

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF FEBRUARY 5, 2007**

Clark called the meeting to order at 7:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Naeyaert led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Bruno, Clark, Coady, Mulvany, Naeyaert, Preadmore, Whipple
Also present: Martin Colburn, City Administrator
Kathy Revels, Finance Director
Joe Dean, Director of Public Works
John Stressman, Police Chief
Dennis McGinty, City Attorney
Deborah Cwiertniewicz, Deputy City Clerk

APPROVAL OF MINUTES - REGULAR COUNCIL MEETING: January 15, 2007

The Minutes of January 15, 2007 were approved as submitted.

APPROVAL OF BILLS

MOTION by Bruno second by Preadmore,
To approve the payment of bills in the amount of \$108,135.49 as submitted.
MOTION APPROVED UNANIMOUSLY

PEOPLE FROM THE FLOOR

Phil Birdsall, Mason Area United Way Events Chairman, stated that the organization is having its annual awards and recognition breakfast this Thursday at the First United Methodist Church at 7:30 a.m. The keynote speaker will be Deb Birdsall.

REGULAR BUSINESS

Discussion – Downtown Development Authority

A quorum of the Downtown Development Authority (DDA) was present. A lengthy discussion was held regarding the powers and authorities of the Mason DDA and its relationship to the Mason City Council, specific to City Attorney McGinty's opinion cited in the memorandum of February 2, 2007.

Ordinance No. 158 – To Amend Chapter 83: Regulating Illicit Discharges for Storm Water – Second Reading and Adoption

A brief discussion was held.

Motion by Whipple, second by Bruno,
To consider Ordinance No. 158 read for the second time and adopted.
MOTION APPROVED UNANIMOUSLY

CITY OF MASON
ORDINANCE NO. 158

AN ORDINANCE TO AMEND CHAPTER 82 – UTILITIES – OF THE CODE OF THE CITY OF MASON BY AMENDING SECTION 82-1 – DEFINITIONS; BY ADDING NEW ARTICLE V – SEPARATE STORM SEWER SYSTEM; AND BY AMENDING AND RENUMBERING ARTICLE V TO BECOME ARTICLE VI – ENFORCEMENT, IN ORDER TO PROVIDE FOR A MUNICIPAL SEPARATE STORM SEWER SYSTEM, REGULATE DISCHARGES THERETO AND PROHIBIT ILLICIT CONNECTIONS AND DISCHARGES; AND ALSO TO AMEND

SECTION 1-2 OF CHAPTER 1 BY AMENDING THE DEFINITION OF PREMISES.

The City of Mason ordains:

Sec. 82-1. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acquire and *acquiring* mean acquisition by purchase, construction or any other method.

Act or *the Act* means the federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval Authority means the director of the state department of environmental quality, or, if the state does not have an approved state pretreatment program, the administrator of EPA region 5.

Authority shall mean the director of public works or designee.

Authorized Enforcement Agency means the Director of Public Works or his designees.

Authorized representative of industrial user means:

- (1) The principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
- (2) The general partner or proprietor if the industrial user is a partnership or proprietorship; or
- (3) A duly authorized representative of the individual designated in subsection (1) or (2) of this definition if such representative is responsible for the overall operation of the facilities from which the discharge originates.

Available municipal water supply means a municipal water main carrying potable water located in a right-of-way, easement, highway, street or public way which crosses, adjoins or abuts the property and located no more than 300 feet from the nearest point of any structure used or designed for human occupancy.

Available public sanitary sewer means a public sanitary sewer system located in a right-of-way, easement, highway, street or public way which crosses, adjoins, or abuts the property and located no more than 300 feet from the nearest point of the structure from which sanitary sewage originates.

Backflow shall mean water of questionable quality, wastes or other contaminants flowing into a public water supply due to a reversal of flow.

Best Management Practices (BMPs) means those schedules of activities, prohibitions or practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or separate storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five days at 20 degrees Celsius expressed in terms of weight and concentration (mg/l).

Building drain or house drain means that part of the lowest horizontal piping of a drainage system which receives the discharge of wastewater from within a structure and conveys it to the building sewer.

Building sewer means a sewer conveying wastewater from the premises of a user to the POTW.

Categorical standards means National Categorical Pretreatment Standards or pretreatment standard.

Combined sewer means a sewer receiving sanitary and storm sewage.

Compatible pollutant means a substance amenable to treatment in the city POTW such as biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit of the city POTW designed to treat such pollutants and which does in fact remove such pollutants to a substantial degree. Examples of additional pollutants may include chemical oxygen

demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen and nitrogen compounds, fats, oils, and greases of animal or vegetable nature.

Construction Activity means activities subject to NPDES Construction Permits. Generally these include construction projects resulting in land disturbance of 1 acre or more. Such activities include clearing and grubbing, grading, excavating, and demolition.

Control Authority means the Approval Authority or the Authority if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Cross connection shall mean a connection or arrangement of piping or appurtenances through which a backflow could occur.

Cross connection control inspector shall mean the legally designated person whose duty it is to perform periodic inspections of premises within the city for detection of cross connections.

Curb box shall mean a fixture located between the structure served and the water main that provides protection and access to the water service shut off valve.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of the agency.

Garbage means solid waste from the preparation, cooking and dispensing of food, and from the handling, storage, processing and sale of produce. Properly shredded garbage is garbage that has been cut to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Health department means the official department of health of the county.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Illicit Connection means a physical connection to the municipal separate storm sewer system that conveys illicit discharges into the system and/or is not authorized or permitted by the city; or any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illegal Discharge means any discharge to the city storm water system that is not composed entirely of storm water except discharges pursuant to a NPDES permit or as otherwise exempted by Sec. 82-274 of this article.

Imminent hazards shall mean, in the judgment of the Authority, there is a violation or a condition which may cause a violation of this code at a public water supply connection requiring immediate action to prevent endangering the health of the people.

Incompatible pollutant means any pollutant which is not a compatible pollutant.

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

Industrial discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or Section 307(c) of the Act into the POTW (including holding tank waste discharged into the system).

Indirect user means a source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to Section 402 of the Act.

Industrial waste means liquid waste, solids or semisolids from industrial processes, trades or businesses as distinct from sanitary sewage.

Interference means the inhibition or disruption of the POTW treatment process or operations which contributes to a violation of any requirement of the city's NPDES permit or reduces the efficiency of the POTW. The term also includes interference in the use of sanitary sewage sludge or its disposal by the POTW under the criteria, guidelines or regulations contained in the city's approved sludge management plan.

MDEQ means the Michigan Department of Environmental Quality.

Municipal separate storm sewer system (MS4) means those facilities located within the city and owned by the city or the county drain commissioner or the county board of road commissioners by which storm water may be collected and conveyed to the waters of this state, including any streets or roads with drainage systems, inlets, curbs, gutters, storm pipes and retention, detention or infiltration basins, which are not part of the publicly-owned treatment works as defined by 40 CFR § 122.2.

National Categorical Pretreatment Standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and Section 307(c) of the Act which applies to a specific category of industrial users.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by MDEQ 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.

National Prohibited Discharge Standard or prohibited discharge standard means any regulation developed under the authority of Section 307(b) of the Act and 40 CFR 403.5.

Natural outlet means any watercourse, pond, ditch, lake or other body of water, either surface water or groundwater.

New source means:

- (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes or the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new installation meeting the criteria of this section but otherwise alters, replaces, or adds to existing processes or production equipment.
- (3) Construction of a new source has commenced if the owner or operator has:
 - a. Begun or caused to begin as part of a continuous on-site construction program:
 1. Any placement, assembly or installation of facilities or equipment;
 2. Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the new source facilities or equipment; or

- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

Non-Storm Water Discharge means any discharge to the separate storm sewer system that is not composed entirely of storm water.

Normal domestic strength wastewater means sanitary sewage or other wastewater which shall be a compatible pollutant and with BOD of 300 mg/l or less, suspended solids of 350 mg/l or less, and total phosphorus of 20 mg/l or less (as P).

NPDES permit means a permit issued pursuant to the National Pollution Discharge Eliminations System prescribed in Section 402 of the Act.

Nuisance shall mean the maintenance of a condition or activity upon private property or publicly owned property which endangers the public health or safety and includes all conditions and activities which violate state and local health statutes and ordinances.

Operation and maintenance means all work, materials, equipment, utilities and other efforts required to operate and maintain the wastewater transportation and treatment systems consistent with ensuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations, and including the cost of replacement.

Operations upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

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

Pipings shall mean water conveying water pipes, appurtenances, and related or connected devices, equipment or facilities.

Plans and specifications shall mean drawings, data and true description or representation of an entire waterworks system or parts thereof as it exists or is to be constructed, and a statement on how a waterworks system is to be operated.

Pollutant means anything which causes or contributes to pollution. Pollutants may include: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and other pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

Potable water shall mean water free from impurities present in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical qualities shall conform to the requirements of the Michigan Safe Drinking Water Act, being Act No. 399 of the Public Acts of Michigan of 1976 (MCL 325.1001 et seq.), as amended.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, in plant process changes, or other means except as prohibited by 40 CFR 403.6(d).

Pretreatment requirements means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Private sewage disposal system means any septic tank, cesspool or other facilities intended or used for the disposal of sanitary sewage.

Public improvements means the public water supply and sanitary sewage disposal system improvements within and outside the city which are functional components of the respective system.

Public sanitary sewer means a sanitary sewer in which all owners of the abutting property have access and which is controlled by the Authority.

Publicly owned treatment works (POTW) means the treatment works as defined by section 212 of the Act which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant. For the purposes of this article, POTW shall also include any sewers that convey wastewater to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Replacement means the replacement in whole or part of any equipment or facilities in the wastewater transportation or treatment systems to ensure continuous treatment of wastewater in accordance with the NPDES permit and other applicable state and federal regulations.

Residential equivalent unit or REU shall mean the factor representing a ratio of the estimated sewage generated by a class of user to that generated by the normal single family user, usually measured in gallons per day, as established by resolution of the city council.

Residential users means all users that are domiciles or housing units, either single-family or multifamily.

Revenues and *net revenues* mean as defined in Section 3 of the Revenue Bond Act of 1933 (MCL 141.103).

Safe air gap shall mean the minimum distance of a water inlet or opening above the maximum highwater level or overflow rim in a fixture, device or container to which public water is furnished which shall be at least two times the inside diameter of the water inlet pipe and which shall not be less than one inch and need not be more than 12 inches.

Sanitary sewage means the liquid or water-carried waste discharge from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions.

Sanitary sewer means a sewer used or intended for the collection and transportation of sanitary sewage and wastewater or either of them and to which storm waters, surface waters and groundwaters are not intentionally admitted.

Seal shall mean a device installed by the Authority so as to prevent the use of any piping, equipment facilities or appurtenances which would be a violation of this division.

Secondary water supply shall mean a water supply system maintained in addition to a public water supply system, including but not limited to water systems from ground or surface sources not meeting the requirements of the Michigan Safe Drinking Water Act, being Act No. 399 of the Public Acts of Michigan of 1976 (MCL 325.1001 et seq.), as amended, or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stored in other than an approved storage facility.

Sewage means any combination of sanitary sewage, storm water, industrial waste, and uncontaminated industrial waste, or any of them.

Sewer means any pipe, tile, tube or conduit for carrying sewage.

Significant industrial user means:

- (1) Except as provided in subsection (2) of this definition:
 - a. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter (I), Subchapter (N); and
 - b. Any other industrial user that discharges an average of 25,000 gallons per day or more of processed wastewater to the POTW (excluding sanitary noncontact cooling and boiler blow down wastewater); contributes a

processed waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

- (2) Upon a finding that an industrial user meeting the criteria of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Authority may at any time, on his own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm sewer or storm drain means an enclosed sewer or open ditch which carries storm water and/or uncontaminated industrial wastes.

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

Storm Water means atmospheric precipitation, surface water runoff, and flows from footing drains that travel to the nearest stream, channel, or impoundment.

Storm Water Pollution Prevention Plan (SWPP) means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharge to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

Submerged inlet shall mean a water pipe or extension thereto from a public water supply system terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant which is unprotected against backflow.

Suspended solids means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering.

The system or system means the complete public water supply and sanitary sewage disposal system of the city, all wells, water mains, laterals, pumping stations, storage tanks, main and lateral sewers, sanitary sewage disposal plant and all related works, instrumentalities and properties used or useful in connection with the combined water supply and sanitary sewage disposal system, together with all additions, extensions and improvements.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provisions of CWA 307(a) or other acts.

Uncontaminated Industrial Wastes means water which has not come into contact with any substance used in or incidental to industrial processing operations.

Useful life means the estimated period during which the POTW will be operated.

User means any person who contributes, causes or permits the contribution of wastewater into the city's POTW and/or uses or consumes potable water supplied by the city.

User charge means a charge levied on users of the city's POTW for the cost of operation and maintenance of such works, and includes the cost of replacement.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any pollutants which may be present, whether treated or untreated, or any water or other liquid, other than uncontaminated storm water discharged from a facility, which is contributed into or permitted to enter the POTW..

Wastewater discharge permit means a permit as set forth in section 82-187.

Water utility shall mean a governmental unit, municipal or private corporation, association, partnership or individual engaged in furnishing potable water to the public.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion of the state, or are designated as such on the USGS topographic map.

The City of Mason further ordains that Article V – Municipal Separate Storm Sewer System is hereby added to Chapter 82, which added article shall read as follows:

ARTICLE V. MUNICIPAL SEPARATE STORM SEWER SYSTEM

Sec. 82-271. Purpose and policy.

(a) The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the City of Mason through the regulation of non-storm water discharges to the separate storm sewer system to the maximum extent practicable as required by federal and state law.

(b) This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(c) The objectives of this article are:

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

(d) This article shall apply to all water entering the separate storm sewer system generated on any developed and/or undeveloped lands unless explicitly exempted by Section 82-274.

(e) The City of Mason shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the City may be delegated in writing by the City Administrator to persons or entities acting in the beneficial interest of or in the employ of the City of Mason. Except as otherwise provided herein, the Director of Public Works shall, acting under the supervision of the city administrator, administer, implement and enforce the provisions of this article.

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

Sec. 82-272. General Requirements and Prohibitions.

(a) Any person engaged in activities which will or may result in pollutants entering a storm sewer system shall undertake reasonable measures to reduce such pollutants.

(b) No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, parking area, or upon any public or private plot of land so that the same might be or become a pollutant, except where such material is being temporarily stored in properly contained waste receptacles or is part of a well defined compost system.

(c) No person shall cause or permit any dumpster, solid waste bin, or similar container to leak such that any pollutant is discharged into any street, alley, sidewalk, storm drain, inlet,

catch basin, conduit or other drainage structures, business place, or upon any private plot of land in the city.

- (d) The occupant or tenant, the owner, lessee, or proprietor of any real property in the city where there is located a paved sidewalk or parking area shall maintain said paved surface free of dirt or litter to the extent reasonable and practicable and provide an adequate means for the disposal of refuse, rubbish, garbage, or other articles so as to prevent such matter from entering a storm drain system. Sweeping from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or street, but shall be disposed of in receptacles maintained in said real property.
- (e) No person shall throw or deposit any pollutant in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere in the city, except as otherwise permitted under local, state or federal law.

Sec. 82-273. Prohibition of Illicit Discharges.

No person shall discharge or cause or continue to be discharged into the municipal separate storm sewer system or watercourses any illicit discharge, materials, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

Sec. 82-274. Exempt Discharges.

The following discharges are authorized, or otherwise exempt from discharge prohibitions established by this article, provided that they do not result in a violation of State of Michigan water quality standards:

- Water line flushing
- Landscape irrigation runoff
- Diverted stream flows
- Rising groundwaters
- Uncontaminated groundwater infiltration (as defined by 40CFR 35.2005(20))
- Pumped groundwaters (except for groundwater cleanups not specifically authorized by NPDES permits)
- Discharges from potable water sources
- Air conditioning condensates
- Irrigation waters
- Springs
- Water from crawl space pumps
- Foundation drains, footing drains and sump pumps
- Roof drains
- Lawn watering runoff
- Waters from non-commercial car washing
- Flows from riparian habitats and wetlands
- Residential swimming pool waters and other permitted, dechlorinated swimming pool waters
- Residual street wash waters
- Fire fighting and fire training activities
- Any other water source not containing pollutants

- (1) Discharges specified in writing by the city as being necessary to protect public health and safety.
- (2) Dye testing is an allowable discharge, but requires written authorization from MDEQ for the dye used, plus a verbal notification to MDEQ prior to the time of the test.
- (3) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm water system.
- (4) Whenever building footing/foundation drains are utilized, a direct connection between the footing/foundation drain through a sump pump-check valve system to a storm drain shall be utilized. A gravity system for conveyance of discharges from footing/foundation drains is prohibited.

Sec. 82-275. Prohibition of Illicit Connections.

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm sewer system 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 ordinance if the person connects a line conveying sewage to the separate storm sewer system, or allows such a connection to continue.

Sec. 82-276. Suspension of discharges to municipal separate storm sewer system.

- (a) *Suspension due to illicit discharges in emergency situations.* The city may, without prior notice, suspend municipal separate storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the municipal separate storm sewer system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize the damage to the municipal separate storm sewer system or waters of the United States, or to minimize danger to persons.
- (b) *Suspension due to detection of illicit discharge.* Any person discharging to the municipal separate storm sewer system in violation of this article may have their municipal separate storm sewer system access terminated if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its access to the municipal separate storm sewer system. The violator may petition the Authority for reconsideration.
- (c) *Appeal.* Any person who is aggrieved by a decision of the Authority to suspend or terminate access to the municipal separate storm sewer system may appeal such decision to the Mason Building Code Board of Appeals pursuant to the rules and procedures established by the Board, provided that a written application for appeal is filed within 20 days of the decision or order of the Authority. A timely appeal to the Board of Appeals shall stay any order of suspension other than a suspension under subsection (a) of this section until a final decision of the Board.
- (d) A person who reinstates a municipal separate storm sewer system access to premises terminated pursuant to this Section without the prior approval of the city shall be guilty of a misdemeanor and punished as provided in Section 1-8(e) of this code.

Sec. 82-277. Industrial or construction activity discharges. Any person subject to an industrial or construction activity NPDES storm water discharge permit requirement shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to the allowing of the discharges to the municipal separate storm sewer system. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

Sec. 82-278. Access to facilities. Any person who owns or has control of any premises which directly or indirectly discharges storm water to the municipal separate storm sewer system shall permit all duly authorized employees of the control authority bearing proper credentials and identifications to enter upon all such premises for the purpose inspection, observation, measurement, sampling, and testing to determine compliance with the provisions of this article and to comply with the following inspection and monitoring requirements as applicable:

- (a) The city shall be permitted to enter and inspect premises subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the city.
- (b) The owner or any person in control of any premises subject to regulation under this article shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an

NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

- (c) The city shall have the right to set up on any premises such devices as are necessary in the opinion of the city to conduct monitoring and/or sampling of the facility's storm water discharge.
- (d) The city has the right to require any discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the owner.
- (f) Unreasonable delays in allowing the city access to a permitted facility is a violation of a storm water discharge permit and of this article. A person who is an operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.
- (g) If the city has been refused access to any part of the premises from which storm water is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 82-279. Requirements to prevent, control, and reduce storm water pollutants by the use of Best management Practices.

- (a) The city will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the separate storm sewer system, or waters of the United States.
- (b) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal separate storm sewer system or watercourses through the use of these structural and non-structural BMPs.
- (c) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.
- (d) 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.
- (e) These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with the requirements of the NPDES permit.

Sec. 82-280. Watercourse protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structure will not become a hazard to the use, function, or physical integrity of the watercourse.

Sec. 82-281. Notification of spills. Any person who discharges or has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the separate storm sewer system or water of the United States, shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials said person shall immediately notify emergency response agencies of

the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the phone notice. If the discharge or prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 82-282. Notice of Violation. Whenever the City of Mason finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the City of Mason may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

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

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

Sec. 82-283. Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the Authority. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the Mason Building Code Board of Appeals shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the Board shall be final.

Sec. 82-284. Enforcement Measures After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the Mason Building Code Board of Appeals upholding the decision of the Authority, then representatives of the Authority shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Authority to enter upon the premises for the purposes set forth above.

Sec. 82-285. Cost of Abatement of the Violation. Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest with the City Council objecting to the amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the City Council or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Sec. 82-286. Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by the Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Sec. 82-287. Remedies Not Exclusive. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

The City of Mason further ordains that Article VI of Chapter 82 is hereby amended and renumbered to read as follows:

ARTICLE VI. ENFORCEMENT

Sec. 82-291. Municipal Civil Infractions. Any user who violates this chapter or any order, rule, regulation or permit issued under this chapter, which violation is not declared a misdemeanor, shall be responsible for a municipal civil infraction and shall be liable for a civil fine of not more than \$2,500.00 for each offense, plus the costs of the action as provided by MCL 600.8727. Each day on which a violation shall occur or continue shall be

deemed a separate and distinct offense. In addition to the penalties provided in this section, the city may recover its actual costs, including inspection and testing fees, incurred for any work caused by a violation and reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation against the person found to have violated this article or the orders, rules, regulations and permits issued under this article.

Sec. 82-293. Misdemeanor citations. The Authority is authorized to issue and serve appearance tickets with respect to violations of this chapter which are designated a misdemeanor pursuant to section 9c(2) of 1968 PA 147, MCL 764.9.

Sec. 82-294. Violations deemed a public nuisance. In addition to the enforcement processes and penalties provided in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this article are a threat to the public health, safety and welfare and are declared and deemed to be a public nuisance and a nuisance per se, and may be abated or restored at the violator's expense, and a civil action to abate, adjoin or otherwise compel the cessation of such nuisance may be taken in any court of competent jurisdiction or any order, rule, regulation or permit issued under this chapter, which violation is not declared a misdemeanor, shall be responsible for a municipal civil infraction and shall be liable for a civil fine of not more than \$2,500.00 for each offense, plus the costs of the action as provided by MCL 600.8727. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided in this section, the city may recover its actual costs, including inspection and testing fees, incurred for any work caused by a violation and reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation against the person found to have violated this article or the orders, rules, regulations and permits issued under this article.

Sec. 82-292. Appearance tickets. The Authority is authorized to issue and serve a municipal civil infraction violation notice or citation for any violation of this chapter which is a municipal civil infraction.

The City of Mason further ordains that Section 1-2 of Chapter 1 of the Code of the City of Mason is hereby amended by amending the definition of premises, which amended definition shall read as follows:

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent public and private sidewalks and parking strips.

Effective Date. This Ordinance shall take effect 20 days after its passage, approval, and publication.

The foregoing Ordinance was moved for adoption by Council Member Whipple and supported by Council Member Bruno with a vote thereon being: YES (7) NO (0), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the 5th day of February, 2007.

Ordinance No. 158 declared adopted this 5th day of February, 2007.

ORDINANCE APPROVED UNANIMOUSLY

Resolution No. 2007-07 – Resolution to Replace the Generator Set at the Publicly Owned Treatment Water (POTW) Plant

Resolution No. 2007-07 was introduced by Naeyaert and seconded by Bruno. Dean spoke regarding the replacement of the generator set at the POTW. A brief discussion was held.

Motion by Whipple, second by Bruno,

To amend Resolution No. 2007-07 by inserting the phrase, *and remove the repairs to the digester coping from the budget*, at the end of the sentence in the "Be It Further Resolved" paragraph.

Yes (1) Whipple

No (6) Bruno, Clark, Coady, Mulvany, Naeyaert, Preadmore

MOTION FAILED

CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2007- 07

RESOLUTION APPROVING THE PURCHASE OF

**A STATIONARY GENERATOR SET FOR THE MASON
PUBLICLY OWNED TREATMENT WORKS PLANT**

February 5, 2007

WHEREAS, testing and diagnostics on the present diesel powered generator set at the Mason Publicly Owned Treatment Works (POTW) Plant has revealed that it is significantly damaged and can not be relied upon to supply uninterrupted emergency electrical power to the plant and the Department of Public Works (DPW) Division, during electrical power outages; and

WHEREAS, federal and state regulations require there be an alternate supply of power at POTW Plants; and

WHEREAS, the DPW Director, staff and the city engineer have determined that it is in the best interest of the City of Mason to replace the existing generator set with a new diesel engine and generator, and have sought estimates from three reputable suppliers and contractors.

NOW, THEREFORE, BE IT RESOLVED, that the Mason City Council does hereby approve the purchase of a 300Kw diesel powered Cummins generator set from Cummins Bridgeway Power, and its installation and startup for the estimated total expense of Fifty-nine thousand, two-hundred thirty-four dollars and 00 cents (\$59,234.00); and

BE IT FURTHER RESOLVED, that the Mason City Council does hereby call upon the Finance Director to amend the current fiscal year's budget to incorporate the emergency expense.

Yes (7) Bruno, Clark, Coady, Mulvany, Naeyaert, Preadmore, Whipple

No (0)

RESOLUTION APPROVED UNANIMOUSLY

Motion – Traffic Control Order No. 2007-01

A brief discussion ensued regarding the Traffic Control Order designated for Oak and Park Streets.

Motion by Naeyaert, second by Whipple,
To approve Traffic Control Order No. 2007-01.

MOTION APPROVED UNANIMOUSLY

Motion – Amendment to the 2007-2008 Local Streets Program

A brief discussion ensued regarding deterioration to Holt Street due to drainage.

Motion by Coady, second by Whipple,
to approve the amendment to the 2007-2008 Local Streets Program to waive the bid process and negotiate with Aggregate Industries for those portions of the street project specified in the DPW director's memorandum, dated January 26, 2007, and that the micro-sealing of S. Cedar Street be awarded to Pavement Restoration of Michigan, Inc.

MOTION APPROVED UNANIMOUSLY

UNFINISHED BUSINESS

None.

NEW BUSINESS

Whipple commented briefly about the recent Ingham County Treasurer update regarding county efforts toward non-motorized pathways and the possible future connection that could be made between Rayner Park and Hayhoe Riverwalk.

CORRESPONDENCE

Distributed.

LIAISON REPORTS

- Mulvany informed the Council regarding Historic District Commission business.
- Preadmore stated that Traffic Commission business was covered by TCO #2007-01.
- Whipple informed Council that a quorum was not present for the January Cable Communications Commission.
- Naeyaert stated that she was out of the state on business, and Colburn informed the Council regarding Planning Commission business.
- Colburn informed the Council regarding Cemetery Board business.

ADMINISTRATOR'S REPORT

Colburn informed the Council regarding current city business.

PEOPLE FROM THE FLOOR

None.

ADJOURNMENT

Being there was no further business the meeting adjourned at 9:21 p.m.

Martin A. Colburn, City Clerk

Leon Clark, Mayor