

SECTION 38 - STORMWATER MANAGEMENT REGULATIONS

All development, construction, and rehabilitation shall comply with the Sarpy County Stormwater Management Regulations and the Omaha Regional Stormwater Management Design.

38.1 PURPOSE AND AUTHORITY

The purpose of this regulation is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased Stormwater runoff. Proper management of Stormwater runoff will minimize damage to public and private property, reduce the harmful effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.

The application of this regulation and provisions expressed herein shall be the minimum storm water management requirements and shall not be deemed a limitation on such management practices. Sarpy County shall be responsible for the coordination and enforcement of the provisions of this regulation.

38.2 JURISDICTION

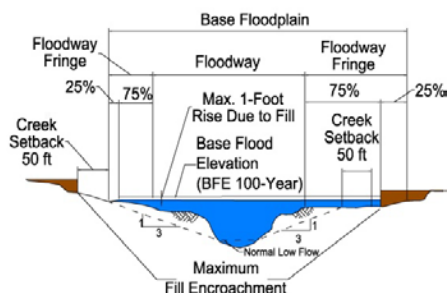
The provisions of this chapter shall be applicable to all that property within the planning and zoning jurisdiction of Sarpy County.

38.3 INCORPORATION BY REFERENCE

For the purpose of the Regulation, the Omaha Regional Storm Water Management Design Manual, in its most current form, is incorporated by reference.

38.4 DEFINITIONS

The following words, phrases and terms as used in this chapter shall have the meanings ascribed to them in this chapter. The following diagram may be referred to for illustration of several definitions.



Baseline Land Use Conditions. That which existed for Year 2001 for Big and Little Papillion Creeks and its tributaries (excluding West Papillion Creek) and for Year 2004 for West Papillion Creek and its tributaries. That which existed in 2007 for all areas not within the Papillion Creek Watershed.

Best Management Practices (BMP) shall mean pollution control practices designed and carried out to reduce the pollutants contained in discharges, including Low Impact Development techniques.

Building Drain shall mean that part of the lowest horizontal piping of a wastewater drainage system that receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building sewer, beginning two feet outside the inner face of the building wall.

Clean Water Act shall mean the Federal Water Pollution Control Act, which was enacted in the 1972 to prohibit the discharge of pollutants to receiving waters of the United States and later amended in 1987, to establish a framework for regulating municipal, industrial, and construction stormwater discharges under the NPDES Program.

Combined Sewer shall mean a sewer receiving, by designation of the director, both runoff water and sanitary sewage.

Commercial Activity shall mean any public or private activity not defined as an industrial activity in 40 Code of Federal Regulations (CFR) 122.26 (b)(14), as of the date of this regulation, involved in the storage, transportation, distribution, exchange or sale of goods, and/or commodities or providing professional and/or non-professional services.

Construction Activity shall mean any clearing, grading, or excavation that results in soil disturbance. Construction activity also includes, but is not limited to, construction, repairs, dewatering, remodeling, building, and emergency construction activities required to immediately protect public health and safety.

County Board shall mean the Sarpy County, Nebraska Board of Commissioners.

Creek Setback. A setback area equal to three (3) times the channel depth plus fifty (50) feet (3:1 plus 50 feet) from the edge of low water on both sides of channel.

Director shall mean the Director of Planning for Sarpy County or his/her authorized agent, or representative.

Discharge shall mean any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-liquid, or solid substance to the municipal storm sewer system.

Erosion Control. Land and stormwater management practices that minimize soil loss caused by surface water movement.

Full Build-Out Land Use Conditions. Fully platted developable land use conditions for the combined portions of the Papillion Creek Watershed that lie in Douglas and Sarpy Counties that are assumed to occur by the Year 2040, plus the projected 2040 land uses within the Watershed in Washington County; or as may be redefined through periodic updates to the respective County comprehensive plans.

Hazardous Substance shall mean any substance designated under 40 CFR Part 116 pursuant to section 311 of the Clean Water Act.

Illicit Connection shall mean any human made conveyance that is directly or indirectly connected to the municipal storm sewer system and allows for an illicit discharge.

Illicit Discharge shall mean any discharge to the municipal storm sewer system that is prohibited under local, state, or federal statutes, ordinances, regulations, codes, or regulations. Illicit discharges include all non-Stormwater discharges except discharges pursuant to a NPDES permit or conditionally exempted by Regulation and include those prohibited in Sections 38.4 and 38.5 below. Check reference

Industrial Activity shall mean any public or private activity which is associated with any other of the 11 categories of activities defined in 40 CFR 122.26 (b)(14).

Industrial/Commercial Facility shall mean any public or private facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, or any facility involved and/or used in providing professional services. This category of facility includes but is not limited to, any facility defined by a Standard Industrial Code (SIC).

Low Chord Elevation. The bottom-most face elevation of horizontal support girders or similar superstructure that supports a bridge deck.

Low-Impact Development (LID). A land development and management approach whereby stormwater runoff is managed using design techniques that promote infiltration, filtration, storage, evaporation, and temporary detention close to its source. Management of such stormwater runoff sources may include open space, rooftops, streetscapes, parking lots, sidewalks, medians, etc.

Maximum LID. A level of LID using strategies, including water quality LID and on-site detention, designed not to exceed peak discharge rates of more than 0.2 cfs/acre during the 2-year storm event or 0.5 cfs/acre during the 100-year storm event based on the contributing drainage from each site, measured at every drainage (stormwater discharge) outlet from the new development or significant redevelopment.

Maximum Extent Practicable shall mean a standard for implementation of Stormwater management programs to reduce pollutants in Stormwater. It is the maximum extent possible taking into account equitable consideration of competing facts, including, but not limited to, the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility.

New Development shall mean as that which is undertaken to any undeveloped parcel that existed at the time of implementation of this policy.

NPDES shall mean National Pollutant Discharge Elimination System and is implemented and enforced by a permit issued by the U.S. Environmental Protection Agency, or the Nebraska Department of Environmental Quality (NDEQ) pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.

Non-Stormwater Runoff shall mean any discharge to the storm sewer system that is not composed entirely from Stormwater.

Nuisance shall mean Public Nuisance as provided by the Sarpy County Nuisance regulation and also as defined in this regulation.

Pollutant shall mean the same as defined in section 502(6) of the Clean Water Act or as Pollutants include, but are not limited to the following:

- a) Materials (including but not limited to fuels, solvents, chemical, detergents, plastic, pellets, hazardous substances, radioactive wastes, fertilizers, pesticides, paints, soot, slag, ash, sludge);
- b) Metals and non-metals both soluble and insoluble (including but not limited to cadmium, lead, zinc, copper, silver, nickel, chromium, chlorine, phosphorous, and arsenic);
- c) Petroleum Hydrocarbons (including but not limited to fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease);
- d) Eroded soils, sediment, and particulate materials in amounts, which may adversely affect the beneficial use of the receiving waters, flora, or fauna or the state;
- e) Animal wastes (including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, and stables);
- f) Substances having acidic or corrosive characteristics, unusual coloration or turbidity;
- g) Any domestic or industrial wastewater;
- h) Any hazardous substance.

Pollutant does not include uncontaminated Stormwater, potable water, groundwater, or reclaimed water by a lawfully permitted water treatment facility.

Peak Discharge or Peak Flow. The maximum instantaneous surface water discharge rate resulting from a design storm frequency event for a particular hydrologic and hydraulic analysis, as defined in the Omaha Regional Stormwater Design Manual. The measurement of the peak discharge shall be at the lower-most drainage outlet(s) from a new development or significant redevelopment.

Private Stormwater Conveyance System shall mean a Stormwater conveyance system that is not owned or maintained by the County including any instrumentality that drains or conveys water from a building or from/through one or more properties to the environment or the County's Stormwater system.

Public Nuisance shall mean any discharge in violation of the provisions of this chapter, the County's Nuisance regulation, a wastewater discharge permit, or an order of the Sarpy County Board.

Receiving Waters shall mean all surface water bodies, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the jurisdiction of Sarpy County.

Regional Stormwater Detention Facilities. Those facilities generally serving a drainage catchment area of 500 acres or more in size.

Runoff shall mean any Stormwater or non-Stormwater discharges from a drainage area that reaches the municipal storm sewer system. The term runoff is interchangeable with the term urban runoff.

Sanitary Sewage shall mean liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions.

Sediment Control. Land and stormwater management practices that minimize the transport and deposition of sediment onto adjacent properties and into receiving streams and surface water impoundments.

Separate Storm Sewer shall mean pipe or conduit, which by designation of the Director, carries only Stormwater runoff, discharges pursuant to a NPDES permit or discharges conditionally exempted by regulation.

Significant Redevelopment shall mean land disturbing activity that results in the creation, addition or replacement of at least five thousand (5,000) square feet of impervious surface area on an already developed site. Significant redevelopment includes, but is not limited to, the following activities that meet the minimum standards set forth in this definition:

- a) The expansion of a building footprint;
- b) Addition or replacement of a structure;
- c) Replacement of impervious surface that is not part of a routine maintenance activity; and,
- d) Land disturbing activities related to structural or impervious surfaces.

Significant redevelopment does not include activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.

Standard Industrial Classification (SIC) shall mean a classification pursuant to the current edition of the Standard Industrial Classification Manual issued by the Executive Office of the President of the United States, Office of Management and Budget.

Storm Sewer System shall mean any pipe, ditch or gully, or system or pipes, ditches, or gullies that is owned or operated by the county and used for collecting and conveying Stormwater.

Stormwater Management Plan shall mean the adopted Partnership NPDES Phase II Stormwater Management Plan.

Stormwater Management Policies. Stormwater management policies developed by the Technical Workgroup and Policy Workgroup that were commissioned by the Papillion Creek Watershed Partnership (PCWP) subsequent to the “Green, Clean, and Safe”

initiatives developed through the “Watershed by Design” public forums conducted in 2004 and 2005 and subsequently revised by the PCWP in 2009. The following policy groups contain “root” policies and sub-policies for stormwater management that have been developed in addition to the Stormwater Management Financing Policy Group herein:

- Policy Group #1 – Water Quality Improvement
- Policy Group #2 – Peak Flow Reduction
- Policy Group #3 – Landscape Preservation, Restoration, and Conservation
- Policy Group #4 – Erosion and Sediment Control and Other BMPs
- Policy Group #5 – Floodplain Management

Stormwater Pollution Prevention Plan (SWPPP) shall mean a plan required by the State of Nebraska General Permit for Stormwater Discharges associated with either industrial or construction activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of Stormwater discharges from a site and to describe and ensure the implementation of practices to reduce pollutants in Stormwater discharges.

Stormwater Runoff shall mean that part of precipitation (rainfall or snowmelt, including that of any frozen precipitation), which travels via flow across any surface to the storm sewer system.

Street Wash Water shall mean the water and the debris associated with it from the washing of streets and/or sidewalks.

Total Maximum Daily Load (TMDL). A calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. Water quality standards are set by States, Territories, and Tribes. They identify the uses for each waterbody, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and non-point sources. The calculation must include a margin of safety to ensure that the waterbody can be used for the purposes the State has designated. The calculation must also account for seasonal variation in water quality. The Clean Water Act, Section 303, establishes the water quality standards and TMDL programs, and for Nebraska such standards and programs are administered by the Nebraska Department of Environmental Quality. *[Source: EPA and Nebraska Surface Water Quality Standards, Title 117].*

Updated Flood Hazard Maps. The remapping of flooding sources within the Papillion Creek Watershed where Digital Flood Insurance Rate Maps (DFIRMs) are based on 2004 or more recent conditions hydrology and full-build out conditions hydrology.

Urban Runoff shall mean any Stormwater and non-Stormwater runoff from developed land in, or adjacent to, any municipality.

U.S. EPA shall mean the United State Environmental Protection Agency.

Watercourse. Any depression two feet or more below the surrounding land which serves to give direction to a current of water at least nine months of the year and which has a bed and well-defined banks. *[Adapted from Chapter 31 of Nebraska Statutes]*

Water Quality LID. A level of LID using strategies designed to provide for water quality control of the first ½ inch of stormwater runoff generated from each new development or significant redevelopment and to maintain the peak discharge rates during the 2-year storm event to baseline land use conditions, measured at every drainage (stormwater discharge) outlet from the new development or significant redevelopment.

38.5 **WATERSHED FEES**

Pursuant to the amended Papillion Creek Watershed Partnership interlocal agreement, Sarpy County shall collect watershed fees.

All new development and significant redevelopment will be required to fund the planning, implementation, and operation and maintenance of water quality LID.

Such Watershed Management Fee shall only apply to new development or significant redevelopment within the Papillion Creek Watershed and the initial framework shall consist of the following provisions.

Collection of fees and public funding shall be earmarked specifically for the construction of projects called for in the Papillion Creek Watershed Management Plan, including Maximum LID costs such as on site detention, regional detention basins, and water quality basins.

Multiple fee classifications are established which fairly and equitably distribute the cost of these projects among all undeveloped areas within the Papillion Creek Watershed. Those fees are provided within the “Master Fee Schedule for the Planning and Building Department” as adopted by the County Board.

Each subdivision or other agreements with developers for new developments or significant redevelopments, shall include the right to collect Watershed Fees at the time of building permit issuance pursuant to, and consistent with, the provisions of this regulation. The Watershed Fee specified in a subdivision agreement shall not be changed after such subdivision agreement has been approved by the Sarpy County Planning Commission, notwithstanding that the Watershed Fee framework or rates possibly may be changed before all building construction has been completed in such subdivision.

Watershed Fees shall be collected at the time of application for a building permit. The Watershed Fees shall be earmarked specifically for construction of regional detention structures and water quality basins and collected as listed below. Further, Sarpy County shall transfer the collected Watershed Fees according to the Amended Interlocal Cooperation Act Agreement for the Continuance of the Papillion Creek Watershed Partnership.

38.6 **ILLCIT DISCHARGES PROHIBITED**

(A) No person shall cause the discharge of non-Stormwater runoff to enter the municipal storm sewer system unless the discharge is one of the following:

1. Authorized by a NPDES permit issued by EPA, or NDEQ

2. Caused by or resulting from one of the following:
 - a) Firefighting activities, where such discharges or flows contain no significant sources of pollutants;
 - b) Landscape Irrigation;
 - c) Diverted stream flows;
 - d) Rising ground waters;
 - e) Uncontaminated ground water infiltration, as defined at 40 CFR 35.2005(20);
 - f) Uncontaminated pumped ground water;
 - g) Discharges from potable water sources;
 - h) Foundation Drains;
 - i) Air Conditioning condensation;
 - j) Irrigation water;
 - k) Springs;
 - l) Water from crawl space pumps;
 - m) Footing Drains;
 - n) Lawn Watering;
 - o) Individual residential car washing;
 - p) Flows from riparian habitats and wetlands;
 - q) Dechlorinated swimming pool discharges;
 - r) Street wash water;
3. Authorized by Sarpy County.

(B) All exempt discharges, as listed above, must be in conformance with all other provisions of this code.

38.7 PROHIBITION OF ILLICIT CONNECTIONS

No person shall install, maintain, or use any connection to the municipal storm sewer system that may result in the illicit discharge to the municipal storm sewer system. All connection to the municipal storm sewer system that provide for an illicit discharge from inside a building are prohibited.

This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

38.8 REMOVAL OF ILLICIT CONNECTIONS

If any person fails to disconnect an illicit connection upon 30-day prior notification by the Director, the Director may cause the removal of such connection from the municipal storm sewer system. The owner(s) of the facility shall be assessed the cost of the work and any lawful penalties.

38.9 PRIVATE STORMWATER CONVEYANCE SYSTEMS

The owner of a property where a private Stormwater conveyance system is located shall be responsible for the maintenance and repair, and proper operation of the private Stormwater conveyance system, regardless of whether the private Stormwater conveyance system is completely located on the private property or partially within the public right-of-way. The County shall have no responsibility or obligation for the maintenance, repair, or proper operation of a private Stormwater conveyance system.

If the Director determines that a private Stormwater conveyance system is not operating properly and causes improper discharge of Stormwater to the street, sidewalk, or storm sewer system, the Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with Regulatory Actions specified in this regulation in concurrence with the Sarpy County Nuisance Regulation.

38.10 DISCHARGE OF SANITARY SEWAGE PROHIBITED

No person shall cause discharge of sanitary sewage to the storm sewer system. In addition, if the Director determines that a building drain or building sewer is not operating properly and causes discharge of sewage to the street, sidewalk, or municipal separate storm sewer system, the Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with section 38.25.

38.11 DAMAGE TO THE STORM SEWER SYSTEM

It is unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the storm sewer system.

38.12 WASTE DISPOSAL PROHIBITIONS

No person shall throw, deposit, place, leave, maintain, litter, keep, or permit to be thrown, deposited, left, maintained, or kept any pollutant, refuse, rubbish, food waste, yard waste, garbage, or any other discarded or abandoned objects in or upon any public or private property, driveway, parking area, street, alley, sidewalk, or other location that may result in an illicit discharge to the storm sewer system. Wastes placed in containers protected from urban runoff such as bags, cans, or recycling bins, and County-approved wastes from construction on public right-of-way are exempted from this prohibition.

38.13 PROHIBITED DISCHARGES FROM INDUSTRIAL/COMMERCIAL ACTIVITIES

The following list of discharges from industrial/commercial activities shall be considered prohibited unless permitted under a separate NPDES permit or approved by the Sarpy County Planning Department. This list is based on Section 38.5 (Illicit Discharges Prohibited), but is not an exhaustive list of prohibited discharges to the storm sewer system:

1. Water from the cleaning of gasoline station, vehicle service garages, or other types of vehicle service facilities.
2. Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial operations.
3. Water from the washing or rinsing of vehicles containing soap, detergents, solvents, or other cleaners.
4. Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning.
5. Vehicle fluids.
6. Mat wash water from food service facilities.
7. Food and kitchen cleaning water from food service facilities.
8. Leakage from dumpsters or trash containers.
9. Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained.
10. Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces.
11. Wastewater or cleaning fluids from carpet cleaning.
12. Swimming pool and spa water.
13. Wash out from concrete trucks.
14. Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored.
15. Super-chlorinated, i.e., greater than 4mg/l chlorine, water normally associated with the disinfection of potable water systems.

38.14 NOTIFICATION OF PROHIBITED DISCHARGES REQUIRED

In the event of discovery of a discharge to the storm sewer system that is prohibited by this code, the discharger or permittee shall immediately notify the Director of the incident by telephone, facsimile or e-mail. The notification shall include the discharge location, type of materials discharged, estimated concentration and volume of discharge, and corrective actions taken to contain or minimize the effects of the discharge.

In addition, a written report, facsimile or e-mail, addressed to the Director detailing the date, time and cause of the discharge, the quantity and characteristics of the discharge, corrective actions taken to contain or minimize the effects of the discharge, and corrective actions taken to prevent future discharges shall be filed by the responsible person within five days of the occurrence of the non-complying discharge.

38.15 GRADING PERMIT REQUIRED

It shall be unlawful for any person to engage in or cause any grading, clearing, or excavation activities that result in the disturbance of any land areas sufficiently large to require a general NPDES construction site Stormwater permit, and larger than one (1) acre, without the property owner or easement holder, or their agent, first obtaining a grading permit from Sarpy County. This section shall not apply to grading performed solely for agricultural purposes.

38.16 APPLICATION FOR GRADING PERMIT

Any property owner or easement holder, or their agent, desiring a grading permit shall also submit to the permits and inspection division a completed NDEQ notice of intent/permit application for coverage under the general NPDES construction site Stormwater permit. Such permit application shall be made on forms provided by the NDEQ and distributed by Sarpy County. The County shall review all such completed applications and then forward the documents to the NDEQ for approval or denial.

38.17 GRADING PERMIT FEE

Before any grading permit application will be accepted by Sarpy County, the applicant shall pay to the County a fee of \$500.00 for ten acres or less, or \$1000.00 for more than ten acres.

38.18 ISSUANCE OF GRADING PERMIT

If, after, examination of the application for a grading permit, Sarpy County determines that the proposed plan will meet the requirements of this article and if the NDEQ approved the NPDES application for the project, or if the Permits and Inspection Division fails to review and approve or deny the application within seven days, then the grading permit shall be.

38.19 EROSION CONTROL AT CONSTRUCTION AND DEVELOPMENT SITES

The Director shall establish an erosion control manual governing erosion control at construction and development sites that require a general NPDES construction site Stormwater permit. When such an erosion control manual has been adopted by resolution of the County Board, a copy thereof shall be placed on file with the County Clerk, and the provisions thereof shall be controlling of all subjects contained therein within the County's jurisdiction in the event of any conflict between the provisions of the adopted erosion control manual, or any other regulation, and the provisions of the NPDES permit issued by the State of Nebraska, the provision that imposes the higher or highest standard or most specific practice shall prevail.

38.20 REQUIREMENT FOR ALL NEW DEVELOPMENT AND REDEVELOPMENT PROJECTS

Land development and significant redevelopment projects with the potential to add pollutants to Stormwater or to affect the flow rate or velocity of the Stormwater runoff after construction is completed must include provisions for the management of the increased post construction runoff in a Post-Construction Stormwater Management Plan.

38.21 POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN (PCSWMP)

The Post-Construction Stormwater Management Plan shall be submitted to the Director, as part of any preliminary plat application, or grading permit application, or building permit application that created 5,000 square feet of more of impervious coverage, on a form or format specified by the Director, at the same time the application for a Sarpy County Grading Permit is submitted. For any significant redevelopment, a post construction Stormwater management plat shall be submitted with the building permit application.

For all development applications made after the adoption date of this ordinance, the post-construction Stormwater management plan, at a minimum, shall include Low Impact Development (LID) BMP's to provide for a water quality control of the first one-half inch of runoff from the site. The County may also require this minimum control level for significant redevelopment that increases the amount of impervious area in a previously platted parcel. For significant redevelopment projects that do not require a grading permit or that involve an increase of less than 5,000 square feet of impervious surface area, BMPs for water quality control of the first one-half inch of runoff from the site are encouraged. For significant redevelopment projects that are characterized as additions or expansions, the Planning Director may determine that the required BMPs only be applied to the area of new development.

The PCSWMP shall include the design, locations, schedules, and procedures for inspection and maintenance of selected BMPs. Temporary erosion and sediment control BMPs to be used during the construction process are to be addressed in the grading permit application. Refer to the Omaha Regional Stormwater Design Manual for information on BMPs.

38.22 EXEMPTIONS FROM THE POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN

Systems designed to accommodate only one single family dwelling unit, duplex, triplex, or quadraplex, provided the single unit is not part of a larger common plan of development or sale, are exempt from the requirements in this Regulation to submit a Post-Construction Stormwater Management Plan.

38.23 MAINTENANCE OF POST-CONSTRUCTION BMPs

- (A) The owners of lands on which structural post-construction BMPs have been installed to meet the requirements of this Regulation shall ensure the maintenance of these structural BMPs that should generally be installed in an outlot. Structural BMPs shall be inspected at least annually, and a written record of inspection results and any maintenance work shall be maintained and available for review by the County. Low Impact Development (LID) – type BMPs that are installed on a building lot shall be

maintained by the owner/occupant of such building lot. BMPs located on a single family or duplex residential building lots are exempt from the annual inspection and reporting requirements. Such BMPs shall however be subject to County inspection, at reasonable times.

- (B) The responsibility to maintain a BMP may be transferred through a contract or other agreement. The person or entity accepting a maintenance obligation in such a contract or agreement will also be legally obliged to maintain that BMP pursuant to this Regulation. However, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this Regulation.
- (C) The applicant or owner shall execute an inspection and maintenance agreement, to be filed of record, binding on all subsequent owners of land served by a private storm water management facility. Such agreement shall provide for access to the BMP, at reasonable, times, for inspections by the County or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
- D) The applicant and/or owner shall record the maintenance agreement with the Register of Deeds.
- E) The maintenance agreement shall also provide that if after notice by the County to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the County may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any lawful penalties.

38.24 STORMWATER MANAGEMENT POLICIES

Pursuant to the amended Papillion Creek Watershed Partnership interlocal agreement, Sarpy County shall adopt a Watershed Plan and amend the watershed policies. The following policies shall apply to all new developments and significant redevelopments:

1. Water Quality LID shall be required on all new developments and significant redevelopments.
2. Impacted wetlands shall be mitigated at a 3:1 ratio.
3. Regional stormwater detention facilities and other structural and non-structural BMPs shall be located in general conformance with an adopted Papillion Creek Watershed Management Plan and shall be coordinated with other related master planning efforts for parks, streets, water, sewer, etc.
4. Maximum LID shall be required to reduce peak discharge rates on all new developments and significant redevelopments as identified in the Papillion Creek Watershed Management Plan.
5. All significant redevelopment shall maintain peak discharge rates during the 2, 10, and 100-year storm event under baseline land use conditions.

6. For new development or significant redevelopment, provide a creek setback of 3:1 plus 50 feet along all streams as identified in the Papillion Creek Watershed Management Plan and a creek setback of 3:1 plus 20 feet for all other watercourses.

Grading, stockpiling, and other construction activities are not allowed within the setback area and the setback area must be protected with adequate erosion controls or other Best Management Practices, (BMPs). The outer 30 feet adjacent to the creek setback limits may be credited toward meeting the landscaping buffer and pervious coverage requirements.

A property can be exempt from the creek setback requirement upon a showing by a licensed professional engineer or licensed landscape architect that adequate bank stabilization structures or slope protection will be installed in the construction of said structure, having an estimated useful life equal to that of the structure, which will provide adequate erosion control conditions coupled with adequate lateral support so that no portion of said structure adjacent to the stream will be endangered by erosion or lack of lateral support. In the event that the structure is adjacent to any stream which has been channelized or otherwise improved by any agency of government, then such certificate providing an exception to the creek setback requirement may take the form of a certification as to the adequacy and protection of the improvements installed by such governmental agency. If such exemption is granted, applicable rights-of-way must be provided and a minimum 20 foot corridor adjacent thereto.

7. Construction site stormwater management controls shall include both erosion and sediment control measures.
8. Sediment storage shall be incorporated with all regional detention facilities where technically feasible.
9. Encroachments for new developments or significant redevelopments within floodway fringes shall not cause any increase greater than one (1.00) foot in the height of the full build-out base flood elevation using best available data.
10. Filling of the floodway fringe associated with new development within the Papillion Creek System shall be limited to 25% of the floodway fringe in the floodplain development application project area, unless approved mitigation measures are implemented. The remaining 75% of floodway fringe within the project area shall be designated as a floodway overlay zone. For significant redevelopment, these provisions may be modified or waived in whole or in part by the County Board.
11. The low chord elevation for bridges crossing all watercourses within FEMA designated floodplains shall be a minimum of one (1) foot above the base flood elevation for full-build out conditions hydrology using best available data.
12. The lowest first floor elevation of buildings associated with new development or significant redevelopment that are upstream of and contiguous to regional dams within the Papillion Creek Watershed shall be a minimum of one (1) foot above the 500-year flood pool elevation.

38.25 ADMISSION TO PROPERTY

Consistent with the provisions of Section XXII of this regulation, whenever it shall be necessary for the purposes of these rules and regulations, the Director, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of:

1. Copying any records required to be kept under the provisions of this article;
2. Inspecting any BMPs, and
3. Sampling any discharge to the municipal storm sewer system.

The Director may enter upon the property at any hour under emergency circumstances but such authority is limited only to those properties designated as outlots. The authority to inspect, sample and copy records, shall be limited to only those things, and only the extent, that it has a direct bearing on the kind and source of discharges into the municipal storm sewer system.

38.26 REGULATORY ACTIONS

If substances in violation of this regulation are discharged or proposed to be discharged into the municipal storm sewer system of the County or any tributary thereto, the County may take action necessary to:

1. Prohibit the discharge of such effluent.
2. Require a discharger to demonstrate that modifications to such discharger's facilities will reduce or eliminate the discharge of such substances in conformity with this article.
3. Require pretreatment, including storage, detention or retention facilities necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these prohibitions and limitations.
4. Require the person making, causing, or allowing the discharge to pay an additional cost or expense incurred by the County for taking remedial actions as may be deemed to be desirable or necessary to achieve the purpose of this chapter. Such additional cost or expense may be levied as a special assessment on the property.
5. Require any combination or all of the above.
6. Require compliance with the Sarpy County Nuisance Regulation.

38.27 NOTICE OF VIOLATION; CORRECTION OF VIOLATIONS

Whenever the Director finds that any person has violated or is violating this article or any prohibition, limitation or requirement contained herein, such person shall be notified in writing.

38.28 PENALTY; RECOVERY OF DAMAGES

Any person who is found to have violated an order provided for in this article, or who willfully or negligently failed to comply with any provisions of this article and the rules and regulations issued hereunder, shall be deemed guilty of a Class III misdemeanor. Each day any such violation or failure to perform such act shall continue, shall constitute a separate offense, unless

otherwise specifically provided. Except as prohibited by the State or Federal Constitutions, a prosecution under this Regulation, shall not be the exclusive penalty for such acts or omissions.

38.29 ADDITIONAL RULES AND REGULATIONS

The Director may make rules and regulations, which expand upon or add to the provisions of this article but are not inconsistent with them. Prior to taking effect, such rules and regulations, or any amendments thereto, shall be approved by resolution of the County Board. A copy of such rules and regulations, with any current amendments, shall be on file with the County Clerk.

38.30 APPEALS

Any person aggrieved by the issuance, denial, suspension, cancellation, or revocation of any permit provided for in this article or by any other order of the Director, may within ten days of the receipt of written notice of the entry of such order, appeal to the Sarpy County Zoning Board of Adjustment, consistent with the provisions of §23-168.02.

38.31 CONFLICTS WITH OTHER CODE SECTIONS

The provisions of this chapter shall control over any inconsistent or conflicting provision of this code.

38.32 SEVERABILITY

If any portion of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances, shall not be affected thereby.