

## ORDINANCE NO. O-04-10

**A STORM WATER MANAGEMENT AND DRAINAGE ORDINANCE  
ADOPTING REGULATIONS DESIGN TO LESSEN AND AVOID HAZARDS TO  
PERSONS AND PROPERTY CAUSED BY OBSTRUCTION TO DRAINAGE  
AND TO OTHERWISE PROMOTE THE PUBLIC HEALTH; SAFETY AND  
GENERAL WELFARE, REPEALING ANY ORDINANCES IN CONFLICT  
HEREWITH AND FOR OTHER PURPOSES.**

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF DIRECTORS OF  
THE CITY OF ARKADELPHIA, ARKANSAS, THAT:**

### ARTICLE 1.

1.1 Title - These regulations shall hereafter be known, cited and referred to as the “Stormwater Management and Drainage Regulations” of the City of Arkadelphia, Arkansas.

1.2 Authority- These regulations are adopted pursuant to the power and authority vested through the applicable laws and statutes of the State of Arkansas.

1.3 Applicability- Any person, firm, corporation or business proposing to construct building or develop land within the Arkadelphia Planning jurisdiction shall submit drainage plans to the City Engineer for approval of a stormwater management and drainage plan before building permits are issued or subdivisions are approved. No land shall be developed except upon approval of the City Engineer.

1.4 Exemptions- All construction, subdivision approvals or remodeling activities shall have a stormwater management and drainage plan approved before a building permit is issued or subdivision is approved except for the following:

- One – new or existing single-family structure.
- One – new or existing duplex family structure.
- **One – new commercial or industrial structure located on less than one-acre individual lot.**
- One – existing commercial or industrial structure where additional structural improvements are less than **5000** square feet.

1.5 Purpose- In order to promote the public health, safety and general welfare of the citizens of Arkadelphia, the provisions of these regulations, as amended from time to time, are intended to: (1) reduce property damage and human suffering, and (2) to minimize the hazards of personal injury and loss of life due to flooding, to be accomplished through the approval of a storm water management and drainage plan pursuant to the provisions of these regulations, which: (a) establish the major and minor

stormwater management systems, (b) define and establish stormwater management practices and use restrictions, and (c) establish guidelines for handling increases in volume and peak discharges of runoff.

1.6 Definitions – For the purpose of this Ordinance, certain terms and words shall be used, interpreted and defined as set forth in this section. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular shall include the plural, and vice-versa; and words, “these regulations,” mean “this Ordinance;” the word, “person,” includes corporation, partnership, and unincorporated association of persons; and the word, “shall,” is always mandatory.

- A. Base Flood – The flood that has a 1 percent chance of being equaled or exceeded in any given year, i.e., the 100-Year Flood.
- B. Bond – Any form of security for the completion or performance of the stormwater management and drainage plan or the maintenance of drainage improvements, including surety bond, collateral, property or instrument of credit, or escrow deposit in an amount and form satisfactory to the City Engineer.
- C. Building – Any structure built for the support, shelter or enclosures of persons, animals, or movable property of any kind.
- D. Channel – Course of perceptible extent which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water, and which has a definite bed and banks.
- E. Conduit – Any open or closed device for conveying flowing water.
- F. Control – The hydraulic characteristic which determines the stage-discharge relationship in a conduit. The control is usually critical depth, tail water depth, or uniform depth.
- G. Detention Basins – Any man-made area which serves as means of controlling and temporarily storing stormwater runoff. The facility normally drains completely between spaced runoff events, e.g., parking lots, rooftops, athletic fields, dry wells, oversized storm drain pipes.
- H. Detention - The temporary detaining or storage of floodwater in reservoirs, on parking lots, on rooftops and other areas under predetermined and controlled conditions accompanied by controlled release of the stored water.

- I. Detention Pond – A stormwater detention facility which maintains a fixed minimum water elevation between runoff events except for the lowering resulting from losses of water to infiltration or evaporation.
- J. Development – any change of land use or improvements on any parcel land.
- K. Differential Runoff – The volume and rate of flow of stormwater runoff discharged from a parcel of land or drainage area which is or will be greater than the volume and rate which pertained prior to proposed development or redevelopment existed.
- L. Drainage Approval – a certificate of approval issued by the City Engineer based upon an approved final stormwater management and drainage plan. The final stormwater management and drainage plan must accompany the building permit application or be submitted with the proposed construction plans.
- M. Drainage Easement – Authorization by a property owner for use by another party or parties for all or any portion of his/her land for a drainage and adjoining utility purposes. Easements shall be dedicated to the City when required or approved by the City Engineer.
- N. Engineer of Record – A registered professional engineer in Arkansas. This engineer shall supervise the design and construction of the project and shall be acceptable by the City Engineer.
- O. Floodplain – a land area adjoining a river, stream, watercourse, or lake which is likely to be flooded.
- P. Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without a cumulative increase of the water surface elevation more than a designated height.
- Q. Freeboard – A factor of safety expressed as the difference in elevation between the top of the detention basin dam, levees, culvert entrances and other hydraulic structures, and the design flow elevation.
- R. Frequency – The reciprocal of the exceedance probability.
- S. Habitable Dwelling Unit – A dwelling unit intended and suitable for human habitation.
- T. Major Storm Easements – Privately maintained areas designed to carry the 100-year storm with no obstructions allowed such as fill or fences that

would impede floodwater flow. Properly designed landscaping that does not impede floodwater or endanger adjacent property may be allowed.

- U. Minor Storm Easements – Public maintained areas designed to carry the storm other than the 100-year storm, provide access for maintenance; and prevent channel obstructions.
- V. On-site Detention – Temporary storage of runoff on the same land development site where the runoff is generated.
- W. On-Stream Detention – Temporary storage of runoff within a principal drainage system, i.e., in the receiving streams or conduits.
- X. Off-Stream Detention – Temporary storage accomplished off-line, i.e., not within a principal drainage system.
- Y. 100-Year Peak Flow – The peak rate of flow of water at given point in a channel, watercourse or conduit resulting from the base flood.
- Z. 100-Year Storm – Rainstorms of a specified duration having a 1 percent chance of occurrence in a given year.
- AA. Permittee- A person, partnership or corporation to whom a permit is granted.
- BB. Plat – A legally recorded plat of a parcel of land subdivided into lots with streets, alleys, easements, and other land lines drawn to scale.
- CC. Project- Any development involving the construction, reconstruction or improvement of structures and/or grounds.
- DD. Rational Method – An empirical formula for calculating peak rates of runoff resulting from rainfall.
- EE. Retention Facility – Any type of detention facility not provided with a positive outlet.
- FF. Stormwater Drainage Design Manual and Floodplain Compliance Guidelines – The set of drainage policies, analysis methods, design charts, stormwater runoff methods, and design standards used by the City as the official design guidelines for drainage improvements consistent with the Ordinance. The City Engineer will make any mediation consistent with the stated policies and intent of the Ordinance.
- GG. Stormwater Runoff – Water that results from precipitation which is not absorbed by the soil, evaporated into the atmosphere or entrapped by

ground surface depressions and vegetation, which flows over the ground surface.

- HH. Structure – Any object constructed above or below ground. Pipes, manholes and certain other utility structures which exist underground may be excluded from the definition.
- II. Swale- A shallow waterway.
- JJ. Time of Concentration – The estimated time in minutes required for runoff to flow from the most remote section of the drainage area to the point at which the flow is to be determined.
- KK. Tributary Area – All of the area that contributes stormwater runoff to a given point.
- LL. Uniform Channel – A channel with a constant cross section and roughness.
- MM. Wet Bottom Basin – A detention basin intended to have a permanent pool.
- NN. Watercourse – Any surface stream, creek, brook, branch, depression, reservoir, lake, pond or drainage way in or into which stormwater runoff flows.

## ARTICLE 2.

### STORMWATER MANAGEMENT AND DRAINAGE SYSTEM.

2.1 General – This article establishes the stormwater runoff management system of the City of Arkadelphia which shall be composed of a major system and minor system, management controls and management practices.

2.2 The Major System – The major system is the area of any drainage way within the limits of flow of a 100-year storm.

2.3 The Minor System – The minor systems will be composed of all water course and drainage structures, both public and private, that are not part of the major system, because of lower design storm frequencies.

2.4 Management Controls – Management controls are regulations applicable to the major systems under the provisions of this Ordinance. Such controls shall limit any activity which adversely effect hydraulic function of open channels, drainage swales, detention facilities, or enclosed stormwater conveyance systems. The City of Arkadelphia Stormwater Drainage Design Manual and Floodplain Compliance

Guidelines, shall be the official document used for designing stormwater management controls and drainage systems.

2.5 Management Practices – The following practices may be utilized on approval by the City Engineer.

- A. Storage – Runoff may be stored in temporary or permanent detention basins, or through rooftop, parking lot ponding, or percolation storage, or by other means in accordance with the design criteria and performance standards set forth in these regulations.
- B. Open Channels- Maximum feasible use shall be made of existing drainage ways, open channels and drainage swales that are designed and coordinated with the design of building lots and streets in accordance with the design of building lots and streets in accordance with the design criteria and performance standards set forth in the Drainage Manual.
- C. Curbs – Streets, curbs and gutters shall be a part of the stormwater runoff management systems. To the maximum extent possible, drainage systems, street layout and grades, lotting patterns and the location of curbs, inlets and site drainage and overflow swales shall be concurrently designed in accordance with design criteria and performance standards set forth in the Drainage Manual.
- D. Enclosed Conveyance Systems – Enclosed conveyance systems consisting of inlets, conduits, and manholes may be used to convey stormwater runoff. Where used, such systems must be designed and performance set forth in the Drainage Manual.
- E. Other - The stormwater runoff management practices enumerated herein shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be approved by the City Engineer, if the purposes, design criteria and minimum performance standards of these regulations are complied with.

2.6 Public and Private Responsibilities Under the Stormwater Management System

- A. Public Responsibilities:
  - 1. Administration – Administration of these regulations shall be the responsibility of the City Engineer, who shall determine approval, disapproval, or modification of stormwater management plans as provided herein.

2. Operation and Maintenance of Publicly Owner Facilities – The City Public Works Department shall be responsible after construction for the operation and maintenance of all drainage structures and improved courses which are part of the stormwater runoff management system under public ownership and which are not constructed and maintained by or under the jurisdiction of any state or federal agency.
- B. Private Responsibilities:
1. Each developer of land within the City has responsibility to provide on the developer's property all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's property both during and after construction of such facilities.
  2. Each developer or owner has a responsibility and duty before and after construction to properly operate and maintain any on-site stormwater runoff control facility which has not been accepted for maintenance by the public. Such responsibility is to be transmitted to subsequent owners through appropriate covenants.

### ARTICLE 3.

#### PROCEDURE FOR SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT AND DRAINAGE PLANS.

3.1 General – The stormwater management and drainage plan shall be prepared by the Engineer of Record, who is a licensed professional engineer of the State of Arkansas. No building permits or subdivision approvals shall be issued until and unless the stormwater management and drainage plan has been approved by the City Engineer.

3.2 Pre-Preliminary Drainage Plan Review – A pre-preliminary drainage plan review with the Engineering staff is suggested before preliminary platting for the purpose of overall general drainage concept review.

3.3 Review of Preliminary Stormwater and Drainage Plan – A preliminary stormwater and drainage plan, and accompanying information shall be submitted at the time of preliminary plat submittal. If needed, a review meeting will be scheduled by the City Engineer with representatives of the developer, including the Engineer of Record, to review the overall concepts included in the preliminary stormwater and drainage plan. The purpose of this review shall be to jointly agree upon an overall stormwater management concept for the proposed development and to review criteria and design parameters which shall apply to final design of this project.

3.4.Final Stormwater Management and Drainage Plan – Following the preliminary stormwater management and drainage plan review, the final stormwater management and drainage plan shall be prepared for each phase is developed. The final

plan shall constitute a refinement of the concepts approved in the preliminary stormwater and drainage plan with preparation and submittal of detailed information as required in the Drainage Manual. This plan shall be submitted at the time construction drawings are submitted for approval. No final plat is approved until the drainage structures approved on the construction plans are in place and approved by the City Engineer.

3.5. Review and Approval of Final Stormwater Management and Drainage Plans – Final stormwater management and drainage plans shall be reviewed by the City Engineer. If it is determined according to present engineering practice that the proposed development will provide control of stormwater runoff in accordance with the purposes, design criteria, and performance standards of these regulations and will not be detrimental to the public health, safety and general welfare, the City Engineer shall approve the plan or conditionally approve the plan, setting forth the conditions thereof.

If it is determined that the proposed development will not control stormwater runoff in accordance with these regulations, the City Engineer shall disapprove the final stormwater management and drainage plan.

If disapproved, the application and data shall be returned to the applicant for resubmittal.

(Note: Time frames for filing, review and approval of stormwater management and drainage plans shall coincide with time periods applicable in existing subdivision regulations.)

## ARTICLE 4

### DESIGN CRITERIA AND PERFORMANCE STANDARDS

4.1 Design Criteria – The City of Arkadelphia’s Stormwater Drainage Design Manual and Floodplain Compliance Guidelines shall be the accepted design document. Unless otherwise provided, the following rules shall govern the design and improvements with respect to managing stormwater runoff:

- A. Method of Determining Stormwater Runoff – Developments where the upstream drainage area contributing runoff is less than 300 acres should be designed using the rational method of calculating runoff. Developments where the area contributing runoff is greater than 300 acres the Snyder’s Unit Hydrograph Method shall be used for calculating runoff. The U.S. Army Corps of Engineers HEC-I or HEC-HMS program should be used to calculate flows or discharges. The applicant may also submit an alternative hydrograph method of evaluation for the calculation of runoff to the City Engineer for review and approval.

All such development proposals shall be prepared by a licensed professional engineer of the State of Arkansas.

- B. Development Design – Streets, lot depths of lots, parks and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow, allow maximum opportunity for infiltration stormwater to the ground, and to preserve and utilize existing and planned streams, channels, extension basins, and include wherever possible, streams and floodplains within parks and other public grounds.
- C. Enclosed Systems and Open Channels – Enclosed systems and open channels shall be designed using the City of Arkadelphia’s Stormwater Drainage Design Manual and Floodplain Compliance Guidelines.
- D. Evaluation of Downstream Flooding – The Engineer of Record should evaluate whether the proposed plan will cause or increase downstream flooding conditions. This evaluation should be made on the basis of existing downstream development and an analysis of stormwater runoff with and without the proposed development. When it is determined that the proposed development will cause or increase downstream flowing conditions, provisions to minimize such flooding conditions should be included in the design of storm management improvements. Such provisions may include downstream improvements and/or detention of stormwater runoff and its regulated discharge to the downstream storm drainage system.
- E. Detention – Development also shall include temporary detention of stormwater runoff in order to minimize downstream flooding conditions. The following design criteria shall govern the design of temporary drainage facilities:
  - 1. Storage Volume – The volume of storage provided in the detention basin shall be sufficient to control the differential runoff from the 25-year storm frequency of six-hour duration. The differential runoff is the volume and rate of flow of stormwater runoff discharged from a parcel of land or drainage area which is or will be greater than the volume and rate which pertained prior to proposed development for redevelopment.
  - 2. Freeboard – Detention storage areas shall have adequate capacity to contain the storage volume of tributary stormwater runoff with at least 6 inches of freeboard above the water surface of flow and the emergency spillway in a 25-year storm. The entire

structure should be designed for discharging the major storm.

3. Outlet Control Works
  - (a.) Outlet works shall be designed to limit peak out-flow rates from detention storage areas to or below peak flow rates for a 25-year storm that would have occurred prior to the proposed development.
  - (b.) Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation.
  - (c.) Size and hydraulic characteristics shall be such that all water and detention storage is released to the downstream storm sewer systems within 24 hours after the end of the design rainfall. Normal time for discharge ranges from 3 to 24 hours.
4. Spillway – Emergency spillways shall be provided to permit the safe passage of runoff generated from a 100-year storm or greater, if appropriate because of downstream high hazard, such as loss of life or damage to high value property.
5. Design Data Submittal – In addition to complete plans, all design data shall be submitted as required in the detention design data submittal section of the Drainage Manual.
6. Detention Methods – Depending upon the detention alternative(s) selected by the Engineer of Record, the design criteria for detention ponds shall follow those given in the Drainage Manual.

F. Reduction in Coefficient of Runoff – If an existing site with an existing coefficient of runoff of 1.0 (totally impervious) is developed, no on-site detention or in-lieu fee for detention is required. Also, if an existing site is developed whereby the coefficient of runoff is reduced to a lesser value, no on-site detention or in-lieu fee is required.

G. Alternatives to On-site Detention

1. Alternative Methods – Where on-site detention is deemed inappropriate due to local topographical or other increases in stormwater runoff, shall be permitted. The methods may include:
  - (a) Off-site detention or comparable improvements.

- (b) In-lieu monetary contributions for channel improvements or off-site detention improvements by the City within the named watershed. Channel improvements shall only be used if they are an integral part of a detailed watershed study.
- 2. In-Lieu Contributions to Regional or Sub-Regional Detention – An owner may contribute to the construction of a regional or sub-regional detention site constructed or to be constructed in lieu of constructing on-site detention. However, no in-lieu contributions are allowed when existing flooding occurs downstream from development, or if the development will cause downstream flooding.
- 3. In-Lieu Contributions Fees – The in-lieu fee contribution shall be based upon an amount of **\$100,000** per Acre-Foot of stormwater storage.
- 4. Excess Storm water Storage Credit - An owner may receive credit for excess storm water storage (in Acre-Feet) created on one site that may be applied to another site within the same watershed. The transfer of storage volume credit (in Acre-Feet) shall not be allowed if the site where the credited storage is proposed to be transferred has an existing flooding condition downstream of the proposed development or will produce downstream flooding.
- 5. Regional or Sub-Regional Detention Sites – The acquisition of regional or sub-regional detention sites and construction of facilities thereon will be financed by the City. Monies contributed by the owners as above provided shall be used for regional and sub-regional detention site studies, land acquisition and facility construction thereof in the watershed in which the development is located.
- 6. Watershed Boundaries - The boundaries of watersheds and priority of acquisition of regional and sub-regional detention sites in construction of detention facilities and location thereof shall be established by the City Engineer and approved by the Planning Commission.

#### 4.2 Performance Standards

- A. Stormwater Channel Location – Generally acceptable locations of stormwater runoff channels in the design of a subdivision may include but not be limited to the following:

1. In a depressed median of a double roadway, street or parkway provided the median is wide enough to permit maximum three (3) to one (1) side slopes,
2. Along the roadway, street or parkway,
3. Located along lot lines or entirely within the rear yards of a single row of lots or parcels.
4. In each of the foregoing cases, a drainage easement to facilitate maintenance and design flow shall be provided and shown on the plat. Drainage easement required dimensions are shown in the Drainage Manual and shall conform to the dimensions given. No structures shall be constructed within or across stormwater channels without the approval of the City Engineer.

B. Easements – Drainage easements required to facilitate maintenance, detention and conveyance of stormwater shall be provided and shown on the preliminary and final plat. There are two types of easements that are to be determined by the Engineer of Record and shown on the preliminary final plat. These are:

1. Minor Storm Easements – Easements designed to carry the minor storm (10-year design frequency). The minor storm easements are primarily for carrying flow from the 10-year storm, maintenance access, utility locations, and are to be kept clear of any obstructions.
2. Major Storm Easements – Privately maintained easements designed to carry the major storm (100-year design frequency). The major storm easements shall be kept free of obstructions, such as fill or fences, that would impede the flow of the 100 year design storm. Properly designed landscaping that does not impede the flow of floodwater or endanger adjacent property is acceptable.

C. Storm Sewer Outfall – The storm sewer outfall shall be designed so as to provide adequate protection against downstream erosion and scouring.

D. Lot Lines – Whenever the plans call for the passage and/or storage of floodwater, surface runoff or stormwater along lot lines involving the major storm system, grading of all such lots shall be prescribed and established for the passage and/or storage of waters, and no structure may be erected which will obstruct the flow of stormwater, no fences,

shrubby, or trees planted, or changes made to the prescribed grades and contours of the specified floodwater or stormwater runoff channels.

- E. Manholes – All sanitary sewer manholes constructed in a floodplain or in an area designed for the storage or passage of flood or stormwater, shall be provided with either a watertight manhole cover or be constructed with rim elevation of minimum one (1) foot above the high water elevation of the base flood, whichever is applicable to the specific area.

## ARTICLE 5

### BONDS, MAINTENANCE ASSURANCE, AND DRAINAGE APPROVALS

5.1 Maintenance Agreement – A maintenance agreement approved by the City Engineer, assuring perpetual maintenance of stormwater management improvements shall be agreed upon by the City and the applicant.

Maintenance of detention ponds (wet type) shall be the responsibility of the owner of record and/or the property owners' association.

Maintenance of detention basins (dry type) shall be the responsibility of the owner of record and/or property owners' association. The City shall have the primary right to remove sediment when the basin's function is impaired. The owner of record and/or property owners' association shall be responsible for all other maintenance, planting, reseeding, or resodding. The owner shall also be responsible for removing and replacing any landscaping, playground equipment, or other facilities within the basin.

5.2 Performance Guarantee– A one-year **guarantee** against defects in workmanship shall be required by the Engineer for any portion of the stormwater management improvements dedicated to the public.

5.3 Drainage Permits and/or Approvals – Upon approval of the final stormwater management and drainage plan, and acceptance and the applicant's assurances of performance maintenance as provided in these regulations, the City Engineer shall approve the plan. Project approval shall be issued in the name of the applicant who shall then be known and thereafter be referred to as the permittee. An approved permit shall set forth the terms and conditions of the approved stormwater management and drainage plan.

5.4 Engineer of Record – Should the original Engineer of Record be prevented from completing the project, the Permittee shall employ another qualified engineer and notify the City Engineer immediately.

## ARTICLE 6

### ENFORCEMENT

6.1 General – It shall be the duty of the City Engineer to bring to the attention of the City Attorney any violation or lack of compliance herewith.

6.2 Violations and Penalties – Any Permittee (person, firm or corporation) who fails to comply with or violates any these regulations shall be guilty of misdemeanor and upon conviction thereof shall be fined not less than \$100 per day and not more than \$500 per day.

6.3 Inspection – The City Engineer shall be responsible for determining whether the stormwater management and drainage plan is in conformance with the requirements specified by the City’s Stormwater Drainage Design Manual and Floodplain Compliance Guidelines. Also, the City Engineer shall be responsible for determining whether the development plan is proceeding in accordance with the approved drainage plan. Periodic inspection of the development site shall be made by the City Engineer’s office. Through such periodic inspections, the City Engineer’s Office shall ensure that the stormwater management and drainage plan is properly implemented and that the improvements are maintained.

6.4 Remedial Work – If it is determined through inspection that the development is not proceeding in accordance with the approved stormwater management and drainage plan, and drainage and/or building permit, the City Engineer shall immediately issue written notice to the permittee and the surety of the nature and location of the alleged noncompliance, accompanied by documentary evidence demonstrating noncompliance and specifying what remedial work is necessary to bring the project into compliance. The permittee so notified shall immediately, unless weather conditions or other factors beyond the control of the permittee prevent immediate remedial action, commence the recommended remedial action and shall complete the remedial work within 72 hours or within a reasonable time as determined in advance by the City Engineer. Upon satisfactory completion of remedial work, the City Engineer shall issue a notice of compliance and the development may proceed.

6.5 Revocation of Permits or Approvals; Stop Orders – The City Engineer after giving five days written notice, may revoke the permit issued pursuant to the regulations for a project which is found upon inspection to be in violation of the provisions of these regulations, and for which the permittee has not agreed to undertake remedial work as provided in Section 6.4. Drainage and/or building permits may also be revoked if remedial work is not completed within the time allowed. Upon revocation of a permit or approval the City Engineer shall issue a stop work order. Such stop work order shall be directed to the permittee and he shall immediately notify persons owning the land, developer, and those persons or firms actually performing the physical work of clearing, grading, and developing the land. The stop work order shall direct the parties involved to cease and desist all or any portion of the work on the development a portion thereof

which is not in compliance, except such remedial work necessary to bring the project into compliance.

## ARTICLE 7

### GENERAL PROVISIONS

#### 7.1 Interpretation, Conflict and Severability Interpretations

- A. Interpretation- In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- B. Conflict with Public and Private Provisions- These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision or law, whichever provisions are more restrictive or impose higher standards, shall control.

Private Provisions- These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provision of these regulations are more restrictive or impose highest standards or regulations that such easement, covenant or other private agreement or restriction, the requirements these regulations shall govern. Where the provisions of easement, covenant or private agreement or restriction imposed duties and obligations more restrictive, or higher standards than the requirements of these regulations, and regulations or determinations there under, then such private provisions shall be operative and supplemental to these regulations and determinations made hereunder.

- C. Severability – If any part of provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court or competent jurisdiction, such judgment shall be confined in its operation to that part, provision, or application directly involved in the controversy in which such judgment shall have rendered and shall not affect or impair the validity of the remainder of these regulations or the application hereof to other persons or circumstances. The governing body hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application found to be unlawful or invalid.

7.2 Saving Provision – These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as effecting the

liability of any person, firm or corporation, or as waiving any right to the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the City, except as shall be expressly provided for in these regulations.

7.3 Amendments – For the purpose of providing for the public health, safety and general welfare, the governing body may, from time to time, amend the provisions of these regulations. The Public works Department has the responsibility for updating on a continuing basis, the Drainage Manual.

7.4 Appeals – Any persons aggrieved by a decision of the City Engineer may appeal any order, requirement, decision, or determination to the Planning Commission and then to the City Board of Directors. The next step in the process would be to a court of competent jurisdiction in accordance with the laws of Clark County and the State of Arkansas.

## ARTICLE 8

### LIABILITY

8.1 Disclaimer of Liability – The performance standards and design criteria set forth herein and in the Drainage Manual establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee, or warranty of any kind by the City, or its officers and employees of the adequacy or safety of any stormwater management and drainage plan imply that the land uses permitted will be free from damages caused by stormwater runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by man-made or natural causes. These regulations, therefore, shall not create liability on the part of the City or any officer or employee with respect to any legislative or administrative decision lawfully made hereunder.

## ARTICLE 9

### REPEAL

9.1 Repeal - All ordinances and parts of ordinances in conflict herewith are hereby repealed.

PASSED this \_\_\_\_\_, day of \_\_\_\_\_ 2003.

APPROVED: \_\_\_\_\_  
C.T. Hollingshead, Mayor

ATTEST: \_\_\_\_\_  
Rendi Currey, City Clerk