

ORDINANCE NO. _____

**AN ORDINANCE TO ADD CHAPTER 67 TO
THE CITY CODE TO REGULATE AND
CONTROL STORM WATER WITHIN THE
CITY.**

THE CITY OF WALKER ORDAINS:

Section 1. Addition of Chapter 67 of the City Code.

Chapter 67 of the Code of Ordinance, City of Walker (“City Code”) is hereby added to read in its entirety as follows:

CHAPTER 67. STORMWATER MANAGEMENT AND CONTROL.

ARTICLE I.

GENERAL.

Sec. 67-1. Statutory Authority and Title.

This ordinance is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq.; the Drain Code of 1956, as amended, being MCL 280.1 et seq.; the Land Division Act, as amended, being MCL 560.1, et seq.; the Revenue Bond Act, as amended, being MCL 141.101 et seq.; and the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101 et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123 and 124; and other applicable state and federal laws.

Sec. 67-2. Findings.

The City finds that:

- (1) Water bodies, roadways, structures, and other property within, and downstream of the City are at times subjected to flooding;
- (2) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the City and the region;

- (3) Land development alters the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;
- (4) Storm water runoff produced by land development contributes to increased quantities of water-borne pollutants;
- (5) Increases of storm water runoff, soil erosion, and non-point source pollution have occurred as a result of land development, and cause deterioration of the water resources of the City and downstream municipalities;
- (6) Storm water runoff, soil erosion, and non-point source pollution, due to land development within the City, have resulted in a deterioration of the water resources of the City and downstream municipalities;
- (7) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future development projects within the City will, absent reasonable regulation and control, adversely affect the City's water bodies and water resources, and those of downstream municipalities;
- (8) Storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from development;
- (9) Adopting the standards, criteria and procedures contained in this chapter and implementing the same will address many of the deleterious effects of storm water runoff;
- (10) Adopting these standards is necessary for the preservation of the public health, safety and welfare.
- (11) Illicit discharges contain pollutants that will significantly degrade the City's water bodies and water resources.
- (12) Illicit discharges enter the City's municipal separate storm sewer system (MS4) through either direct connections (e.g. wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g. infiltration into the storm drain system or spills connected by drain inlets).

- (13) Establishing the measures for controlling illicit discharges and connections contained in this chapter and implementing the same will address many of the deleterious effects of illicit discharges.

Sec. 67-3. Purpose.

It is the purpose of this chapter to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (1) To reduce artificially induced flood damage;
- (2) To minimize increased storm water runoff rates and volumes from identified new land development;
- (3) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures;
- (4) To encourage water recharge into the ground where geologically favorable conditions exist;
- (5) To prevent an increase in non-point source pollution;
- (6) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;
- (7) To minimize the impact of development upon stream bank and streambed stability;
- (8) To reduce erosion from development or construction projects;
- (9) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution; and,
- (10) To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands that were developed without storm water management controls meeting the purposes and standards of this chapter.
- (11) To reduce the adverse impact of changing land use on water bodies and, to that end, this chapter establishes minimum standards to protect water bodies from degradation resulting from

changing land use where there are insufficient storm water management controls.

- (12) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) from storm water discharges.
- (13) To prohibit illicit discharges and connection to the municipal separate storm sewer system.
- (14) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to endure compliance with this chapter.

Sec. 67-4. Applicability, Exemptions and General Provisions.

- (1) This chapter shall apply to any development site (as defined in Section 67-5(12) and Section 67-5(14)) which requires approval of a plat, a site development plan, building permit, or any other permit for work which will alter storm water drainage characteristics of the development site, provided, however, that this chapter shall not apply to the following:
 - (a) The installation or removal of individual mobile homes within a mobile home park. This exemption shall not be construed to apply to the construction, expansion, or modification of a mobile home park.
 - (b) Farm operations and buildings, except dwellings, directly related to farm operations. This exemption shall not apply to greenhouses and other similar structures.
 - (c) Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of this chapter, where such approvals remain in effect.
- (2) This chapter shall apply to all discharges entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted.

Sec. 67-5. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section unless the context in which they are used specifically indicates otherwise:

- (1) Base Flood: A flood having a one (1) percent chance of being equaled or exceeded in any given year.
- (2) Base Flood Elevation: The high water elevation of the Base Flood, commonly referred to as the "100-year flood elevation".
- (3) Base Flood Plain: The area inundated by the Base Flood.
- (4) Best Management Practices (BMPs): A practice, or combination of practices and design criteria that comply with the Michigan Department of Environmental Quality's Guidebook of BMPs for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this chapter (including, but not limited to minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the City Engineer, and, where appropriate, the standards of the Kent County Drain Commissioner.
- (5) Building Opening: Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.
- (6) City: The City of Walker.
- (7) City Engineer: The City Engineer of the City of Walker and any persons designated to act on behalf of the City Engineer in the administration or enforcement of this Chapter.
- (8) Clean Water Act: The Federal Water Pollution Control Act, 33 USC Sec 1251 et seq., as amended, and the applicable regulations promulgated thereunder.
- (9) Construction Site Storm Water Runoff: Storm water runoff from a development site following an earth change.
- (10) Design Engineer: Registered and licensed professional engineer responsible for the design of a drainage plan.
- (11) Detention: A system which is designed to capture storm water and release it over a given period of time through an outlet structure at a controlled rate.

- (12) Developed or Development: The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the City's approval of a site plan, plat, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures; provided, however, that for purposes of Article II only, developed or development shall not include the actual construction of, or an addition, extension or modification to, an individual single-family or a two-family detached dwelling.
- (13) Developer: Any person proposing or implementing the development of land.
- (14) Development Site: Any land that is being or has been developed, or that a developer proposes for development.
- (15) Discharger: Any person or entity who directly or indirectly discharges storm water from any property. Discharger also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this chapter.
- (16) Drain: Any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, et seq., other than an established county or inter-county drain.
- (17) Drainage: The collection, conveyance, or discharge of ground water and/or surface water.
- (18) Drainageway: The area within which surface water or ground water is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.
- (19) Earth Change: Any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.
- (20) EPA: The United States Environmental Protection Agency.

- (21) Erosion: The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.
- (22) Exempted Discharges: Discharges other than storm water as specified in Section 67-22 of this chapter.
- (23) Federal Emergency Management Agency (FEMA): The agency of the federal government charged with emergency management.
- (24) Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of water bodies or the unusual and rapid accumulation of surface water runoff from any source.
- (25) Floodplain: Any land area subject to periodic flooding.
- (26) Flood-Proofing: Any structural and/or non-structural additions, changes, or adjustments to structures or property that reduce or eliminate flood damage to land, or improvements utilities and structures.
- (27) Flood Protection Elevation (FPE): The Base Flood Elevation plus one (1) foot at any given location.
- (28) Floodway: The channel of any watercourse and the adjacent land areas that must be reserved to carry and discharge a base flood without cumulatively increasing the water surface elevation more than one-tenth (1/10) of a foot due to the loss of flood conveyance or storage.
- (29) Grading: Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.
- (30) Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (31) Illicit Connection: Any method or means for conveying an illicit discharge into water bodies or the City's storm water system.

- (32) **Illicit Discharge:** Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this chapter.
- (33) **Impervious Surface:** Surface that does not allow storm water runoff to slowly percolate into the ground.
- (34) **KCDC:** Kent County Drain Commissioner.
- (35) **Lowest Floor:** The lowest floor or the lowest enclosed area (including a basement), but not including an unfinished or flood-resistant enclosure which is usable solely for parking of vehicles or building access.
- (36) **MDEQ:** Michigan Department of Environmental Quality, or its successor agency.
- (37) **MS4:** The City's municipal separate storm sewer system, consisting of a conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by the City and designed or used for collecting or conveying storm water (excluding combined sewers and sanitary sewers).
- (38) **NPDES:** National Pollution Discharge Elimination System.
- (39) **NPDES Storm Water Discharge Permit:** A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC §1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (40) **Non-Storm Water Discharge:** Any discharge to the storm drain system that is not composed entirely of storm water.
- (41) **Overland Flow-way:** Surface area that conveys a concentrated flow of storm water runoff.
- (42) **Person:** An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.

- (43) Plan: Written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these which contain information pursuant to this chapter.
- (44) Pollutant: A substance discharged which includes, but is not limited to the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, dewatering effluent, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.
- (45) Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (46) Property Owner: Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.
- (47) Retention: A system which is designed to capture storm water and contain it until it infiltrates the soil or evaporates.
- (48) Soil Erosion: The stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, and enabling formation of new sedimentary deposits.
- (49) State of Michigan Water Quality Standards: All applicable State rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.
- (50) Storm Drain: A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, ground water and drainage.
- (51) Storm Water Permit: A permit issued pursuant to this chapter.
- (52) Storm Water Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person to identify sources of pollution or

contamination at a site and the actions to eliminate or reduce pollutant discharges to water bodies.

- (53) Storm Water Runoff: The runoff and drainage of precipitation resulting from rainfall or snowmelt or other natural event or process.
- (54) Storm Water Runoff Facility: The method, structure, area, system, or other equipment or measures that are designed to receive, control, store, or convey storm water.
- (55) Stream: A river, stream or creek which may or may not be serving as a drain, or any other water body that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.
- (56) Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
- (57) Water Body: A river, lake, stream, creek or other watercourse or wetlands.
- (58) Watershed: A region draining into a water body.
- (59) Wetlands: Land characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

ARTICLE II. STORM WATER PERMITS.

Sec. 67-6. Permit Required.

- (1) A developer shall not engage in any development without first receiving a storm water permit from the City pursuant to Section 67-7.
- (2) The granting of a storm water permit shall authorize only such development for which the permit is required, subject to the terms of the permit, and it shall not be deemed to approve other development or other land use activities.

Sec. 67-7. Storm Water Permit Review Procedures.

The City Engineer shall grant a storm water permit (which may impose terms and conditions in accordance with Section 67-14) only upon compliance with each of the following requirements:

- (1) The developer has submitted a storm water plan complying with Section 67-8.
- (2) The storm water plan contains a description of an adequate, temporary storm water detention/retention system to prevent construction site storm water runoff, satisfying the requirements of Section 67-10, and the developer has obtained a soil erosion permit, if necessary.
- (3) The developer provides a permanent on-site storm water system with a restricted outlet designed to result in no net increase in storm water runoff volume or rate onto any adjacent property in a one hundred (100) year storm event.
- (4) The developer has paid or deposited the storm water permit review fee pursuant to Section 67-9.
- (5) The developer has paid or posted the applicable financial guarantee pursuant to Section 67-11.
- (6) The developer provides all easements necessary to implement the approved storm water plan and to otherwise comply with this chapter including, but not limited to, Section 67-40. All easements shall be acceptable to the City in form and substance and shall be recorded with the Kent County Register of Deeds.
- (7) The storm water plan is designed in conformity with the City's design and performance standards for drains and storm water management systems, as set forth in Article VIII of this Chapter.
- (8) All storm water runoff facilities shall be designed in accordance with the then-current BMPs.
- (9) The developer provides a Storm Water Pollution Prevention Plan and the required maintenance agreement for routine, emergency, and long-term maintenance of all storm water runoff facilities and in compliance with the approved storm water plan and this chapter including, but not limited to, Section 67-8. The maintenance agreement shall be acceptable to the City in form and substance and shall be recorded with the Kent County Register of Deeds.

Sec. 67-8. Storm Water Plan.

The developer shall provide a storm water plan to the City Engineer for review and approval by the City. The storm water plan shall identify and contain all of the following:

- (1) The location of the development site and water bodies that will receive storm water runoff.
- (2) The existing and proposed topography of the development site, including the alignment and boundary of the natural drainage courses, with contours having a maximum interval of one foot (using USGS datum). The storm water plan shall include a sampling of the on-site soils to identify soil type(s).
- (3) The development tributary area to each point of discharge from the development.
- (4) Calculations for the final peak discharge rates.
- (5) Calculations for any facility or structure size and configuration.
- (6) A drawing showing all proposed storm water runoff facilities with existing and final grades.
- (7) The sizes and locations of upstream and downstream culverts serving the major drainage routes flowing into and out of the development site. Any significant off-site and on-site drainage outlet restrictions other than culverts should be noted on the drainage map.
- (8) An implementation plan for construction and inspection of all storm water runoff facilities necessary to the overall storm water plan, including a schedule of the estimated dates of completing construction of the storm water runoff facilities shown on the plan and an identification of the proposed inspection procedures to ensure that the storm water runoff facilities are constructed in accordance with the approved storm water plan.
- (9) A plan to ensure the effective control of construction site storm water runoff and sediment track-out onto roadways.
- (10) The Storm Water Pollution Prevention Plan.

- (11) Drawings, profiles, and specifications for the construction of the storm water runoff facilities reasonably necessary to ensure that storm water runoff will be drained, stored, or otherwise controlled in accordance with this chapter.
- (12) A maintenance agreement, in form and substance acceptable to the City, for ensuring maintenance of any privately-owned storm water runoff facilities. The maintenance agreement shall include the developer's written commitment to provide routine, emergency, and long-term maintenance of the facilities and, in the event that the facilities are not maintained in accordance with the approved storm water plan, the agreement shall authorize the City or a contractor on behalf of the City to maintain any on-site storm water runoff facility as reasonably necessary, at the developer's expense.
- (13) The name of the engineering firm and the registered professional engineer that designed the storm water plan.
- (14) All design information must be compatible for conversion to Grand Valley Regional Geographic Information System (REGIS).
- (15) Any other information necessary for the City to verify that the drainage plan complies with the City's design and performance standards for drains and storm water management systems.

Sec. 67-9. Storm Water Permit Review Fees.

The developer shall pay the storm water permit review fees as established by resolution of the City Commission.

Sec. 67-10. Construction Site Runoff Controls.

Prior to making any earth change on a development site regulated by this chapter, the developer shall first obtain a soil erosion permit issued in accordance with Part 91 of Act No. 451 of the Public Acts of 1994, as amended, if such permit is required. The developer shall install storm water runoff facilities and shall phase the development activities so as to prevent construction site storm water runoff and off-site sedimentation. During all construction activities on the development site, the City Engineer or his designee may inspect the development site to ensure compliance with the approved construction site runoff controls.

Sec. 67-11. Financial Guarantee.

- (1) The City Engineer shall not approve a storm water permit until the developer submits to the City, in a form and amount satisfactory to the City, an irrevocable letter of credit or other financial guarantee acceptable to the city for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved storm water plan. The irrevocable letter of credit shall be accompanied by a detailed cost estimate provided by the developer. Upon certification by a registered professional engineer or a registered land surveyor that the storm water runoff facilities have been completed in accordance with the approved storm water plan including, but not limited to, the provisions contained in Section 67-8(8), and subject to final acceptance and approval by the City Engineer, the City may release the irrevocable letter of credit, or other financial guarantee.
- (2) Except as provided in subsection (3), the amount of the financial guarantee shall be in the amount of the cost estimate for the work provided by the developer, unless the City Engineer determines that a greater amount is appropriate, in which case the basis for such determination shall be provided to the developer in writing. In determining whether a greater amount is appropriate, the City Engineer shall consider the size and type of the development, the size and type of the on-site storm water system, and the nature of the off-site storm water runoff facilities the development will utilize.
- (3) The City may reduce or waive the amount of the financial guarantee for a development that will not increase the percentage of impervious surface of the development site by more than ten percent (10%).
- (4) This Section and this Chapter shall not be construed or interpreted as relieving a developer of its obligation to pay all costs associated with on-site private storm water runoff facilities as well as those costs arising from the need to make other drainage improvements in order to reduce a development's impact on a drain consistent with adopted design standards.

Sec. 67-12. Certificate of Occupancy.

No final certificate of occupancy shall be issued until storm water runoff facilities have been completed in accordance with the approved storm water

plan and a final as-built plan certified by a professional engineer on a certification form provided by the City is submitted and accepted by the City Engineer; provided, however, the City may issue a temporary certificate of occupancy.

Sec. 67-13. No Change in Approved Facilities.

Storm water runoff facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved storm water plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved storm water plan, or in accordance with approved amendments or revisions in the plan.

Sec. 67-14. Terms and Conditions of Permits.

In granting a storm water permit, the City Engineer may impose such terms and conditions as are reasonably necessary to effectuate the purposes of this chapter. A developer shall comply with such terms and conditions.

ARTICLE III. STORM WATER SYSTEM, FLOOD PLAIN, AND OTHER STANDARDS.

Sec. 67-15. Management of and Responsibility for Storm Water System.

The City is not responsible for providing drainage facilities on private property for the management of storm water on said property. It shall be the responsibility of the property owner to provide for, and maintain, private storm water runoff facilities serving the property and to prevent or correct the accumulation of debris that interferes with the drainage function of a water body.

Sec. 67-16. Storm Water System.

All storm water runoff facilities shall be constructed and maintained in accordance with all applicable federal, state and local ordinances, and rules and regulations.

Sec. 67-17. Floodplain Standards.

- (1) All new buildings and substantial improvements to existing buildings shall be protected from flood damage up to the Flood

Protection Elevation (FPE) (when available) and shall be in accordance with all applicable federal, state and local ordinances, and rules and regulations. Where the Flood Protection Elevation (FPE) is not available, the developer's engineer shall determine the appropriate FPE, subject to review by the City Engineer. Floodway alteration shall be permitted only upon review and approval by the City, in accordance with an approved storm water plan.

- (2) A storm water plan providing for the filling or alteration of a floodway (designated or undesignated) may include provisions for maintaining stability of the banks of streams or other water bodies, by means of the establishment of buffer zones and other means of providing protection of the slopes and banks of water bodies.
- (3) Within any required buffer zone, no earth change shall take place except in accordance with the approved storm water plan. Such a plan may also include provisions for the replacement of flood plain storage volume, where such storage volume is lost or diminished as a result of approved development.

Sec. 67-18. Building Openings.

- (1) No building opening shall be constructed below the following elevations:
 - (a) The Flood Protection Elevation (FPE).
 - (b) The minimum building opening established at the time of plat or development approval and on file in the City Engineering Department.
 - (c) Three feet above the top of any downstream culvert.
 - (d) Four feet above the bottom of any permanent and defined drain.
- (2) A waiver from elevations stated in Section 67-18(1) may be granted by the City Engineer following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation does not pose a risk of flooding.
- (3) Upon completion of construction of the structure's foundation and or slab on grade, a registered land surveyor shall certify any

minimum building opening elevation specified by this chapter. This certificate shall attest that the building opening elevation complies with the standards of this chapter. The permittee for the building permit shall submit the certificate to the City Building Official prior to the commencement of framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified in Section 67-18(1)(b) or (c), that opening must be raised using a method that meets with the approval of the City. After reconstruction, a registered land surveyor or engineer shall re-certify that the minimum building opening elevation complies with the standards of this chapter prior to the commencement of framing and or structural steel placement.

Sec. 67-19. Sump Pump Discharge.

- (1) Whenever building footing drains are required or utilized, a direct connection between the footing drains and the storm sewer requires a sump pump-check valve system. A gravity system is not permitted.
- (2) A storm water lateral shall be provided for each parcel within a residential development at the time of storm sewer construction. The residential owner shall maintain the check valve to prevent backups.

Sec.67-20. Public Health, Safety and Welfare.

Protection of the public health, safety and welfare shall be a primary consideration in the design of all storm water runoff facilities.

ARTICLE IV. PROHIBITIONS AND EXEMPTIONS.

Sec. 67-21. Prohibited Discharges and Connections.

- (1) No person shall discharge to a water body, directly or indirectly, any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with Best Management Practices (BMPs).

- (2) The City is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the MS4.
- (3) No person shall discharge or cause to be discharged into the City storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except for discharges authorized by the City Engineer as being necessary to protect public health and safety.
- (4) Prohibition of Illicit Connections:
 - (a) The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited.
 - (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (c) A person is considered to be in violation of this chapter if the person connects a line conveying wastewater to the MS4, or allows such a connection to continue.
- (5) The prohibitions of this Section shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

Sec. 67-22. Exempted Discharges.

The following non-storm water discharges shall be permissible, provided that they do not result in a violation of State of Michigan water quality standards:

- (1) Water supply line flushing
- (2) Landscape irrigation
- (3) Diverted stream flows

- (4) Rising ground water
- (5) Uncontaminated ground water infiltration to storm drains
- (6) Uncontaminated pumped ground water
- (7) Discharges from potable water sources
- (8) Foundation drains
- (9) Air conditioning condensate
- (10) Individual residential car-washing
- (11) Dechlorinated swimming pool water
- (12) Street washwater
- (13) Discharges or flows from emergency fire fighting activities
- (14) Discharges for which a specific federal or state permit has been issued.

Sec. 67-23. Interference with Natural or Artificial Drains.

- (1) It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of, or otherwise interfere with any natural or constructed drain, or drainageway without first submitting a storm water plan to the City and receiving approval of that plan. Any deviation from the approved plan is a violation of this chapter. This section shall not prohibit, however, necessary emergency action so as to prevent or mitigate drainage that would be injurious to the environment, the public health, safety, or welfare.
- (2) No filling, blocking, fencing or above-surface vegetation planting shall take place within a floodway. This prohibition includes the placement of leaves, twigs, grass clippings, or other biodegradable substances.
- (3) For an overland flow-way:
 - (a) Silt screen fences shall not be permitted below the top of the bank of a water body channel.
 - (b) Except as otherwise provided in Section 94-337(f) of the City Code, chain link fences shall be permitted if the City determines that the fence will not obstruct or divert the flow of water.
 - (c) If a fence is removed by the City for drain access or drain maintenance, the fence shall be replaced by the owner of the fence at the owner's expense.
 - (d) No shrubs or trees shall be planted below the top of the bank of a water body.

- (4) Shrubs, trees or other above-ground vegetation shall not be planted over the top of an underground storm sewer or over the top of the easement within which the storm sewer has been installed.

Sec. 67-24. Storage of Hazardous or Toxic Materials in Drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile within a drainageway any hazardous or toxic materials unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a drainageway.

Sec. 67-25. Responsibility to Implement Best Management Practices

The owner and operator of a commercial or industrial establishment shall each provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or water bodies through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

ARTICLE V. INSPECTION, MONITORING, REPORTING, AND RECORDKEEPING.

Sec. 67-26. Inspection and Sampling.

- (1) (a) Since the discharge of storm water runoff is a pervasively regulated activity under federal and state law and by this Chapter, the City has the right and obligation to inspect connections and discharges to the MS4 in order to ensure compliance with State and Federal law.

(b) The City Engineer and other duly authorized agents or employees of the City bearing proper credentials and identification shall be permitted to enter upon all properties at reasonable times for the purpose of inspection, observation, measurement, sampling, and testing to determine compliance with this Chapter. Any person who uses, applies to use or is connected to, or who discharges into the MS4 is hereby put on notice that inspections may

be made in accordance with this Chapter and the Michigan and United States Constitutions.

(c) A person who uses, applies to use, is connected to, or who discharges into the MS4 does so with the knowledge that inspections provided for in this Chapter will be made to ensure compliance with the law, ordinances, and regulations in effect controlling the use of the MS4. Users of the MS4 shall have no reasonable expectation of privacy with respect to discharges or potential discharges into the MS4 and that announced and unannounced inspections may be conducted to the full extent provided for by Federal and Michigan law. Inspections pursuant to this Chapter will be conducted only for observation, sampling, monitoring, and measuring in order to determine compliance with this Chapter.

- (2) To assure compliance with the standards in this pervasively regulated area, the City may inspect and/or obtain storm water samples from storm water runoff facilities of any discharger to determine compliance with the requirements of this chapter. Upon request, the discharger shall allow the City's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. Unreasonable delays in allowing access to a discharger's facility is a violation of this chapter. The City or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

Sec. 67-27. Storm Water Monitoring Facilities.

A discharger of storm water runoff shall provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water runoff facility, when directed in writing to do so by the City Engineer. The City Engineer may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances and regulations.

Sec. 67-28. Accidental Discharges.

- (1) Any discharger who accidentally discharges into a water body any substance other than storm water or an exempted discharge shall immediately inform the City concerning the discharge. If the accidental discharge occurs during normal weekday business hours, the discharger shall immediately notify the City Engineer or the City Department of Public Works. At all other times, the discharger shall immediately notify the City of Walker Police Department. If such information is given orally, a written report concerning the discharge shall be filed with the City within five (5) days. The written report shall specify:
 - (a) The composition of the discharge and the cause thereof.
 - (b) The exact date, time, and estimated volume of the discharge.
 - (c) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.
 - (d) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.
- (2) A properly-reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of 67-28(1).

Sec. 67-29. Recordkeeping Requirement.

Any person subject to this chapter shall retain and preserve for no less than three (3) years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling and chemical analysis of any discharge or storm water runoff from any property.

ARTICLE VI. ENFORCEMENT.

Sec. 67-30. Sanctions for Violation.

- (1) (a) Any person violating any provision of this Chapter shall be responsible for a municipal civil infraction and subject to a fine of not less than \$500.00 for a first offense, and not less than \$5,000.00 for a subsequent offense, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961 and other applicable laws, including, without limitation, equitable relief; provided, however, that the violation stated in Section 67-30(2) shall be a misdemeanor. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Chapter.
 - (b) For purposes of this section, "subsequent offense" means a violation of the provisions of this chapter committed by the same person within 12 months of a previous violation of the same provision of this Chapter for which said person admitted responsibility or was adjudicated to be responsible.
 - (c) The City Engineer authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this Chapter.
- (2) Any person who neglects or fails to comply with a stop work order issued under Section 67-31 shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.
 - (3) Any person who aids or abets a person in a violation of this Chapter shall be subject to the sanctions provided in this section.

Sec. 67-31. Stop Work Order.

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this Chapter, the City Engineer is authorized to issue a Stop Work Order so as to prevent further or continuing violations or

adverse effects. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply therewith. The City may also undertake or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this Chapter or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work, and such cost shall be a lien upon the property.

Sec. 67-32. Failure to Comply; Completion.

In addition to any other remedies, should any owner fail to comply with the provisions of this Chapter, the City may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the City for all costs of such work.

Sec. 67-33. Emergency Measures.

When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, and/or to prevent loss of life, injury or damage to property, the City is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this chapter, and shall promptly reimburse the City for all of such costs.

Sec. 67-34. Cost Recovery for Damage to Storm Drain System.

A discharger shall be liable for all costs incurred by the City as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this chapter. Costs include, but are not limited to, those penalties levied by the EPA or MDEQ for violation of an NPDES permit, attorney fees, and other costs and expenses.

Sec. 67-35. Collection of Costs; Lien.

Costs incurred by the City or the Drain Commissioner, or both, pursuant to Sections 67-31, 67-32, 67-33, 67-34, and 67-37 shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six (6) months or more may be certified annually to the City Treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the

collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the City or the Drain Commissioner shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

Sec. 67-36. Appeals.

- (1) Any person to whom any provision of this chapter has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Storm Water Management Appeals Board. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Storm Water Management Appeals Board shall consider the appeal at a public hearing and shall affirm, reject, or modify the action or decision being appealed based on the standards of this Section. The Storm Water Management Appeals Board may impose reasonable conditions on an affirmative decision on an appeal. The Storm Water Management Appeals Board shall make its decision in writing and shall furnish a copy of the decision to the person making the appeal. In considering an appeal, the Storm Water Management Appeals Board may consider the recommendations of the City Manager, the City Engineer, the comments of other persons having knowledge of the matter, and interested members of the public. The Storm Water Management Appeals Board may grant a variance from the terms of this chapter so as to provide relief, in whole or in part, from the action or decision being appealed, but only upon finding that the applicant for the appeal has satisfied the following requirements:
 - (a) The application of the provisions of this chapter being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the chapter; and
 - (b) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this chapter, nor result in less effective management of storm water runoff.
- (2) The Storm Water Management Appeals Board shall consist of the individuals appointed to the Construction Code Board of Appeals pursuant to Section 18-27 of the City Code.
- (3) When an appeal is made under this section, notice of the public hearing before the Storm Water Management Appeals Board shall be given in the same manner as notice pursuant to Section 94-61(4) of the City Code.

- (4) A person making an appeal pursuant to this Section shall pay a fee for the appeal as established by resolution of the City Commission.

Sec. 67-37. Suspension of MS4 Access.

(1) The City Engineer may, without prior notice, suspend a person's discharge access to the MS4 when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the person fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or the environment, or to minimize danger to persons. A person failing to comply with a suspension order pursuant to this Section shall be liable for all costs incurred by the City as the result of such failure to comply.

(2) Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City Engineer will notify a violator of the proposed termination of its MS4 access. A person violates this chapter if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the City Engineer.

Sec. 67-38. Public Nuisance.

The violation of any provision of this chapter shall be deemed a public nuisance subject to abatement by the equitable power of any court of competent jurisdiction.

ARTICLE VII. STORM WATER EASEMENTS AND MAINTENANCE AGREEMENTS.

Sec. 67-39. Applicability of Requirements.

The requirements of this Article concerning storm water easements and maintenance agreements shall apply to all persons required to submit a storm water plan to the City for review and approval.

Sec. 67-40. Storm Water Management Easements.

The developer shall provide all storm water management easements necessary to implement the approved storm water plan and to otherwise comply with this chapter in form and substance required by the City and shall record such easements as directed by the City. The easements shall assure access for proper inspection and maintenance of storm water runoff facilities and shall provide adequate emergency overland flow-ways. If the storm water runoff facilities convey storm water from properties other than the Development Site, the easements shall be granted to the City when the City Engineer determines that an easement to the City is reasonably necessary to accomplish the purposes of this chapter as set forth in Section 67-3.

Sec. 67-41. Maintenance Agreements.

The developer shall provide all storm water maintenance agreements necessary to implement the approved storm water plan and to otherwise comply with this chapter in form and substance as required by the City, and shall record such agreements as directed by the City. The maintenance agreements shall, among other matters, assure access for proper inspection and maintenance of storm water runoff facilities and adequate emergency overland flow-ways.

Sec. 67-42. Establishment of County Drains.

Prior to final approval, all storm water management facilities for platted subdivisions shall be established as county drains, as authorized in Section 433, Chapter 18 of the Michigan Drain Code (P.A. 40 of 1956, as amended) for long-term maintenance.

ARTICLE VIII. PERFORMANCE AND DESIGN STANDARDS.

Sec. 67-43. Performance Standards.

In order to achieve the goals and purposes of this chapter, the following three storm water management zones (Zones A, B and C) are hereby established. The Zones are shown on the map attached as Appendix A and made a part of this chapter.

- (1) Zone A represents areas which require the most protective storm water management regulations. The goal of this zone is to preserve the natural condition of water bodies included in it, in whole or in part. Zone A is usually located in environmentally-sensitive areas in the upper reaches of the watershed. Zone A has, in general, little impervious surface area and few storm water facilities. In this zone, when site conditions permit, infiltration of storm water runoff shall be required, rather than the directed flow of storm water runoff into water bodies. This storm water management practice provides greater protection for surface water quality, and also assists in augmenting stream base flow, reduction of flash storm flows and prevention of stream bank erosion. Section 67-44 specifies design criteria for Zone A, in order that the volume and rate of storm water runoff are controlled at predevelopment levels.
- (2) Zone B represents developed areas that have significant impervious surfaces and storm water runoff facilities in place. The goal of Zone B is the control of storm water runoff in order to prevent further destabilizing of streams and other water bodies. In this zone, the use of detention ponds, the maintenance and enhancement of buffer strips and other measures to reduce directly-connected impervious areas are specified in Section 67-44 for the achieving of the storm water management standards applicable to Zone B. The management practices for this zone are intended to maintain existing water quality and to alleviate adverse downstream impact on water bodies.
- (3) Zone C consists of highly urbanized areas, or areas where there has been significant modification of drainageways. The amount of impervious surface area in Zone C is generally greater than 25%. Among the measures required in Zone C, as stated in Section 67-44, are the use of sediment basins, the maintenance and enhancement of buffer strips along water bodies and the reduction of impervious surface areas that are directly connected to water bodies. An important element of storm water management practice in Zone C is the control and prevention of sedimentation, in order to reduce pollution of water bodies.

Sec. 67-44. Design Standards.

The design standards for storm water runoff facilities for Zones A, B and C, as described in Section 67-43, are the following:

	Zone A	Zone B	Zone C
Criteria	High quality waters. Meets water quality standards. Less than 10% imperviousness.	Degraded physical, biological, or water quality indicators. 10% to 25% imperviousness.	Heavily degraded physical, biological, or water quality indicators. Greater than 25% imperviousness.
Storm Water Management Standards	Use infiltration basins, infiltration trenches, extended detention basins, and/or constructed wetlands. Maintain and enhance buffer strips.	Use detention ponds; maintain and enhance buffer strips, and reduce directly connected impervious area.	Use sediment basins, maintain and enhance buffer strips, and reduce directly connected impervious area.
Water Quality Control	Detain the first 0.5" of runoff from the contributing watershed, with detention per Zone B and infiltration where conditions permit, or provide equivalent treatment.	Detain the first 0.5" of runoff from the contributing watershed for 24 hours or provide equivalent treatment.	Provide sedimentation control within the drainage system.
Bank Erosion Control	Rate of release shall be limited to 0.05 cfs/acre for a 2-year storm event.	None.	Storm water runoff shall not exceed the capacity of the downstream conveyance system.
Flood Control	Detention with infiltration when conditions permit. Release rate of 0.13 cfs/acre per KCDC rules.	Release rate of 0.13 cfs/acre per KCDC rules.	Direct conveyance of storm water runoff within the capacity of downstream system.

Sec. 67-45. Resolution to Implement Performance and Design Standards.

The City Commission of the City may adopt a resolution establishing more detailed design and performance standards for storm water runoff facilities, consistent with the terms of this chapter, and in order to further implement its goals and purposes.

ARTICLE IX. OTHER MATTERS.

Sec. 67-46. Interpretation.

Words and phrases in this Chapter shall be construed according to their common and accepted meanings, except that words and phrases defined in Section 67-5 shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this Chapter but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

Sec. 67-47. Catch-Line Headings.

The catch-line headings of the articles and sections of this Chapter intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.

Sec. 67-48. Other Ordinances.

This Chapter shall be in addition to other provisions of the City Code, and shall not be deemed to repeal or replace other ordinances or parts thereof.

Section 2. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3. Effective Date.

This Ordinance shall become effective upon the publication of this Ordinance in a newspaper of general circulation within the City of Walker.

First Reading:

Second Reading:

Effective Date:

Robert J. Ver Heulen, Mayor

Sandra A. Wisniewski, City Clerk