintenance and location of plumbing systems and facilities, including the water supply system, water heating appliances, sewage disposal system and related plumbing fixtures.

Sanitary and clean conditions in occupied buildings are dependent upon certain basic plumbing principles, including providing potable water to a building, providing the basic fixtures to effectively utilize that water and properly removing waste from the building. Chapter 5 establishes the minimum criteria to verify that these principles are maintained throughout the life of a building.

Chapter 6 Mechanical and Electrical Requirements. The purpose of Chapter 6 is to establish minimum performance requirements for heating, electrical and mechanical facilities and to establish minimum standards for the safety of these facilities.

This chapter establishes minimum criteria for the installation and maintenance of the following: heating and air-conditioning equipment, appliances and their supporting systems; water heating equipment, appliances and systems; cooking equipment and appliances; ventilation and exhaust equipment; gas and liquid fuel distribution piping and components; fireplaces and solid fuel-burning appliances; chimneys and vents; electrical services; lighting fixtures; electrical receptacle outlets; electrical distribution system equipment, devices and wiring; and elevators, escalators and dumb-waiters.

Chapter 7 Fire Safety Requirements. The purpose of Chapter 7 is to address those fire hazards that arise as the result of a building’s occupancy. It also provides minimum requirements for fire safety issues that are most likely to arise in older buildings.

This chapter contains requirements for means of egress in existing buildings, including path of travel, required egress width, means of egress doors and emergency escape openings.

Chapter 7 establishes the minimum requirements for fire safety facilities and fire protection systems, as these are essential fire safety systems.

Chapter 8 Referenced Standards. The code contains numerous references to standards that are used to regulate materials and methods of construction. Chapter 8 contains a comprehensive list of all standards that are referenced in the code. The standards are part of the code to the extent of the reference to the standard. Compliance with the referenced standard is necessary for compliance with this code. By providing specifically adopted standards, the construction and installation requirements necessary for compliance with the code can be readily determined. The basis for code compliance is, therefore, established and available on an equal basis to the code official, contractor, designer and owner.

Chapter 8 is organized in a manner that makes it easy to locate specific standards. It lists all of the referenced standards, alphabetically, by acronym of the promulgating agency of the standard. Each agency's standards are then listed in either alphabetical or numeric order based upon the standard identification. The list also contains the title of the standard; the edition (date) of the standard referenced; any addenda included as part of the ICC adoption; and the section or sections of this code that reference the standard.

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CHAPTER 1

SCOPE AND ADMINISTRATION

User note:

About this chapter: Chapter 1 establishes the limits of applicability of the code and describes how the code is to be applied and enforced. Chapter 1 is in two parts: Part 1—Scope and Application (Sections 101 and 102) and Part 2—Administration and Enforcement (Sections 103–112). Section 101 identifies which buildings and structures come under its purview and references other I-Codes as applicable.

This code is intended to be adopted as a legally enforceable document and it cannot be effective without adequate provisions for its administration and enforcement. The provisions of Chapter 1 establish the authority and duties of the code official appointed by the authority having jurisdiction and also establish the rights and privileges of the property owner and building occupants.

PART 1 — SCOPE AND APPLICATION

SECTION 101 GENERAL

[A] **101.1 Title.** These regulations shall be known as the *International Property Maintenance Code* of [NAME OF JURISDICTION], hereinafter referred to as “this code.”

[A] **101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of *owners*, an owner’s authorized agent, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

[A] **101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

[A] **101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

[A] **102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. An *owner*, owner’s authorized agent, *operator* or *occupant* shall not cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner’s* authorized agent shall be responsible for the maintenance of buildings, structures and *premises*.

[A] **102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

[A] **102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.

[A] **102.5 Workmanship.** Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer’s instructions.

[A] **102.6 Historic buildings.** The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

[A] **102.7 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this

SCOPE AND ADMINISTRATION

code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

[A] **102.7.1 Conflicts.** Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

[A] **102.7.2 Provisions in referenced codes and standards.** Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

[A] **102.8 Requirements not covered by code.** Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

[A] **102.9 Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

[A] **102.10 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

[A] **103.1 General.** The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the *code official*.

[A] **103.2 Appointment.** The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

[A] **103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

[A] **103.4 Liability.** The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

[A] **103.4.1 Legal defense.** Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful

discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

[A] **103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

[JURISDICTION TO INSERT APPROPRIATE SCHEDULE.]

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

[A] **104.1 General.** The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

[A] **104.2 Inspections.** The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

[A] **104.3 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the structure or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such structure or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner*, *owner's* authorized agent or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

[A] **104.4 Identification.** The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

[A] **104.5 Notices and orders.** The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

[A] **104.6 Department records.** The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

**SECTION 105
APPROVAL**

[A] 105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* authorized agent, provided that the *code official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

[A] 105.2 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not *approved*, the *code official* shall respond in writing, stating the reasons why the alternative was not *approved*.

[A] 105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance without expense to the jurisdiction.

[A] 105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

[A] 105.3.2 Test reports. Reports of tests shall be retained by the *code official* for the period required for retention of public records.

[A] 105.4 Used material and equipment. Materials that are reused shall comply with the requirements of this code for new materials. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and *approved* by the *code official*.

[A] 105.5 Approved materials and equipment. Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

[A] 105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

**SECTION 106
VIOLATIONS**

[A] 106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

[A] 106.2 Notice of violation. The *code official* shall serve a notice of violation or order in accordance with Section 107.

[A] 106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

[A] 106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] 106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

**SECTION 107
NOTICES AND ORDERS**

107.1 Notice to person responsible. Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall comply with Section 108.3.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.

SCOPE AND ADMINISTRATION

5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is: delivered personally, or sent by certified or first-class mail addressed to the last known address. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

107.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

108.1 General. When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* or *owner's* authorized agent to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

108.2.1 Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* or *owner's* authorized agent and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, *owner's* authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

108.3 Notice. Whenever the *code official* has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner*, *owner's* authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

108.4 Placarding. Upon failure of the *owner*, *owner's* authorized agent or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

108.4.1 Placard removal. The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied structure condemned and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner*, *owner's* authorized agent or person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

108.6 Abatement methods. The *owner*, *owner's* authorized agent, *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

108.7 Record. The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its *Occupancy* Has Been Prohibited by the *Code*

SCOPE AND ADMINISTRATION

Official.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

109.3 Closing streets. When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* or owner’s authorized agent where the unsafe structure is or was located for the recovery of such costs.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 110 DEMOLITION

110.1 General. The *code official* shall order the *owner* or owner’s authorized agent of any *premises* upon which is located any structure, which in the *code official’s* or owner’s authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner’s* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official* shall order the *owner* or owner’s authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

110.2 Notices and orders. Notices and orders shall comply with Section 107.

110.3 Failure to comply. If the *owner* of a *premises* or owner’s authorized agent fails to comply with a demolition

order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

110.4 Salvage materials. Where any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111 MEANS OF APPEAL

[A] 111.1 Application for appeal. Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

[A] 111.2 Membership of board. The board of appeals shall consist of not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *code official* shall be an ex-officio member but shall not vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

[A] 111.2.1 Alternate members. The chief appointing authority shall appoint not less than two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

[A] 111.2.2 Chairman. The board shall annually select one of its members to serve as chairman.

[A] 111.2.3 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

[A] 111.2.4 Secretary. The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

[A] 111.2.5 Compensation of members. Compensation of members shall be determined by law.

[A] **111.3 Notice of meeting.** The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

[A] **111.4 Open hearing.** Hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official* and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.

[A] **111.4.1 Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

[A] **111.5 Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

[A] **111.6 Board decision.** The board shall modify or reverse the decision of the *code official* only by a concurring vote of a majority of the total number of appointed board members.

[A] **111.6.1 Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the *code official*.

[A] **111.6.2 Administration.** The *code official* shall take immediate action in accordance with the decision of the board.

[A] **111.7 Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

[A] **111.8 Stays of enforcement.** Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

SECTION 112 STOP WORK ORDER

[A] **112.1 Authority.** Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

[A] **112.2 Issuance.** A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

[A] **112.3 Emergencies.** Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

[A] **112.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

CHAPTER 2

DEFINITIONS

User note:

About this chapter: Codes, by their very nature, are technical documents. Every word, term and punctuation mark can add to or change the meaning of a technical requirement. It is necessary to maintain a consensus on the specific meaning of each term contained in the code. Chapter 2 performs this function by stating clearly what specific terms mean for the purpose of the code.

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts. Whenever the words “*dwelling unit*,” “*dwelling*,” “*premises*,” “*building*,” “*rooming house*,” “*rooming unit*,” “*housekeeping unit*” or “*story*” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 202 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

[A] APPROVED. Acceptable to the *code official*.

BASEMENT. That portion of a building that is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

[A] CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for *occupancy*.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS.

The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a *code official*, the governing body or board of appeals.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

[BG] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

[Z] EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

[BE] GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

[BG] HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets,*

DEFINITIONS

halls, storage or utility spaces, and similar areas are not considered *habitable spaces*.

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating that does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition that could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rodents, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle that cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

[A] LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, *approved* agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit*, *rooming unit*, building, premise or structure by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or *structure*.

[A] OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or *premises* that is let or offered for *occupancy*.

[A] OWNER. Any person, agent, *operator*, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of

any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

[A] PREMISES. A lot, plot or parcel of land, *easement* or *public way*, including any structures thereon.

[A] PUBLIC WAY. Any street, alley or other parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated or otherwise permanently appropriated to the public for public use; and has a clear width and height of not less than 10 feet (3048 mm).

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

[BG] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

[A] STRUCTURE. That which is built or constructed.

TENANT. A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and that shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

[M] VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

[Z] YARD. An open space on the same lot with a structure.

CHAPTER 3

GENERAL REQUIREMENTS

User note:

About this chapter: Chapter 3 is broad in scope and includes a variety of requirements for the maintenance of exterior property areas, as well as the interior and exterior elements of the structure, that are intended to maintain a minimum level of safety and sanitation for both the general public and the occupants of a structure, and to maintain a building's structural and weather-resistance performance. Specifically, Chapter 3 contains criteria for the maintenance of building components; vacant structures and land; the safety, sanitation and appearance of the interior and exterior of structures and all exterior property areas; accessory structures; extermination of insects and rodents; access barriers to swimming pools, spas and hot tubs; vehicle storage and owner/occupant responsibilities.

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* they occupy and control.

301.3 Vacant structures and land. Vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. *Exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* that such *occupant* occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. *Premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: *Approved* retention areas and reservoirs.

302.3 Sidewalks and driveways. Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds. *Premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of [JURIS-

DICTION TO INSERT HEIGHT IN INCHES]. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

302.5 Rodent harborage. Structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly on abutting or adjacent public or private property or that of another *tenant*.

302.7 Accessory structures. Accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. Except as provided for in other regulations, inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any *premises*, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

GENERAL REQUIREMENTS

302.9 Defacement of property. A person shall not willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. An existing pool enclosure shall not be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight.

5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

304.2 Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than

decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

[F] 304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members. Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed sur-

faces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a

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walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house*, *housekeeping units*, a hotel, a dormitory, two or more *dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and load effects.
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

305.2 Structural members. Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.5 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 306 COMPONENT SERVICEABILITY

306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 - 1.1. Collapse of footing or foundation system.
 - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
 - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
 - 1.4. Inadequate soil as determined by a geotechnical investigation.
 - 1.5. Where the allowable bearing capacity of the soil is in doubt.
 - 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1. *Deterioration*.
 - 2.2. *Ultimate deformation*.
 - 2.3. Fractures.

- 2.4. Fissures.
- 2.5. Spalling.
- 2.6. Exposed reinforcement.
- 2.7. *Detached*, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. *Deterioration*.
 - 3.2. Corrosion.
 - 3.3. Elastic deformation.
 - 3.4. *Ultimate deformation*.
 - 3.5. Stress or strain cracks.
 - 3.6. Joint fatigue.
 - 3.7. *Detached*, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration*.
 - 4.2. *Ultimate deformation*.
 - 4.3. Fractures in masonry or mortar joints.
 - 4.4. Fissures in masonry or mortar joints.
 - 4.5. Spalling.
 - 4.6. Exposed reinforcement.
 - 4.7. *Detached*, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration*.
 - 5.2. Elastic deformation.
 - 5.3. *Ultimate deformation*.
 - 5.4. Metal fatigue.
 - 5.5. *Detached*, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
 - 6.1. Ultimate deformation.
 - 6.2. Deterioration.
 - 6.3. Damage from insects, rodents and other vermin.
 - 6.4. Fire damage beyond charring.
 - 6.5. Significant splits and checks.
 - 6.6. Horizontal shear cracks.
 - 6.7. Vertical shear cracks.
 - 6.8. Inadequate support.
 - 6.9. Detached, dislodged or failing connections.
 - 6.10. Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

SECTION 307 HANDRAILS AND GUARDRAILS

307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

SECTION 308 RUBBISH AND GARBAGE

308.1 Accumulation of rubbish or garbage. *Exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

308.2 Disposal of rubbish. Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

308.3 Disposal of garbage. Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

308.3.1 Garbage facilities. The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the structure available to the *occupants* in each *dwelling unit*; or an *approved* leakproof, covered, outside garbage container.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

SECTION 309 PEST ELIMINATION

309.1 Infestation. Structures shall be kept free from insect and rodent *infestation*. Structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest

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elimination, proper precautions shall be taken to prevent reinfestation.

309.2 Owner. The *owner* of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

309.3 Single occupant. The *occupant* of a one-family dwelling or of a single-*tenant* nonresidential structure shall be responsible for pest elimination on the *premises*.

309.4 Multiple occupancy. The *owner* of a structure containing two or more *dwelling units*, a multiple *occupancy*, a *rooming house* or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and *exterior property*. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

309.5 Occupant. The *occupant* of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the *infestations* are caused by defects in the structure, the *owner* shall be responsible for pest elimination.

CHAPTER 4

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

User note:

About this chapter: Chapter 4 sets forth requirements to establish the minimum environment for occupiable and habitable buildings by establishing the minimum criteria for light and ventilation and identifying occupancy limitations including minimum room width and area, minimum ceiling height and restrictions to prevent overcrowding.

SECTION 401 GENERAL

401.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation* and space for occupying a structure.

401.2 Responsibility. The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A person shall not occupy as *owner-occupant*, or permit another person to occupy, any *premises* that do not comply with the requirements of this chapter.

401.3 Alternative devices. In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* shall be permitted.

SECTION 402 LIGHT

402.1 Habitable spaces. Every *habitable space* shall have not less than one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, or not less than 25 square feet (2.33 m²), whichever is greater. The exterior glazing area shall be based on the total floor area being served.

402.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with not less than a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, interior and exterior means of egress, stairways

shall be illuminated at all times the building space served by the means of egress is occupied with not less than 1 footcandle (11 lux) at floors, landings and treads.

402.3 Other spaces. Other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment and fixtures.

SECTION 403 VENTILATION

403.1 Habitable spaces. Every *habitable space* shall have not less than one openable window. The total openable area of the window in every room shall be equal to not less than 45 percent of the minimum glazed area required in Section 402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

403.2 Bathrooms and toilet rooms. Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical *ventilation* system. Air exhausted by a mechanical *ventilation* system from a *bathroom* or *toilet room* shall discharge to the outdoors and shall not be recirculated.

403.3 Cooking facilities. Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.

Exceptions:

1. Where specifically *approved* in writing by the *code official*.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust *ventilation* system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer’s instructions.

Exception: Listed and *labeled* condensing (ductless) clothes dryers.

**SECTION 404
OCCUPANCY LIMITATIONS**

404.1 Privacy. *Dwelling units*, hotel units, *housekeeping units*, *rooming units* and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

404.2 Minimum room widths. A habitable room, other than a kitchen, shall be not less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

404.3 Minimum ceiling heights. *Habitable spaces*, hallways, corridors, laundry areas, *bathrooms*, *toilet rooms* and habitable *basement* areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not greater than 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

404.4 Bedroom and living room requirements. Every *bedroom* and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

404.4.1 Room area. Every living room shall contain not less than 120 square feet (11.2 m²) and every bedroom shall contain not less than 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m²) of floor area for each occupant thereof.

404.4.2 Access from bedrooms. *Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

Exception: Units that contain fewer than two *bedrooms*.

404.4.3 Water closet accessibility. Every *bedroom* shall have access to not less than one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to not less than one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. *Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

404.5 Overcrowding. *Dwelling units* shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

**TABLE 404.5
MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^{a,b}	120	120	150
Dining room ^{a,b}	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.0929 m².

- a. See Section 404.5.2 for combined living room/dining room spaces.
- b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Section 404.4.

404.5.2 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by not more than two *occupants* shall have a minimum clear floor area of 220 square feet (20.4 m²). A unit occupied by three *occupants* shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm)

in front. Light and *ventilation* conforming to this code shall be provided.

3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

404.7 Food preparation. Spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

CHAPTER 5

PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

User note:

About this chapter: Chapter 5 establishes minimum sanitary and clean conditions in occupied buildings by containing requirements for the installation, maintenance and location of plumbing systems and facilities, including the water supply system, water heating appliances, sewage disposal systems and related plumbing fixtures. Chapter 5 includes requirements for providing potable water to a building and the basic fixtures to effectively utilize and dispose of that water.

SECTION 501 GENERAL

501.1 Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

501.2 Responsibility. The *owner* of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any structure or *premises* that does not comply with the requirements of this chapter.

SECTION 502 REQUIRED FACILITIES

[P] 502.1 Dwelling units. Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

[P] 502.2 Rooming houses. Not less than one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

[P] 502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 *occupants*.

[P] 502.4 Employees' facilities. Not less than one water closet, one lavatory and one drinking facility shall be available to employees.

[P] 502.4.1 Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

[P] 502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance or cleaning, public access and use shall

be provided to the toilet facilities at all times during *occupancy* of the *premises*.

SECTION 503 TOILET ROOMS

[P] 503.1 Privacy. *Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

[P] 503.2 Location. *Toilet rooms* and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

[P] 503.3 Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

[P] 503.4 Floor surface. In other than *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

SECTION 504 PLUMBING SYSTEMS AND FIXTURES

[P] 504.1 General. Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

[P] 504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

[P] **504.3 Plumbing system hazards.** Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, *deterioration* or damage or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

SECTION 505 WATER SYSTEM

[P] **505.1 General.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

[P] **505.2 Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

[P] **505.3 Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

[P] **505.4 Water heating facilities.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature not less than 110°F (43°C). A gas-burning water heater shall not be located in any *bathroom, toilet room, bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

[P] **505.5 Nonpotable water reuse systems.** Nonpotable water reuse systems and rainwater collection and conveyance systems shall be maintained in a safe and sanitary condition. Where such systems are not properly maintained, the systems shall be repaired to provide for safe and sanitary conditions, or the system shall be abandoned in accordance with Section 505.5.1.

[P] **505.5.1 Abandonment of systems.** Where a nonpotable water reuse system or a rainwater collection and distribution system is not maintained or the owner ceases use of the system, the system shall be abandoned in accordance with Section 1301.10 of the *International Plumbing Code*.

SECTION 506 SANITARY DRAINAGE SYSTEM

[P] **506.1 General.** Plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system.

[P] **506.2 Maintenance.** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

[P] **506.3 Grease interceptors.** Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the *code official*.

SECTION 507 STORM DRAINAGE

[P] **507.1 General.** Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a public nuisance.

CHAPTER 6

MECHANICAL AND ELECTRICAL REQUIREMENTS

User note:

About this chapter: Chapter 6 establishes minimum performance requirements for heating, electrical and mechanical facilities serving existing structures, such as heating and air-conditioning equipment, appliances and their supporting systems; water heating equipment, appliances and systems; cooking equipment and appliances; ventilation and exhaust equipment; gas and liquid fuel distribution piping and components; fireplaces and solid fuel-burning appliances; chimneys and vents; electrical services; lighting fixtures; electrical receptacle outlets; electrical distribution system equipment, devices and wiring; and elevators, escalators and dumbwaiters.

SECTION 601 GENERAL

601.1 Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

601.2 Responsibility. The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that does not comply with the requirements of this chapter.

SECTION 602 HEATING FACILITIES

602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms* based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

602.3 Heat supply. Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor

design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.

2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 603 MECHANICAL EQUIPMENT

603.1 Mechanical equipment and appliances. Mechanical equipment, appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

603.2 Removal of combustion products. Fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

Exception: Fuel-burning equipment and appliances that are *labeled* for unvented operation.

603.3 Clearances. Required clearances to combustible materials shall be maintained.

603.4 Safety controls. Safety controls for fuel-burning equipment shall be maintained in effective operation.

603.5 Combustion air. A supply of air for complete combustion of the fuel and for *ventilation* of the space containing the

MECHANICAL AND ELECTRICAL REQUIREMENTS

fuel-burning equipment shall be provided for the fuel-burning equipment.

603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

SECTION 604 ELECTRICAL FACILITIES

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

604.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, *deterioration* or damage, or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

604.3.1 Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

604.3.1.1 Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated not more than 600 volts or less.
2. Busway, rated not more than 600 volts.
3. Panelboards, rated not more than 600 volts.
4. Switchboards, rated not more than 600 volts.
5. Fire pump controllers, rated not more than 600 volts.
6. Manual and magnetic motor controllers.
7. Motor control centers.

8. Alternating current high-voltage circuit breakers.
9. Low-voltage power circuit breakers.
10. Protective relays, meters and current transformers.
11. Low- and medium-voltage switchgear.
12. Liquid-filled transformers.
13. Cast-resin transformers.
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water.
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water.
16. Luminaires that are listed as submersible.
17. Motors.
18. Electronic control, signaling and communication equipment.

604.3.2 Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

604.3.2.1 Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

SECTION 605 ELECTRICAL EQUIPMENT

605.1 Installation. Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

605.2 Receptacles. Every *habitable space* in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every *bathroom* shall contain not less than one receptacle. Any new *bathroom* receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

605.3 Luminaires. Every public hall, interior stairway, *toilet room*, kitchen, *bathroom*, laundry room, boiler room and furnace room shall contain not less than one electric luminaire.

Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

605.4 Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

SECTION 606

ELEVATORS, ESCALATORS AND DUMBWAITERS

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building *operator* or be posted in a publicly conspicuous location *approved* by the *code official*. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

606.2 Elevators. In buildings equipped with passenger elevators, not less than one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 607

DUCT SYSTEMS

607.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

CHAPTER 7

FIRE SAFETY REQUIREMENTS

User note:

About this chapter: Chapter 7 establishes fire safety requirements for existing structures by containing requirements for means of egress, including path of travel, required egress width, means of egress doors and emergency escape openings, and for the maintenance of fire-resistance-rated assemblies, fire protection systems, and carbon monoxide alarm and detection systems.

SECTION 701 GENERAL

701.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises*, including fire safety facilities and equipment to be provided.

701.2 Responsibility. The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that do not comply with the requirements of this chapter.

SECTION 702 MEANS OF EGRESS

[F] 702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with the *International Fire Code*.

[F] 702.2 Aisles. The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

[F] 702.3 Locked doors. Means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

[F] 702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided that the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

SECTION 703 FIRE-RESISTANCE RATINGS

[F] 703.1 Fire-resistance-rated assemblies. The provisions of this chapter shall govern maintenance of the materials, systems and assemblies used for structural fire resistance and fire-resistance-rated construction separation of adjacent spaces to safeguard against the spread of fire and smoke within a building and the spread of fire to or from buildings.

[F] 703.2 Unsafe conditions. Where any components are not maintained and do not function as intended or do not have the fire resistance required by the code under which the building was constructed or altered, such components or portions thereof shall be deemed unsafe conditions in accordance with Section 111.1.1 of the *International Fire Code*. Components or portions thereof determined to be unsafe shall be repaired or replaced to conform to that code under which the building was constructed or altered. Where the condition of components is such that any building, structure or portion thereof presents an imminent danger to the occupants of the building, structure or portion thereof, the fire code official shall act in accordance with Section 111.2 of the *International Fire Code*.

[F] 703.3 Maintenance. The required fire-resistance rating of fire-resistance-rated construction, including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and joint systems, shall be maintained. Such elements shall be visually inspected annually by the owner and repaired, restored or replaced where damaged, altered, breached or penetrated. Records of inspections and repairs shall be maintained. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer and any other reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of approved construction meeting the fire protection requirements for the assembly.

[F] 703.3.1 Fire blocking and draft stopping. Required fire blocking and draft stopping in combustible concealed spaces shall be maintained to provide continuity and integrity of the construction.

[F] 703.3.2 Smoke barriers and smoke partitions. Required smoke barriers and smoke partitions shall be maintained to prevent the passage of smoke. Openings protected with approved smoke barrier doors or smoke dampers shall be maintained in accordance with NFPA 105.

[F] 703.3.3 Fire walls, fire barriers, and fire partitions. Required fire walls, fire barriers and fire partitions shall be maintained to prevent the passage of fire. Openings protected with approved doors or fire dampers shall be maintained in accordance with NFPA 80.

[F] 703.4 Opening protectives. Opening protectives shall be maintained in an operative condition in accordance with NFPA 80. The application of field-applied labels associated with the maintenance of opening protectives shall follow the requirements of the approved third-party certification organization accredited for listing the opening protective. Fire doors and smoke barrier doors shall not be blocked or obstructed, or otherwise made inoperable. Fusible links shall be replaced whenever fused or damaged. Fire door assemblies shall not be modified.

[F] 703.4.1 Signs. Where required by the code official, a sign shall be permanently displayed on or near each fire door in letters not less than 1 inch (25 mm) high to read as follows:

1. For doors designed to be kept normally open: FIRE DOOR – DO NOT BLOCK.
2. For doors designed to be kept normally closed: FIRE DOOR – KEEP CLOSED.

[F] 703.4.2 Hold-open devices and closers. Hold-open devices and automatic door closers shall be maintained. During the period that such a device is out of service for repairs, the door it operates shall remain in the closed position.

[F] 703.4.3 Door operation. Swinging fire doors shall close from the full-open position and latch automatically. The door closer shall exert enough force to close and latch the door from any partially open position.

[F] 703.5 Ceilings. The hanging and displaying of salable goods and other decorative materials from acoustical ceiling systems that are part of a fire-resistance-rated horizontal assembly shall be prohibited.

[F] 703.6 Testing. Horizontal and vertical sliding and rolling fire doors shall be inspected and tested annually to confirm operation and full closure. Records of inspections and testing shall be maintained.

[F] 703.7 Vertical shafts. Interior vertical shafts, including stairways, elevator hoistways and service and utility shafts, which connect two or more stories of a building shall be enclosed or protected as required in Chapter 11 of the *International Fire Code*. New floor openings in existing buildings shall comply with the *International Building Code*.

[F] 703.8 Opening protective closers. Where openings are required to be protected, opening protectives shall be maintained self-closing or automatic-closing by smoke detection. Existing fusible-link-type automatic door-closing devices shall be replaced if the fusible link rating exceeds 135°F (57°C).

SECTION 704 FIRE PROTECTION SYSTEMS

[F] 704.1 Inspection, testing and maintenance. Fire detection, alarm and extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents shall be maintained in accordance with the *International Fire Code* in an operative condition at all times, and shall be replaced or repaired where defective.

[F] 704.1.1 Installation. Fire protection systems shall be maintained in accordance with the original installation standards for that system. Required systems shall be extended, altered or augmented as necessary to maintain and continue protection where the building is altered or enlarged. Alterations to fire protection systems shall be done in accordance with applicable standards.

[F] 704.1.2 Required fire protection systems. Fire protection systems required by this code, the *International Fire Code* or the *International Building Code* shall be installed, repaired, operated, tested and maintained in accordance with this code. A fire protection system for which a design option, exception or reduction to the provisions of this code, the *International Fire Code* or the *International Building Code* has been granted shall be considered to be a required system.

[F] 704.1.3 Fire protection systems. Fire protection systems shall be inspected, maintained and tested in accordance with the following *International Fire Code* requirements.

1. Automatic sprinkler systems, see Section 903.5.
2. Automatic fire-extinguishing systems protecting commercial cooking systems, see Section 904.12.5.
3. Automatic water mist extinguishing systems, see Section 904.11.
4. Carbon dioxide extinguishing systems, see Section 904.8.
5. Carbon monoxide alarms and carbon monoxide detection systems, see Section 915.6.
6. Clean-agent extinguishing systems, see Section 904.10.
7. Dry-chemical extinguishing systems, see Section 904.6.
8. Fire alarm and fire detection systems, see Section 907.8.
9. Fire department connections, see Sections 912.4 and 912.7.
10. Fire pumps, see Section 913.5.
11. Foam extinguishing systems, see Section 904.7.
12. Halon extinguishing systems, see Section 904.9.

- 13. Single- and multiple-station smoke alarms, see Section 907.10.
- 14. Smoke and heat vents and mechanical smoke removal systems, see Section 910.5.
- 15. Smoke control systems, see Section 909.20.
- 16. Wet-chemical extinguishing systems, see Section 904.5.

[F] **704.2 Standards.** Fire protection systems shall be inspected, tested and maintained in accordance with the referenced standards listed in Table 704.2 and as required in this section.

**TABLE 704.2
FIRE PROTECTION SYSTEM MAINTENANCE STANDARDS**

SYSTEM	STANDARD
Portable fire extinguishers	NFPA 10
Carbon dioxide fire-extinguishing system	NFPA 12
Halon 1301 fire-extinguishing systems	NFPA 12A
Dry-chemical extinguishing systems	NFPA 17
Wet-chemical extinguishing systems	NFPA 17A
Water-based fire protection systems	NFPA 25
Fire alarm systems	NFPA 72
Smoke and heat vents	NFPA 204
Water-mist systems	NFPA 750
Clean-agent extinguishing systems	NFPA 2001

[F] **704.2.1 Records.** Records shall be maintained of all system inspections, tests and maintenance required by the referenced standards.

[F] **704.2.2 Records information.** Initial records shall include the: name of the installation contractor; type of components installed; manufacturer of the components; location and number of components installed per floor; and manufacturers' operation and maintenance instruction manuals. Such records shall be maintained for the life of the installation.

[F] **704.3 Systems out of service.** Where a required fire protection system is out of service, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, either the building shall be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shutdown until the fire protection system has been returned to service. Where utilized, fire watches shall be provided with not less than one approved means for notification of the fire department and shall not have duties beyond performing constant patrols of the protected premises and keeping watch for fires. Actions shall be taken in accordance with Section 901 of the *International Fire Code* to bring the systems back in service.

[F] **704.3.1 Emergency impairments.** Where unplanned impairments of fire protection systems occur, appropriate emergency action shall be taken to minimize potential injury and damage. The impairment coordinator shall implement the steps outlined in Section 901.7.4 of the *International Fire Code*.

[F] **704.4 Removal of or tampering with equipment.** It shall be unlawful for any person to remove, tamper with or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system or other fire appliance required by this code except for the purposes of extinguishing fire, training, recharging or making necessary repairs.

[F] **704.4.1 Removal of or tampering with appurtenances.** Locks, gates, doors, barricades, chains, enclosures, signs, tags and seals that have been installed by or at the direction of the fire code official shall not be removed, unlocked, destroyed or tampered with in any manner.

[F] **704.4.2 Removal of existing occupant-use hose lines.** The fire code official is authorized to permit the removal of existing occupant-use hose lines where all of the following apply:

1. The installation is not required by the *International Fire Code* or the *International Building Code*.
2. The hose line would not be utilized by trained personnel or the fire department.
3. The remaining outlets are compatible with local fire department fittings.

[F] **704.4.3 Termination of monitoring service.** For fire alarm systems required to be monitored by the *International Fire Code*, notice shall be made to the fire code official whenever alarm monitoring services are terminated. Notice shall be made in writing by the provider of the monitoring service being terminated.

[F] **704.5 Fire department connection.** Where the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an *approved* sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location. Such signs shall be subject to the approval of the fire code official.

[F] **704.5.1 Fire department connection access.** Ready access to fire department connections shall be maintained at all times and without obstruction by fences, bushes, trees, walls or any other fixed or movable object. Access to fire department connections shall be approved by the fire chief.

Exception: Fences, where provided with an access gate equipped with a sign complying with the legend requirements of Section 912.5 of the *International Fire Code* and a means of emergency operation. The gate and the means of emergency operation shall be approved by the fire chief and maintained operational at all times.

[F] **704.5.2 Clear space around connections.** A working space of not less than 36 inches (914 mm) in width, 36 inches (914 mm) in depth and 78 inches (1981 mm) in height shall be provided and maintained in front of and to the sides of wall-mounted fire department connections and around the circumference of free-standing fire department connections.

FIRE SAFETY REQUIREMENTS

[F] 704.6 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.6.1 through 704.6.3.

[F] 704.6.1 Where required. Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.

Exceptions:

1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

[F] 704.6.1.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.
2. In every room in the path of the *means of egress* from the sleeping area to the door leading from the *sleeping unit*.
3. In each story within the *sleeping unit*, including basements. For *sleeping units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

[F] 704.6.1.2 Groups R-2, R-3, R-4 and I-1. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of *occupant load* at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a *dwelling unit*, including *basements* but not including crawl spaces and uninhabitable attics. In *dwellings* or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

[F] 704.6.1.3 Installation near cooking appliances. Smoke alarms shall not be installed in the following

locations unless this would prevent placement of a smoke alarm in a location required by Section 704.6.1.1 or 704.6.1.2.

1. Ionization smoke alarms shall not be installed less than 20 feet (6096 mm) horizontally from a permanently installed cooking appliance.
2. Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

[F] 704.6.1.4 Installation near bathrooms. Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

[F] 704.6.2 Interconnection. Where more than one smoke alarm is required to be installed within an individual *dwelling* or *sleeping unit*, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings that are not undergoing *alterations*, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where *alterations* or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

[F] 704.6.3 Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for over-current protection.

Exceptions:

1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.

3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing *alterations* or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available that could provide access for building wiring without the removal of interior finishes.

[F] 704.6.4 Smoke detection system. Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single- and multiple-station smoke alarms and shall comply with the following:

1. The fire alarm system shall comply with all applicable requirements in Section 907 of the *International Fire Code*.
2. Activation of a smoke detector in a dwelling or sleeping unit shall initiate alarm notification in the *dwelling* or *sleeping unit* in accordance with Section 907.5.2 of the *International Fire Code*.
3. Activation of a smoke detector in a *dwelling* or *sleeping unit* shall not activate alarm notification appliances outside of the *dwelling* or *sleeping unit*, provided that a supervisory signal is generated and monitored in accordance with Section 907.6.6 of the *International Fire Code*.

[F] 704.7 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that do not function shall be replaced. Smoke alarms installed in one- and two-family dwellings shall be replaced not more than 10 years from the date of manufacture marked on the unit, or shall be replaced if the date of manufacture cannot be determined.

SECTION 705 CARBON MONOXIDE ALARMS AND DETECTION

[F] 705.1 General. Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the *International Fire Code*, except that alarms in dwellings covered by the *International Residential Code* shall be installed in accordance with Section R315 of that code.

[F] 705.2 Carbon monoxide alarms and detectors. Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 720. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

CHAPTER 8

REFERENCED STANDARDS

User note:

About this chapter: This code contains numerous references to standards promulgated by other organizations that are used to provide requirements for materials and methods of construction. Chapter 8 contains a comprehensive list of all standards that are referenced in this code. These standards, in essence, are part of this code to the extent of the reference to the standard.

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

ASME

American Society of Mechanical Engineers
Two Park Avenue
New York, NY 10016-5990

ASME A17.1—2016/CSA B44—16: Safety Code for Elevators and Escalators
606.1

ASTM

ASTM International
100 Barr Harbor Drive, P.O. Box C700
West Conshohocken, PA 19428-2959

F1346—91 (2010): Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs
303.2

ICC

International Code Council
500 New Jersey Avenue, NW
6th Floor
Washington, DC 20001

IBC—18: International Building Code®
102.3, 201.3, 304.1.1, 305.1.1, 306.1.1, 401.3, 604.3.1.1, 604.3.2.1, 702.3, 704.4.2

IECC—18: International Energy Conservation Code®
102.3

IEBC—18: International Existing Building Code®
102.3, 201.3, 304.1.1, 305.1.1, 306.1.1

IFC—18: International Fire Code®
102.3, 201.3, 604.3.1.1, 702.1, 702.2, 704.1, 704.1.2, 704.1.3, 704.3, 704.3.1,
704.4.2, 704.4.3, 704.5.1, 704.6.4, 705.1

IFGC—18: International Fuel Gas Code®
102.3, 201.3

IMC—18: International Mechanical Code®
102.3, 201.3

IPC—18: International Plumbing Code®
102.3, 201.3, 502.5, 505.1, 505.5.1, 602.2, 602.3

IRC—18: International Residential Code®
102.3, 201.3

IZC—18: International Zoning Code®
102.3, 201.3

REFERENCED STANDARDS

NFPA

National Fire Protection Association
1 Batterymarch Park
Quincy, MA 02169-7471

- 10—17: Standard for Portable Fire Extinguishers**
Table 704.2
- 12—15: Standard on Carbon Dioxide Extinguishing Systems**
Table 704.2
- 12A—15: Standard on Halon 1301 Fire Extinguishing Systems**
Table 704.2
- 17—17: Standard for Dry Chemical Extinguishing Systems**
Table 704.2
- 17A—17: Standard for Wet Chemical Extinguishing Systems**
Table 704.2
- 25—17: Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems**
Table 704.2
- 70—17: National Electrical Code**
102.3, 201.3, 604.2
- 72—16: National Fire Alarm and Signaling Code**
Table 704.2
- 80—16: Standard for Fire Doors and Other Opening Protectives**
703.3.3, 703.4
- 105—16: Standard for Smoke Door Assemblies and Other Opening Protectives**
703.3.2
- 204—15: Standard for Smoke and Heat Venting**
Table 704.2
- 720—15: Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment**
[F] 705.2
- 750—14: Standard on Water Mist Fire Protection Systems**
Table 704.2
- 2001—15: Standard on Clean Agent Fire Extinguishing Systems**
Table 704.2

UL

Underwriters Laboratories, LLC
333 Pfingsten Road
Northbrook, IL 60062

- 268—09: Smoke Detectors for Fire Alarm Systems**
704.6.4

APPENDIX A

BOARDING STANDARD

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

User note:

About this appendix: Appendix A provides minimum specifications for boarding a structure. This can be utilized by a jurisdiction as a set of minimum requirements in order to result in consistent boarding quality. These requirements also provide a reasonable means to eliminate having to approve numerous methods or materials for the boarding and securing of a structure. It is important to note that the provisions of Appendix A are not mandatory unless specifically referenced in the adopting ordinance of the authority having jurisdiction.

A101 GENERAL

A101.1 General. Windows and doors shall be boarded in an *approved* manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

A102 MATERIALS

A102.1 Boarding sheet material. Boarding sheet material shall be minimum $\frac{1}{2}$ -inch-thick (12.7 mm) wood structural panels complying with the *International Building Code*.

A102.2 Boarding framing material. Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the *International Building Code*.

A102.3 Boarding fasteners. Boarding fasteners shall be minimum $\frac{3}{8}$ -inch-diameter (9.5 mm) carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the *International Building Code*.

A103 INSTALLATION

A103.1 Boarding installation. The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.

A103.2 Boarding sheet material. The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

A103.3 Windows. The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches (152 mm) minimum above the bottom and below the top of the window opening. The framing and boarding shall be pre-

drilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

A103.4 Door walls. The door opening shall be framed with minimum 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

A103.5 Doors. Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an *approved* manner.

A104 REFERENCED STANDARD

IBC—18	International Building Code	A102.1, A102.2, A102.3
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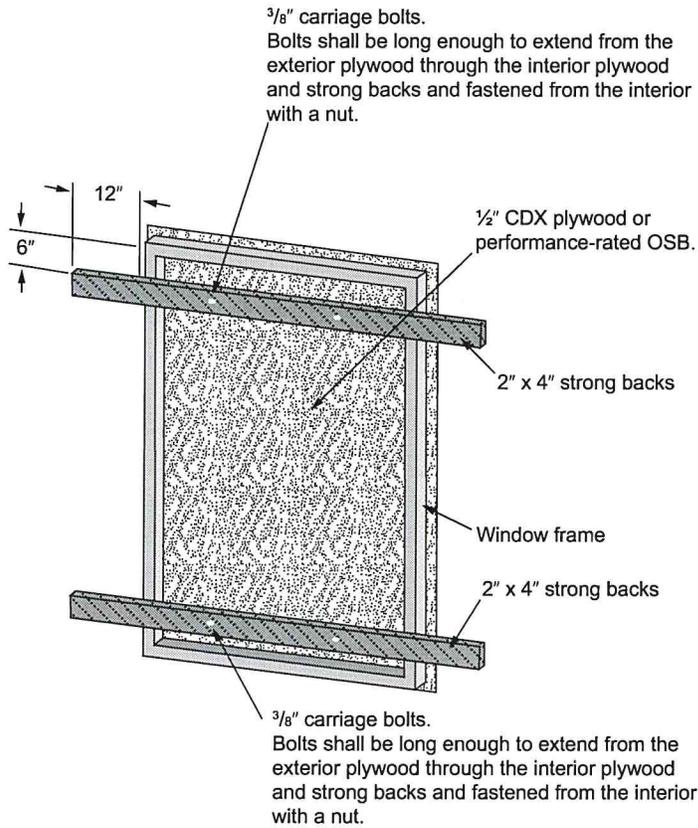
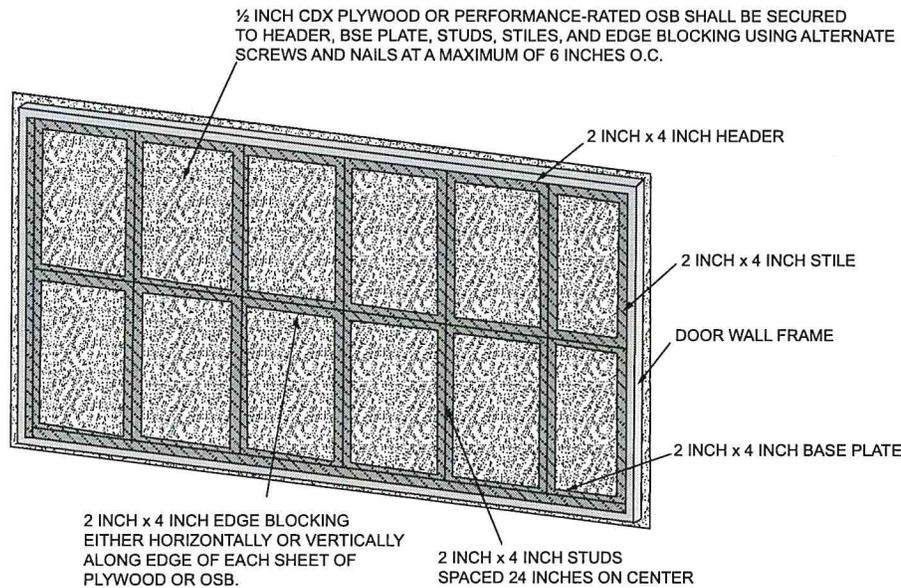


FIGURE A103.1(1)
BOARDING OF DOOR OR WINDOW



For SI: 1 inch = 25.4 mm.

FIGURE A103.1(2)
BOARDING OF DOOR WALL

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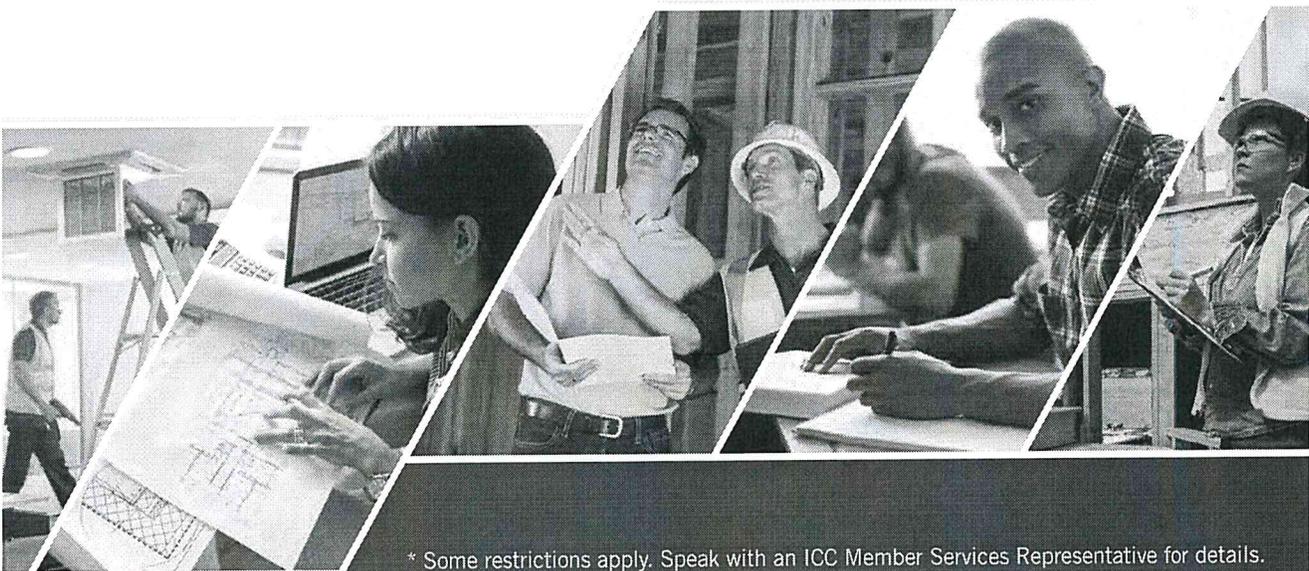
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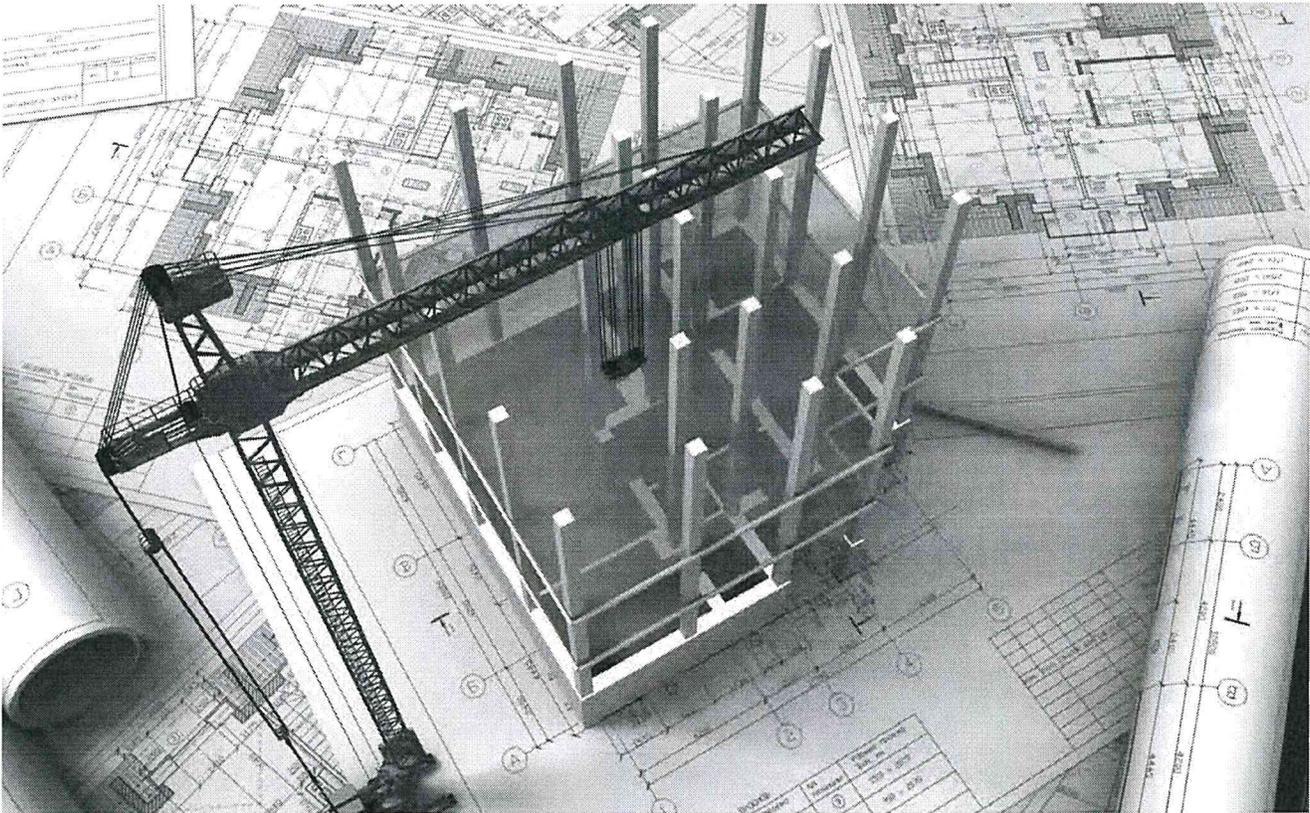


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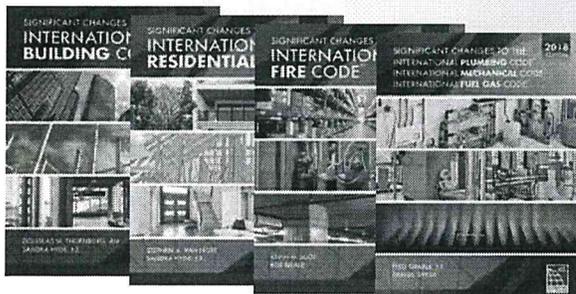
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CITY OF CLARKSTON

CLARKSTON CITY WORK SESSION

ITEM NO: E6

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Resolution

MEETING DATE: January 29, 2019

SUBJECT: Discuss Membership to National League of Cities

DEPARTMENT: Administration

PUBLIC HEARING: YES NO

ATTACHMENT: YES NO
Pages:

INFORMATION CONTACT: Awet Eyasu
PHONE NUMBER: 404-296-6489

PURPOSE:

To consider a Membership to National League of Cities

NEED/ IMPACT:

The City of Clarkston desires to discuss the possible benefits of becoming a Member of the National League of Cities.

RECOMMENDATIONS:

No staff recommendation.