

CHAPTER 951: STORMWATER MANAGEMENT CODE

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INTRODUCTION

§ 951.00 GENERAL.

The purpose of the Stormwater Management provision contained in this chapter and other related provisions contained elsewhere in the Code is to provide for effective management and financing of a stormwater system within the City of Hilliard.

(A) In order to accomplish the purpose of effective financing of a stormwater system within the City, this chapter shall:

(1) Establish and maintain fair and reasonable stormwater management service charges for each lot or parcel in the City which bear a substantial relationship to the cost of providing stormwater management services and facilities. Such service charges shall be charged because each property contributes to stormwater runoff and benefits from effective management of stormwater by the City of Hilliard;

(2) Ensure that similar properties pay similar stormwater management service charges which reflect the area of each property and its intensity of development, since these factors bear directly on the peak rate of stormwater runoff;

Charges for residential properties shall reflect the relatively uniform effect that such development has on runoff. Charges for all other properties shall be in proportion to residential properties of two or less dwelling units, utilizing both relative area and intensity of development in setting rates;

(3) Provide a mechanism for consideration of specific or unusual service requirements of some properties, and special and general benefits accruing to or from properties as a result of providing their own stormwater management facilities by providing credits to those properties;

(4) Provide for an annual review of service charges to ensure that rates reflect the current costs of effective stormwater management; and

(5) Utilize stormwater management funds throughout the City, except where activities or facilities are clearly unusual and in excess of the normal level of service City wide and where developers are responsible for providing any new stormwater facilities required for their project.

(B) In order to maintain its effectiveness this chapter shall:

(1) Establish a procedure for the petitioning of appeals and variances;

(2) Provide a procedure for the abatement of conditions or activities which are contrary to the interest of public health, safety or welfare;

(3) Provide for its continuous validity through severability of its various portions;
and

(4) Provide penalties for violations of its provisions.

§ 951.01 DEFINITIONS.

For the purpose of this chapter, the words and phrases shall be defined as follows, unless the context clearly indicates or requires a different meaning.

ABATEMENT. Any action taken to remedy, correct, or eliminate a condition within, associated with or impacting a drainage system, pursuant to § 951.22 or § 951.23 of this chapter.

APPEALS BOARD. The Stormwater Management Utility Appeals Board's duties shall be pursuant to § 951.24 of this chapter. The Appeals Board shall consist of the following individuals, or their authorized designees: Chairman of the City's Planning and Zoning Commission; Hilliard's Director of Finance; Director of Law; Director of Economic Development and President of the Board of Zoning Appeals.. The City Engineer or his/her designee shall serve as the executive secretary of the Appeals Board, providing staff support and the preparation of meeting minutes..

CITY. The City of Hilliard, Ohio.

CITY ENGINEER. A professional engineer designated by and representing the City of Hilliard, Ohio or his/her authorized agent.

COMMITTEE. The Stormwater Management Utility Advisory Committee shall be the Community Services and Standards Committee of City Council (or as that committee may be retitled hereafter). The Advisory Committee's duties are specified in § 951.02 of this chapter.

COUNCIL. The Council of the City of Hilliard, Ohio.

CREDIT. A reduction in a Stormwater Management Service Charge given for certain qualifying activities which reduce, on an on-going basis, either the impact of increased stormwater runoff or that reduces the City's costs of providing stormwater facilities.

DETENTION BASINS. Dry surface stormwater storage areas created by natural contours or by constructing a basin by excavation or embankment or by installing underground structures such as concrete pipes or chambers.

DEVELOPER. A person, firm, partnership or corporation, which improves a specific parcel or tract of land, performs construction work of any kind in the "project area" as defined in this section or holds or is required to obtain a "permit" as defined in this

section.

DIRECTOR. The City's Director of Public Service shall serve as Director of the Stormwater Management Utility.

EMBANKMENT. Any act by which earth, sand, gravel, rock, or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface or cut and shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade; a fill or the material used to make an embankment.

ENGINEER, PROFESSIONAL. A person holding a certificate of registration under O.R.C. §§ 4733.14 or 4733.19.

EROSION. The wearing away of the land surface by the action of wind, water or gravity.

EXCAVATION. Any act by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom. The difference between a point on the original ground and designated point of lower elevation on the final grade, cut or the material removed in excavation.

EXISTING. Present or in effect as of the time of the adoption of this chapter.

FACILITIES. Various drainage works that may include inlets, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins, and other structural components.

GRADING. Any stripping, cutting, filling, stockpiling, or any combination thereof and shall include the land in its cut or filled condition.

MUNICIPAL. Property or facilities owned by the City of Hilliard, Ohio.

NOTICE. A written or printed communication conveying information or warning of a code violation.

ORDER. The whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) or any matter issued by the Director or the Appeals' Board, pursuant to any provisions of this chapter.

OWNER. Any person, business, partnership, entity or organization that possesses real property.

PERMIT. The "stormwater management permit" required by the City's Codified

Ordinances.

PERSON. Any person, firm or corporation (public or private), the State of Ohio and its agencies or political subdivisions and the United States of America, its agencies and instrumentalities, and any agent, servant, officer, or employee of any of the foregoing.

PLANNING AND ZONING COMMISSION. The Planning and Zoning Commission provided for in Article IX of the Charter of the City of Hilliard, Ohio.

PREMISES. A lot or parcel and the buildings and improvements situated thereon.

PRIVATE. Property or facilities owned by individuals, corporations, partnerships, entities and other organizations and not owned by local, state, or federal government.

PROJECT AREA. The land lying within the geographical limits of the tract(s) or parcel(s) under consideration and on which work is to be performed.

PUBLIC. Property or facilities owned by local, state, or federal governments.

RETENTION BASINS. Permanent ponds where additional stormwater storage capacity is provided above the normal water level.

SEDIMENT. Solid material both mineral and organic, that is in suspension, is being transported, or has been moved from its original site or origin by air, water, or gravity as a product of erosion.

SEDIMENT CONTROL PLAN. A plan required by an ordinance, rule, or regulation for controlling the movement of soils due to storm runoff created by construction activities.

STORM, STORMWATER. Storm and stormwater as used in this chapter are interchangeable terms.

STORM SEWER, STORM DRAIN. A sewer or drain which carries stormwaters, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water. Storm sewers begin at the grating or opening where water enters the structure, through the sewer and conduits to the outlet structure where water enters a channel or natural watercourse.

STORMWATER MANAGEMENT CODE. Chapter 951 of the Codified Ordinances of the City of Hilliard.

STORMWATER MANAGEMENT DESIGN MANUAL. A handbook of design methods, standards, and requirements for the design, construction, maintenance, and use of stormwater facilities written by and available from the City, as part of the City Code.

STORMWATER MANAGEMENT SYSTEM. All man-made facilities, structures, and natural watercourses used for collecting, transporting, detaining, storing or disposing of stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to any and all of the following: inlets, conduits and appurtenant features, canals, creeks, channels, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, levees, and pumping stations.

TOTAL AREA. The square footage of a lot or parcel measured or estimated by using the outside boundary dimensions, in feet, converted to acres (one acre equals 43,560 square feet), to obtain the total enclosed area, without regard for topographic features of the enclosed surface, as used in § 951.16 for the purpose of determining the rate class for lot(s) or parcel(s) of real property. The boundary dimensions in feet of the enclosed surface area may be established by any of the following methods selected by the Utility for each lot or parcel:

- (1) On site or photogrammetric measurements of the apparent outside boundary dimensions of the lot or parcel of real property made by the City or on its behalf;
or
- (2) Computation of the area using dimensions of lot or parcel of real property and/or existing area measurements which are set forth and contained in the records of the office of the County Recorder or County Auditor.

UTILITY. The Stormwater Management Utility provided for by this chapter, which may be operated or organized as a department of the City of Hilliard, Ohio.

WATERCOURSE. A permanent or intermittent stream, river, brook, creek, channel, swale or ditch for water whether natural or manmade.

§ 951.02 ORGANIZATION OF THE UTILITY.

(A) The Utility shall be administered by the Director who shall have the responsibility for planning, developing, and implementing stormwater management or sediment control plans; financing, constructing, maintaining, rehabilitating, inspecting, and managing existing and new stormwater facilities; collecting fees and charges for the Utility; implementing and enforcing the provisions of this Code; and other related duties as directed by the Mayor.

(B) The Director, on behalf of the Utility, may avail itself of the services of other City departments necessary for the discharge of its responsibilities. Services of finance, personnel, law, public works, engineering, and the like, which are used by the Utility shall be provided at cost.

(C) The Advisory Committee may make recommendations to the Director regarding the implementation of the Utility, but shall have no authority to bind the City or the Utility

with respect to any matter including easements, expenditures or contracts.

§ 951.03 STORM WATER FACILITIES.

(A) The Director shall monitor the design, operation, maintenance, inspection, construction and use of Storm Sewers, Storm Drains, and Stormwater Facilities in the City. The Director shall direct the design and construction of public stormwater facilities in the City and shall inspect, operate, and maintain them as prescribed in § 951.09.

(B) The Director, on behalf of the City, may accept overriding responsibility for permanent maintenance of stormwater facilities designed to control erosion when the benefiting area involves two or more property owners. The Director may require facilities to be designed to reduce maintenance cost and will require that adequate easements be provided.

§ 951.04 EROSION, SILTATION AND SEDIMENTATION.

The Utility shall be responsible for controlling erosion, siltation and sedimentation that will adversely affect storm sewers, drainage ditches, watercourses, and other drainage facilities.

§ 951.05 MULTIPLE FUND PROJECTS.

Where a public improvement is funded by the City and other agencies or organizations, and storm drainage is not a primary part of that project, the Utility's responsibility for the storm drainage costs shall be in proportion to the City's share of the total cost of the project unless otherwise determined by Council.

§ 951.06 PRIVATE FACILITIES.

Any owner or possessor of Private Property upon which stormwater drainage facilities exist for the purpose of collecting, conveying, retaining or detaining stormwater within that property, and which are not public facilities pursuant to § 951.07 of this chapter, shall be responsible for the maintenance of these facilities as required to ensure proper operation and in accordance with § 951.22, maintaining property in a litter-free manner and maintaining grass and weeds in accordance with § 521.08 and Chapter 917 of the City's Codified Ordinances.

When the Utility accepts responsibility for design, construction, inspection, operation or maintenance of private facilities in accordance with § 951.03 of this chapter, all expenses incurred therewith shall be the responsibility of the Utility.

The City reserves the right to cooperatively work with property owners in an area to fix a common problem related to stormwater. This means that financial arrangements may be agreed to between the City and property owners which result in an equitable arrangement that benefits all parties.

§ 951.07 PUBLIC FACILITIES.

The Utility shall be responsible for stormwater drainage facilities and watercourses on all streets, boulevards, sidewalks, curbing, street and other municipal property and municipal easements, and highway structures and appurtenances belonging to the City. All public facilities owned or controlled by the City of Hilliard are exempt from payment of the Stormwater Service Maintenance Charge identified in Section 951.15 below.

Where public facilities and watercourses are located in easements on private property, the owner of the property is responsible for aesthetic maintenance such as lawn mowing, litter pick-up, and the like. The owner shall neither place nor allow structures or plantings that interfere with the operation and maintenance of drainage facilities and watercourses.

§ 951.08 ANCILLARY IMPROVEMENTS.

The Utility may authorize the construction of curbs, pavements, channels, watercourses, conduits, culverts, or other structures on Municipal property or public easements necessary to properly operate and maintain new and existing stormwater facilities.

§ 951.09 ROUTINE AND REMEDIAL MAINTENANCE.

The Utility shall provide for inspection and routine maintenance of facilities that have been accepted for maintenance by the Utility. Maintenance may include catch basin cleaning, grating and casting repair, bridge surface drainage systems cleaning, channel clearing, erosion repair, and other incidentals. The Utility shall provide for remedial maintenance of facilities based upon the severity of stormwater problems and potential hazard to the public. Remedial maintenance of bridge surface drainage systems shall remain the responsibility of agencies other than the Utility.

§ 951.10 LAND AND FACILITIES AFFECTED BY LANDS OUTSIDE THE CITY.

Where stormwater drains from lands outside the City, facilities within the City shall be designed in accordance with this chapter as if the entire drainage area was within the City, as determined by the City Engineer.

§ 951.11 RULES AND REGULATIONS.

(A) In order to accomplish the purpose of this chapter to protect the drainage facilities, improvements, and properties owned and maintained by the City, to secure the best results from the construction, operation, and maintenance thereof, and to prevent damage and misuse of any of the drainage facilities, improvements, or properties within the City, the Director shall utilize existing rules, regulations or codes and may make and enforce additional rules and regulations as authorized herein or that are subject to approval by

Council, and that are necessary and reasonable:

- (1) To prescribe the manner in which storm sewers, watercourses, channels, and other stormwater facilities are to be designed, installed, adjusted, used, altered or otherwise changed;
- (2) To recommend inspection and to charge fees permitted by this chapter;
- (3) To prescribe the manner in which stormwater management facilities are operated;
- (4) To facilitate the enforcement of this chapter;
- (5) To prescribe the collection procedures and timing of service charge bills;
- (6) To protect the municipal stormwater management system, improvements, and properties under the Utility's control, and to prescribe the manner of their use by any public or private person;
- (7) To establish rules and regulations to protect the public health, safety, and welfare.

§ 951.12 RIGHT OF ENTRY FOR SURVEY, EXAMINATION AND MAINTENANCE.

After presenting proper credentials and securing permission, the Director or his designees, including contractors and their employees or consultants and their employees, may enter upon lands within the City to make surveys and examinations to accomplish the necessary findings to establish a master plan, for detailed analysis to prepare final plans and specifications for proposed improvements, or for inspection or maintenance of stormwater facilities.

§ 951.13 FUNDING.

Funding for the Utility shall include, but not be limited to:

- (A) Stormwater management service charges (per Section 951.15)
- (B) Direct charges. This charge will be collected from owners, developers and others for the cost of designing and constructing stormwater facilities, and for administrative costs and related expenses where the City, on behalf of the Utility, designs and/or constructs or contracts for the construction of such facilities.
- (C) Direct assessment. This charge will be collected from owners in localized areas that desire stormwater drainage facilities not considered a part of the regional development or where an improvement is desired ahead of the priority status;

(D) Other income obtained from federal, state, local, and private grants, or revolving funds, and income obtained from other means as permitted by law.

§ 951.14 STORMWATER UTILITY FUND.

All revenues generated by or on behalf of the Utility pursuant to section 951.13 shall be deposited in the Stormwater Utility Fund and used exclusively for Utility purposes.

§ 951.15 STORMWATER MANAGEMENT SERVICE CHARGE.

A stormwater management service charge is imposed on each lot and/or parcel of land within the City, and the owner thereof, excepting only streets, boulevards, curbing, street crossings, grade separations, and other public ways and easements, and highway structures belonging to the City, state or federal government. If individual adjacent lot(s) or parcel(s) are all owned by the same owner, they shall be considered to be a single parcel for determination of service charges.

(A) Public road and freeway rights-of-way shall be exempt from the stormwater management service charge because they function as part of the stormwater collection and conveyance system. Private rights-of-way will be charged as described herein.

(B) The stormwater management service charge is divided into two parts: a customer charge and a variable charge. The customer charge will be the same for all customers. The customer charge recovers the costs associated with billing and other costs that the utility incurs equally per customer or per account. These costs are not a function of stormwater system usage (or impervious area).

The variable charge is based on the usage of the stormwater system by each customer.

§ 951.16 CLASSIFICATION OF PROPERTY, ERU ASSIGNMENT AND RATE.

All properties having impervious area within the City shall be assigned an Equivalent Residential Unit (ERU), or a multiple thereof, which shall be at a minimum, one ERU.

(A) All improved single-family residential properties are assigned one ERU. A flat rate will apply to all single-family residential properties. All improved single-family residential properties are determined to include impervious area typical of a single-family residence.

(B) All properties having an impervious area which are not improved single-family residential properties are to be assigned by the Director an ERU multiple based upon the properties' estimated impervious area (in square feet) divided by 3,000 square feet (3,000 square feet equals one ERU). This division will be calculated to the nearest second decimal place and rounded to the nearest whole ERU.

(C) The Stormwater Management Service Charge, to be charged and collected on properties identified in subsections (A) and (B) above, shall be \$2.50 per month, per ERU, which shall be effective 30 days following the effective date of Ordinance 09-63 (Amended). This charge shall also be listed on the fees of Exhibit A to Chapter 190 of the City's Codified Ordinances.

§ 951.17 ANNUAL REVIEW OF CHARGES.

Every year after the effective date identified in Section 951.16(C), the Director shall prepare a report with recommended Stormwater Management Service Charges. This report shall contain data used in the determination of the recommended Stormwater Management Service Charges and shall be presented to City Council for referral to the appropriate Council committee. The committee shall make a recommendation to City Council on or before the fourth Monday in October concerning the Stormwater Management Service Charge to be in effect during the next calendar year.

§ 945.18 CREDITS.

(A) The Director shall promulgate rules and regulations which allow for a credit in the Stormwater Management Service Charge, and to design a credit application, for properties other than single-family residential properties. These rules and regulations may allow, where appropriate, application of the credits retroactive to the effective date of this Chapter. The Director shall have the authority to charge a Stormwater Management Service Charge credit application fee, which shall be based upon the estimated costs of reviewing, processing and administering the credit application, which fee shall be included in the rules and regulations promulgated.

Factors to be considered in granting a credit shall include, but are not limited to, the following:

(1) Properties that have existing stormwater detention facilities, or those planning such facilities, may have their stormwater management service charges reduced as determined by the Utility, in accordance with generally accepted engineering standards and practices to more accurately reflect the contribution to runoff from the property and the level of service provided to such property. The detention facilities must be in accord with the hydrologic, hydraulic, and structural design requirements of the rules and regulations. Facilities of a temporary nature will not be allowed a decrease in their charges.

(2) The Utility may reduce or waive requirements for an individual detention/retention basin if a common or regional basin of adequate design is available or if the Utility is reasonably certain one will be constructed and if the major drainage system from the project area to such common or regional basin is such that the public health, safety and welfare will not be in jeopardy.

§ 951.19 COLLECTION OF STORMWATER MANAGEMENT SERVICE CHARGE.

The stormwater management service charge shall be paid, by the owner of each lot or parcel which is subject to this charge, on a periodic basis in accordance with the billing practices established in the City's water contract with the City of Columbus, Ohio.

§ 951.20 ADJUSTMENT CHARGE, APPEAL.

(A) Administrative Adjustment. Anytime the Director believes that the runoff situation on a parcel of property has changed, he/she reserves the right to correspondingly adjust the Stormwater Management Service Charge in a manner that continues to meet the intent of this chapter and conforms to the classification of properties in Section 951.15.

(B) Appeal. Persons who consider the charges applicable to their lot or parcel to be unjust or inequitable may apply, within 30 days after receipt of the charge, to the Director for adjustment thereof, stating in writing the grounds of the complaint.

The Director shall, within 30 days of receiving the appeal's application,, cause appropriate investigation thereof and determine whether an adjustment of the charges for any such lot or parcel is necessary to provide for the just and equitable application of the stormwater management service charge, and adjust such charge if appropriate. A written finding of the determination shall be sent to the applicant.

§ 951.21 DELINQUENT CHARGES.

(A) All delinquent charges shall be assessed as provided by the Utility, or as provided by the Utility's contract billing agent, if any.

(B) Unpaid charges shall constitute a lien upon the real property affected from the date charges are incurred.

(C) Charges which remain unpaid for a period of two (2) quarters are subject to the filing of a suit by the City to collect the unpaid charges.

(D) For delinquent charges, a special assessment may be filed with the Auditor of Franklin County, Ohio to constitute a lien upon the real property and to be paid as real property taxes are paid or foreclosed upon if delinquent. Penalty, see § 951.99

§ 951.22 NOTICE TO CORRECT IMPROPER DRAINAGE.

(A) Whenever the Utility shall find that a tract of land is inadequately drained, or that there is an obstruction to a culvert, or water course that interferes with water naturally flowing therein or that such culvert, storm sewer or watercourse is of insufficient capacity

to reasonably accommodate the flow of water, as required by this chapter, the Director shall notify the owner or person having possession, charge, or management of such land to remove the obstruction or provide adequate drainage. Such notice shall be served on such persons by personal delivery, by certified mail at the last known place of residence, or by posting on the premises.

(B) The owner must comply with the Utility's orders within the time specified, not to exceed thirty (30) days. Failure to comply with such order shall constitute an unlawful act. Each additional day thereafter during which the owner fails to carry out the order of the Director shall constitute a separate offense.

(1) In any case where a condition described in § 951.22 exists for more than 30 days after service of notice, the Director may direct the owner to fill or drain such land, remove any obstruction and, if necessary, enlarge the culverts, drains, or watercourses to meet the requirements of this chapter.

(2) In the event an owner fails or refuses to comply with the City Engineer's directive, the City may provide for the performance of the required work and charge the owner the abatement costs.

(C) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend denial of a permit, required under the City's Codified Ordinances, shall not relieve the developer or owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers or agents being responsible for any condition or damage resulting therefrom.

(D) Nothing in this chapter shall be construed as authorizing any person to maintain a private or public nuisance on his/her property, and compliance with the provisions of this chapter shall not be a defense in any action to abate such nuisance.

(E) Nothing in this chapter shall be construed to prevent immediate action by the City in emergency situations. In case of an emergency, the City may direct that action be taken immediately to correct the condition or abate the activity to protect the public health, safety, and welfare. The City may perform the required work and charge the owner the abatement costs. Penalty, see § 951.99

§ 951.23 ABATEMENT COSTS.

The City shall account for all costs associated with an emergency or abatement including, but not limited to, administration, notification, inspection, serving of papers or documents, legal counsel, force account labor, enforcement, operational services, and outside contracted services. These costs shall be billed at the discretion of the Director . This section shall not be construed to relieve the owner of any penalties prescribed by other sections of this chapter. Penalty, see § 951.99

§ 951.24 APPEALS BOARD.

Any person aggrieved by the decision of the Director issued pursuant to Section 951.20, or any person aggrieved by any order, notice or decision regarding imposition of the Stormwater Management Service Charge enacted under this Chapter, may petition the Appeals Board, as defined in Section 951.02, to hear and determine any appeal or variance request filed hereunder.

The Appeals Board shall, in harmony with the general purpose of this chapter and to secure the public health, safety and welfare, have the power to affirm, modify, or revoke any notice or order and may grant an extension of time for the performance of any act required by this chapter, or may grant a variance, except as otherwise excluded herein, where there is practical difficulty or undue hardship connected with the performance of such decision, notice or order, and its decision shall be final.

§ 951.25 VARIANCES AND APPEALS .

Any person may appeal decisions or interpretations of the Director, or his/her designee, issued in connection with the enforcement of any provisions of this chapter or request variances therefrom, provided that such person shall file a written petition to the office of the Director, along with the fees established by Council for appeals and variances. below.

(A) The Appeals Board. The Appeals Board shall hear and determine appeals or variances to this chapter and, upon receipt of a petition setting forth the requirements of § 951.26 and the required fee(s), the Appeals Board shall set a time and place for a public hearing and shall give the petitioner written notice thereof. At the hearing, the petitioner shall be given an opportunity to be heard and show cause why any decision, interpretation or any item appearing on a notice or order should be modified or denied or a variance granted.

After a hearing, the Appeals Board shall sustain, modify or deny any item appealed or grant a variance by majority vote, depending on its findings as to whether the provisions of this chapter have been complied with, and the petitioner and the Director shall be notified in writing of such findings.

The proceedings at such hearings, including the findings and decision of the Appeals Board and reasons therefor, shall be summarized and reduced to writing and entered as a matter of public record in the office of the Director.

(B) The failure of the petitioner or his representative to appear and state his/her case at any hearing shall have the same effect as if no petition had been filed.

(C) Filing fees required by this section shall be in addition to the payment of the permits and inspection fees and any other fee which thereafter may occur, and no portion of such

filing fee shall be refunded whatever the outcome of the appeal unless such petition shall have been withdrawn at least twenty-four (24) hours prior to the time and date set for such hearing.

§ 951.26 CONTENTS OF PETITION.

The petitioner/complainant shall set forth in the petition for appeal, the interpretation, ruling or order appealed from, and the related provisions of this chapter or related laws or ordinances, and shall state wherein the interpretation, ruling, or order is erroneous. If the appeal is a request for variance, the petition shall state with specificity the provision or provisions from which the variance is sought and how the request satisfies the requirements of this Chapter.

Petitions to the Appeals Board, in appeals filed in accordance with § 951.25(A), may only be based on one of the following grounds:

(1) The interpretation, decision, ruling, or order is erroneous or constitutes an erroneous application of the particular provisions of this chapter or other related laws or ordinances pertaining to stormwater management and the financing thereof, or is otherwise contrary to law; or

(2) A variance is necessary and feasible and meets all of the following conditions:

(a) Good and sufficient cause based on an unreasonable burden or hardship has been proven; and

(b) The degree of variance is the minimum necessary to afford relief from the unreasonable burden or hardship imposed by this chapter or standards, specifications, requirements, regulations, and procedures adopted pursuant to this chapter; and

(c) The variance may be granted without defeating the public health, safety, and welfare purposes and intent of this chapter or related laws or ordinances pertaining to stormwater management and finance.

§ 951.97 FLOODING, LIABILITY.

Floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed, operated, or maintained by funds made available under this chapter. This chapter does not imply that property subject to the fees and charges established herein will always be free from stormwater flooding or flood damage, or that stormwater systems capable of handling all storm events can be cost-effectively constructed, operated, or maintained. Nor shall this chapter create a liability on the part of, or cause of action against, the City or any officer or employee thereof for any flood damage that may result from such storms or the runoff thereof. Nor does this chapter

purport to reduce the need or the necessity for obtaining flood insurance.

§ 951.98 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. Council declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

§ 951.99 PENALTIES.

Any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a minor misdemeanor and subject to a fine not to exceed \$150.00 per day for each day such violation or violations exists. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.