



Public Works Committee

AGENDA

Tuesday, May 28, 2024
4:00 pm

Council Chambers
Dallas City Hall
187 SE Court St
Dallas, OR 97338

COMMITTEE

Micah Jantz, Chair
Nancy Adams
Kim Fitzgerald
Michael Schilling
Debbie Virden

This meeting is electronically streamed and recorded via the City of Dallas YouTube Channel:
<https://www.dallasor.gov/community/page/dallasyoutube>

- A. Roll Call**
- B. Approve the March 25, 2024 Meeting Minutes p.2**
- C. System Development Charges p.3**
- D. Illicit Discharge Ordinance p.8**
- E. Public Work Reorganization p.32**
- F. Adjournment**

MEETING MINUTES

**Dallas Public Works Committee
Monday, March 25, 2024**

1 Committee Chair Micah Jantz called the Public Works Committee meeting to order on Monday,
2 March 25, 2024, at 4:01 pm.

3 **ROLL CALL**

4 **Council Members Present:** Councilor Nancy Adams, Councilor Kim Fitzgerald, Councilor Mi-
5 cah Jantz, and Councilor Michael Schilling

6 **Council Members Absent:** Councilor Debbie Virden

7 **Also Present:** City Manager Brian Latta, Assistant City Manager Emily Gagner, and Public
8 Works Director Gary Marks

9 **APPROVAL OF January 22, 2024 MEETING MINUTES**

10 It was moved by Councilor Schilling and seconded by Councilor Adams to approve the January
11 22, 2024, minutes as presented. The motion carried with a vote of 4-0.

12 **BACKFLOW PREVENTION PROGRAM**

13 Gary Marks reviewed the staff report. It was the consensus of the Committee to go with Option
14 3, shutting off water for customers who were not in compliance. Councilor Schilling recom-
15 mended providing a letter prior to the 72-hour notice since this is a change to current policy.
16 Staff agreed to do that.

17 **ILLICIT DISCHARGE ORDINANCE REPORT**

18 Elizabeth Sagmiller, of E and S Consulting LLC reviewed her PowerPoint presentation. She in-
19 dicated that the list of prohibitions in the draft ordinance could cause alarm. She reviewed ways
20 staff could appropriately respond to issues, such as through education or providing lists of re-
21 sources to violators. She noted the final draft ordinance would come to the next committee meet-
22 ing for review and feedback.

23 **ADJOURNMENT: 4:24 pm**

Respectfully Submitted,

Emily Gagner



**PUBLIC WORKS COMMITTEE
STAFF REPORT**

MEETING DATE: May 28, 2024
AGENDA ITEM NO. C
TOPIC: Applying a Cost Index to the City’s System Development Charges
PREPARED BY: Brian Latta, City Manager
ATTACHMENTS: A – Excerpt from ORS 223.304

RECOMMENDED ACTION:

Staff recommends the Public Works Committee direct the City Attorney to prepare a resolution applying a cost index to each of the city’s system development charges on an annual basis. Further staff recommends the resolution include a one-time adjustment of each system development charge category to bring the charge in alignment with the prior annual cost index increases since each charge was last adjusted.

BACKGROUND:

The City of Dallas charges and collects at the time of building permit issuance system development charges in accordance with ORS 223.304. The categories of charges include: water, sanitary sewer, storm water, parks and transportation. These charges are based on a prescribed methodology and evaluation of each municipal system for which the charge is collected. ORS 223.304 subsection 8 allows for the charges to be changed without being a modification under certain circumstances (**Attachment A**). City staff’s recommends modifying each system development charge by: 1) applying an annual cost index to each charge category; and 2) applying a one-time adjustment for each charge category to bring the charges current from the last time each charge was adjusted.

The City of Dallas has modified and changed the charges in the past. Most recently, the transportation system development charge was modified in 2018 to a cost of \$3,231.00. The other charges have remained at their current rate since 2014. Table 1 below shows the current rate for each system development charge as it relates to the construction of a single family dwelling.

Table 1: Current System Development Charges for Single Family Dwelling

Charge Type	Amount
Park	\$2,343.00
Transportation	\$3,231.00
Sanitary Sewer	\$4,136.00
Storm Water	\$957.00

Charge Type	Amount
Water	\$4,046.00
Total	\$14,713.00

The Engineering News-Record is a national publication that created and maintains two cost indexes that are widely accepted and used in the construction industry. City staff recommends the committee consider to adjust the system development charges, based on one of these two indices. They are: 1) Construction Cost Index; and, 2) Building Cost Index.

Construction Cost Index

This index is based on 200 hours of common labor at the 20-city average of common labor rates, plus 25 (cwt) of standard structural steel shapes at the mill price prior to 1996 and the fabricated 20-city price from 1996, plus 1.128 tons of Portland cement at the 20-city price, plus 1,088 board-ft. of 2x4 lumber at the 20-city price.

Building Cost Index

This index is based on 68.38 hours of skilled labor at the 20-city average of bricklayers, carpenters and structural ironworkers rates, plus 25 (cwt) of standard structural steel shapes at the mill price prior to 1996 and the fabricated 20-city price from 1996, plus 1.128 tons of Portland cement at the 20-city price, plus 1,088 board-ft. of 2x4 lumber at the 20-city price.

Table 2 below is a comparison of the two indices from 2014 to 2023.

Table 2: Comparison of the Construction Cost and Building Cost Indices

Year	Construction Cost Index	Building Cost Index
2014	2.77%	1.99%
2015	2.17%	2.18%
2016	3.72%	2.73%
2017	3.26%	2.99%
2018	2.88%	2.64%
2019	1.74%	3.87%
2020	2.15%	2.08%
2021	7.35%	10.10%
2022	5.56%	14.49%
2023	2.58%	5.03%

Staff’s analysis is that the construction cost index is affected less by labor costs than the building cost index, because it uses the common labor rates instead of the skilled labor rates. This is reflected especially in the most recent years.

Table 3 below shows calculations for each city system development charge by year with each cost index applied to the charges in years when no index was applied.

Table 3: SDC Charges with Indices Applied

Year	Park		Sanitary Sewer		Storm Water		Transportation		Water		Total	
	BCI	CCI	BCI	CCI	BCI	CCI	BCI	CCI	BCI	CCI	BCI	CCI
Current Rate	\$2,343.00		\$4,136.00		\$957.00		\$3,231.00		\$4,046.00		\$14,713.00	
2015	2460.74	2403.47	4343.83	4242.78	1005.09	981.70			4249.31	4150.43		
2016	2584.39	2524.25	4562.11	4455.95	1150.74	1037.58			4462.84	4358.99		
2017	2714.25	2651.09	4791.36	4679.86	1266.97	1122.21			4687.10	4578.03		
2018	2850.64	2784.31	5032.12	4915.02	1293.36	1149.49			4922.62	4808.07		
2019	2993.89	2924.22	5284.99	5162.00	1343.37	1172.03	3393.36	3314.39	5169.99	5049.68	18185.59	17622.32
2020	3144.33	3071.16	5550.56	5421.39	1378.86	1210.71	3563.87	3480.94	5429.78	5303.42	19067.40	18487.62
2021	3302.33	3225.49	5829.47	5693.82	1420.11	1255.62	3742.96	3655.86	5702.62	5569.92	19997.50	19400.70
2022	3468.28	3387.57	6122.40	5979.93	1458.81	1308.49	3931.04	3839.56	5989.18	5849.81	20969.72	20365.36
2023	3642.56	3557.79	6430.06	6280.42	1490.58	1340.20	4128.58	4032.50	6290.14	6143.76	21981.90	21354.68
2024	3825.60	3736.57	6753.17	6596.02	1520.26	1381.52	4336.04	4235.14	6606.22	6452.49	23041.28	22401.73

As shown in Table 3 above, if we were to apply either cost index to each system development charge category in years we did not apply a cost index, our charge for a single family dwelling permit would be between \$7,688 and \$8,328 higher than it is today.

Staff’s recommendations are to apply annually a cost index to the system development charges, and to make a one-time adjustment to apply the prior years’ cost index increases that have not been realized since 2018 in Transportation and 2014 in each of the other categories. However, if the Council believes that the one-time adjustment is too expensive to accomplish all at once, the adjustment could take place over time. Table 4 below is an example of how the fees could be adjusted over time, noting that there are many other ways that this could be adjusted. For the purposes of the calculation in Table 4, staff is using the construction cost index, and are assuming a 3% cost index for the next three years.

Table 4: System Development Charge Fee Adjustment over 3 years

Year	Park	Sanitary Sewer	Storm Water	Transportation	Water	Total
Current Rate	\$2,343.00	\$4,136.00	\$957.00	\$3,231.00	\$4,046.00	\$14,713.00
2024	\$2,923.00	\$5,160.00	\$1,142.00	\$3,696.00	\$5,047.00	\$17,968.00
2025	\$3,503.00	\$6,184.00	\$1,327.00	\$4,161.00	\$6,048.00	\$21,223.00
2026	\$4,083.00	\$7,208.00	\$1,512.00	\$4,626.00	\$7,049.00	\$24,478.00

SUMMARY TIMELINE:

- 5/28/2024 – Public Works Committee Consider cost index adjustments to system development charges.
- 6/3/2024 – City Council considers resolution to apply cost index adjustments to system development charges.
- 7/1/2024 – Effective date of resolution.

FISCAL IMPACT:

Assuming development continues at current pace, the fiscal impact to the city’s system development funds would be positive. Estimated total revenues would increase by 52.25%.

RECOMMENDED MOTION:

I move to direct the City Attorney prepare a resolution for the City Council that: 1) annually applies the construction cost index to each system development charge fee; and, 2) makes a one-time cost index adjustment to each system development charge category, using the construction cost index consistent with Table 5 below.

Table 5: Recommended One Time Cost Adjustment

	Parks	Sanitary Sewer	Storm Water	Transportation	Water
Current Fee	\$2,343.00	\$4,136.00	\$957.00	\$3,231.00	\$4,046.00
Proposed Fee	\$3,736.57	\$6,596.02	\$1,381.52	\$4,235.14	\$6,452.49

ATTACHMENTS:

A – Excerpt from ORS 223.304


Oregon Revised Statute

223.304 Determination of amount of system development charges; methodology; credit allowed against charge; limitation of action contesting methodology for imposing charge; notification request.

- (8) A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge methodology if the change in amount is based on:
 - (a) A change in the cost of materials, labor or real property applied to projects or project capacity as set forth on the list adopted pursuant to ORS 223.309; or
 - (b) The periodic application of one or more specific cost indexes or other periodic data sources. A specific cost index or periodic data source must be:
 - (A) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;
 - (B) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
 - (C) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order. [1989 c.449 §4; 1991 c.902 §28; 1993 c.804 §20; 2001 c.662 §3; 2003 c.765 §§4a,5a; 2003 c.802 §21]



**PUBLIC WORKS COMMITTEE
STAFF REPORT**

MEETING DATE: May 28, 2024
AGENDA ITEM NO. D
TOPIC: Illicit Discharge Ordinance Report
PREPARED BY: Elizabeth Sagmiller, E & S Consulting, Gary Marks, Public Works Director
APPROVED BY:  City Manager
ATTACHMENTS: Exhibit A – Draft Illicit Discharge Ordinance
Exhibit B – PowerPoint File

RECOMMENDED ACTION:

Forward the proposed ordinance to the City Council for approval.

BACKGROUND:

The City of Dallas is a designated management agency (DMA) according to the Oregon Department of Environmental Quality’s (DEQ) 2006 Willamette Basin Total Maximum Daily Load (TMDL) and Water Quality Management Plan (WQMP). The Final Revised Willamette Basin TMDL, stipulates that the City must:

“prohibit non-stormwater discharges into the stormwater conveyance system through enforcement of an ordinance or other legal mechanism, including appropriate enforcement procedures and actions to ensure compliance. The ordinance or other regulatory mechanism must also define the range of illicit discharges it covers, including those discharges that are conditionally allowed, such as groundwater and lawn watering discharges. The IDDE program must also maintain a procedure or system to document all complaints or reports of illicit discharges into and from the stormwater conveyance system.”

The City’s 2022 DEQ approved TMDL Implementation Plan states that the development and adoption of the illicit discharge ordinance will occur between October 1, 2024 and September 30, 2025. The City is on track to meet this obligation.

Staff, legal counsel, and the City’s TMDL consultant have developed a draft ordinance that meets the conditions of the DEQ approved Willamette Basin TMDL and WQMP. The draft ordinance complies with but is not more restrictive than the DEQ written requirements.

The City’s TMDL consultant, Elizabeth Segmiller, will use a PowerPoint presentation at the meeting to explain the requirement for the ordinance and its contents.

At the July 22nd Public Works Committee meeting, staff will seek a recommendation from the Committee to the City Council for adoption of the ordinance.

SUMMARY TIMELINE:

March 25, 2024 Public Works Committee Meeting.

May 28, 2024 Public Works Committee Meeting.

FISCAL IMPACT:

None.

RECOMMENDED MOTION:

I move to forward the proposed draft ordinance included as Exhibit A to the City Council with a recommendation to approve the ordinance.

ATTACHMENTS:

Exhibit A – Draft Illicit Discharge Ordinance

Exhibit B – PowerPoint File

ORDINANCE NO. _____

An ordinance relating to illegal stormwater discharges and illicit stormwater connections; and adding new provisions to Chapter 6 of the Dallas City Code.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The following provisions are adopted and added to and made a part of Chapter 6 of the Dallas City Code:

Section 6.358. Purpose and Intent. The purpose of this ordinance is to provide for the health, safety, and general welfare of the residents of the City of Dallas, through the regulation of non-Stormwater discharges to the Storm Drain System to the maximum extent practicable, as required by federal and state law. This ordinance establishes methods for controlling the introduction of Pollutants into the Storm Drain System in order to comply with requirements of the Oregon Department of Environmental Quality Total Maximum Daily Load (TMDL) Program, the National Pollutant Discharge Elimination System (NPDES) permit, and any other state or federal regulatory programs that can be applied to Stormwater. The objectives of this ordinance are:

1. To regulate the contribution of Pollutants to the Storm Drain System by Stormwater discharges by any user;
2. To prohibit Illicit Connections and Illegal Discharges to the Storm Drain System; and
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, Pollution, nor unauthorized discharge of Pollutants.

Section 6.360. Definitions. The following definitions shall apply to this ordinance:

Best Management Practices. Schedules of activities, prohibitions of practices, general good housekeeping practices, Pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of Pollutants directly or indirectly to Stormwater, receiving waters, Stormwater conveyance systems or other devices intended to manage Stormwater. Best Management Practices 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.

City Manager. The City Manager of the City of Dallas or the City Manager's designee.

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Any construction-related ground disturbing activities, whether or not a permit is required. Such activities include but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-Stormwater discharge to the Storm Drain System, except as provided in section 6.372.

Illicit Connections. Either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an Illegal Discharge to enter the Storm Drain System, including but not limited to any conveyances that allow sewage, process wastewater, and wash water to enter the Storm Drain System and any connections to the Storm Drain System from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the Storm Drain System that has not been documented in plans, maps, or equivalent records and approved by the City of Dallas or another authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14) and 40 CFR 122.26(a)(9)(i)(D). Industrial activities are referenced under Oregon's 1200-Z permit.

Municipal Separate Storm Sewer System. Public facilities by which Stormwater is collected or conveyed, including but not limited to roads, highways, or municipal streets with drainage systems, curbs, gutters, inlets, catch basins, piped storm drains, structural Stormwater controls, detention or retention basins, ditches, swales, infiltration facilities, outfalls, reservoirs, natural and man-made or altered drainage channels, and all appurtenances thereof.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge

Permit. A permit issued by the Environmental Protection Agency, or by the State of Oregon under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the Storm Drain System that is not composed entirely of Stormwater.

Ordinary High Water Line. The line on the bank or shore to which the high water ordinarily rises annually in season.

Pollutant. Anything that causes or contributes to Pollution. Pollutants may include, but are not limited to paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations of the foregoing, such that the same may cause or contribute to Pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and 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. Such contamination or other alteration of the physical, chemical, or biological properties of any Waters of the State, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid gaseous, solid, radioactive, or other substance into any Waters of the State that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

Premises. Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including but not limited to adjacent sidewalks, landscaped features, Stormwater facilities, and parking strips.

Regulated Program. Any Stormwater program that the Oregon Department of Environmental Quality (DEQ) administers through the Federal National Pollutant Discharge Elimination System (NPDES), or the Total Maximum Daily Load (TMDL) Program. The definition also applies to the DEQ administered UIC Program, which is regulated through the Federal Safe Drinking Water Act.

Responsible Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on behalf of the owner.

Storm Drain System. Private or publicly-owned facilities by which Stormwater 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 Drain System” includes the Municipal Separate Storm Sewer System.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan. A document that 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 discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the maximum extent practicable.

UIC. Underground injection control device. A UIC is a subsurface distribution system for Stormwater, usually an assemblage of perforated pipes, drain tiles, or other mechanisms intended to distribute fluids below the surface of the ground.

Waters of the State. Lakes, bays, ponds impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction, or as currently defined by the U.S. Environmental Protection Agency.

Waterway. A body of water (whether natural or man-made) that periodically or continuously contains Waters of the State and has a definite bed and banks that serve to confine the water.

Section 6.362. Applicability. This ordinance shall apply to all water and all other fluids, substances and materials entering the Storm Drain System generated on any developed and undeveloped lots and parcels of real property within the City of Dallas unless explicitly exempted by this ordinance or an authorized enforcement agency.

Section 6.364. Responsibility for Administration. The City Manager, or the City Manager’s designee, shall administer, implement, and enforce the provisions of this ordinance.

Section 6.366. Severability. The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the

application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

Section 6.368. Regulatory Consistency. This Ordinance shall be construed to the fullest extent possible to assure consistency with the requirements of the Clean Water Act, Federal Safe Drinking Water Act, Oregon Revised Statutes, Oregon Administrative Rules and the Oregon Department of Environmental Quality and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

Section 6.370. Prohibition of Illegal Discharges. Except as provided in section 6.372, no person shall discharge or cause to be discharged into the Storm Drain System, or any Waterways in the city, any water, fluid, substances or materials, including but not limited to Pollutants and waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards. Discharges prohibited by this section include, but are not limited to, the following:

1. Septic, sewage, and dumping or disposal of liquids or materials other than Stormwater into the Storm Drain System;
2. Discharges of washwater resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
3. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility, including, but not limited to, motor vehicles, cement-related equipment, and port-a-potty servicing;
4. Discharges of washwater from mobile operations, such as mobile automobile or truck washing, steam cleaning, power washing, and carpet cleaning, and similar operations;
5. Discharges of washwater from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, or residential areas, including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, and similar facilities where detergents are used and spills or leaks of toxic or Hazardous Materials have occurred, unless all spilled material has been removed;
6. Discharges of runoff from material storage areas, which contain chemicals, fuels, grease, oil, or other Hazardous Materials from material storage areas;
7. Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
8. Discharges of sediment, unhardened concrete, pet waste, vegetation clippings, or other landscape or construction-related wastes;

9. Discharges of trash, paints, stains, resins, or other household hazardous wastes; and

10. Discharges of food-related wastes including, but not limited to, grease, restaurant kitchen mat and trash bin washwater.

Section 6.372. Allowable Non-Stormwater Discharges.

Section 6.370 does not apply to the following non-Stormwater discharges; provided, if any of the following allowable non-Stormwater discharges are or become a significant source of Pollutants, the City shall prohibit that discharge or require implementation of appropriate Best Management Practices to reduce the discharge of Pollutants associated with the source before discharge to the Storm Drain System:

1. Emergency firefighting activities.
2. Uncontaminated water line flushing.
3. Landscape irrigation; provided, that for areas owned or operated by the City, landscape irrigation will be considered allowable only if pesticides and fertilizers are applied in accordance with the manufacturer's instructions.
4. Diverted stream flows.
5. Uncontaminated groundwater infiltration, as defined at 40 CFR § 35.2005(20), to separate storm sewers.
6. Rising groundwaters.
7. Uncontaminated pumped ground water.
8. Potable water sources, including potable groundwater monitoring wells and draining and flushing of municipal potable water storage reservoirs.
9. Start-up flushing of groundwater wells.
10. Foundation, footing and crawlspace drains, where flows are not contaminated.
11. Uncontaminated air conditioning or compressor condensate.
12. Irrigation water.
13. Springs.
14. Lawn watering.

15. Individual residential car washing.
16. Charity car washing, provided that chemicals, soaps, detergents, steam or heated water are not used, and washing is restricted to the outside of the vehicle, no engines, transmissions or undercarriages.
17. Flows from riparian habitats and wetlands.
18. Dechlorinated swimming pool discharges including hot tubs; provided that heated water must be cooled for at least 12 hours prior to discharge.
19. Fire hydrant flushing.
20. Street and pavement washwaters, provided that chemicals, soaps, detergents, steam or heated water are not used.
21. Routine external building wash-down, provided, that chemicals, soaps, detergents, steam or heated water are not used.
22. Water associated with dye testing activity.
23. Discharges of treated water from investigation, removal and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statutes (ORS) Chapter 465.
24. 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 Drain System.
25. Any other water source not containing Pollutants.

Section 6.374. Prohibition of Illicit Connection. (a)

1. The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drain System is prohibited.
2. The prohibition in subsection 1 expressly includes, without limitation, Illicit Connections made prior to the effective date of this ordinance, regardless whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the Storm Drain System, or allows such a connection to continue.

Section 6.376. Suspension of Access to the Municipal Separate Storm Sewer System. The City Manager may, without prior notice, suspend discharge access into the Municipal Separate Storm Sewer System to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Municipal Separate Storm Sewer System or Waters of the State. If a person fails to comply with a suspension order issued under this section, the City Manager may take such steps as deemed necessary to prevent or minimize damage to the Municipal Separate Storm Sewer System or Waters of the State, or to minimize danger to persons. Any person discharging to the Municipal Separate Storm Sewer System in violation of this ordinance may have their Municipal Separate Storm Sewer System access terminated if such termination would abate or reduce an illicit discharge. The City Manager must notify a violator of the proposed termination of its Municipal Separate Storm Sewer System access. The violator may petition the City Manager, for reconsideration of a suspension order issued under this section. A person commits a violation if the person reinstates access to the Municipal Separate Storm Sewer System from Premises terminated pursuant to this Section, without the prior approval of the City Manager.

Section 6.378. Waste Disposal Prohibitions. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street alley sidewalk, component of the storm drainage system, UICs or Waters of the State, any refuse, rubbish, garbage, litter, yard debris or other discarded or abandoned objects, articles, and accumulations. This section does not apply to wastes and recyclable materials deposited in proper waste and recycling receptacles and placed in authorized areas for the purpose of waste and recycling collection.

Section 6.380. Industrial or Construction Activity. Any person subject to an industrial or Construction Activity NPDES Stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with a NPDES Stormwater discharge permit may be required in a form acceptable to the City prior to the allowing of discharges to the Storm Drain System.

Section 6.382. Monitoring of Discharges.

1. Applicability. This section applies to all facilities that have Stormwater discharges associated with Industrial Activity, including Construction Activity.

2. Access to Facilities.

a. An employee or agent of the City designated by the City Manager shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

b. The City shall have the right to install on any permitted facility such devices as the city deems necessary to conduct monitoring or sampling of the facility's Stormwater discharge.

c. The City shall have the right to require the discharger to install monitoring equipment as the city deems necessary, at the cost and expense of the discharger or other Responsible Person. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger or other Responsible Person at its own expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure their accuracy.

d. Unreasonable delays in allowing the authorized City personnel access to a permitted facility is a violation of any Stormwater discharge permit and of this ordinance.

Section 6.384. Requirement to Prevent, Control and Reduce Storm Water Pollutants by the Use of Best Management Practices. The owner or operator of a commercial or industrial establishment shall, at their own expense, through the implementation of appropriate structural and nonstructural Best Management Practices, provide reasonable protection from accidental discharge of prohibited materials or other wastes into the Storm Drain System or Waterways. 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 the person's expense, additional structural and non-structural Best Management Practices to prevent the further discharge of Pollutants to the Storm Drain System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Stormwater associated with Industrial Activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

Section 6.386. Waterway Protection. Every person who owns or occupies property through which a Waterway passes, , shall keep and maintain that part of the Waterway within or on the person's property free of trash, debris, excessive invasive vegetation, and other obstacles that would pollute, or contaminate water through the Waterway. In addition, the owner or lessee of such property shall maintain existing privately owned structures within or adjacent to a Waterway, so that such structures will not become a hazard to the use, function, or physical integrity of the Waterway. The owner, lessee or Responsible Person shall not remove bank vegetation that will result in bare slopes subject to erosion. Removal of invasive vegetation may be allowed by the City upon

submittal of a plan for removal and replanting that is reviewed and approved by the City. The City may impose reasonable conditions upon such approval.

Section 6.388. Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials that are resulting or may result in Illegal Discharges into the Storm Drain System, or Waters of the State, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release the owner, operator or other Responsible Person shall immediately notify emergency response agencies of the occurrence. Notifications in person or by phone shall be confirmed by written notice addressed and mailed or hand-delivered to the city within three business days of the phone or in-person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment, or other Responsible Person, shall also retain onsite a written record of the discharge and the actions taken to abate the discharge and prevent its recurrence. Such records shall be retained for at least three years from the date of the discharge.

Section 6.390. Authority to Inspect. Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the City Manager has cause to believe that there exists, or potentially exists, in or upon any Premises any condition that constitutes a violation of this Ordinance, the City Manager may enter such Premises at all times to inspect the same and to inspect and copy records related to Stormwater compliance. In the event the owner, occupant or other Responsible Person refuses entry after a request to enter and inspect has been made, the City may seek an administrative warrant for such entry from the Dallas Municipal Court pursuant to Dallas City Code Section 2.880 through 2.888 or other assistance from any court of competent jurisdiction in obtaining such entry.

Section 6.392. Enforcement.

1. Notice of Violation and Order. Whenever the City of Dallas finds that a person has violated a provision or failed to meet a requirement of this Ordinance, the City Manager may order compliance by written Notice of Violation and Order to the owner, occupant or other 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 or remediation of Stormwater Pollution or contamination hazards and the restoration of any affected property;

e. Payment of an administrative fee to cover administrative and remediation costs; and

f. The implementation of source control or treatment Best Management Practices. If abatement of a violation or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

2. The notice shall further provide that, should the owner, occupant or other Responsible Person fail to abate the discharge and remediate or restore all affected property, as required, within the established deadline, the City may abate the violation in the manner of the abatement of a nuisance provided under Sections 5.618 and 5.620, in which event the owner, occupant or other Responsible Person shall be jointly responsible for the cost of such abatement in the manner of Section 5.616.

3. Duty to Follow Enforcement Plan. The City shall follow a written process for enforcement through the escalating steps listed in the City of Dallas Enforcement Response Plan.

4. Enforcement under this section is in addition to, and not in lieu of, any other remedies available to the City or penalties for violation of this ordinance.

Section 6.394. Appeal of Notice of Violation and Order.

1. Any person receiving a Notice of Violation and Order under Section 6.392, above, may appeal the determination of the City Manager. The notice of appeal must be received at the office of the City Manager within 10 days from the date of the Notice of Violation and Order. Upon receipt of a Notice of Appeal, the City Manager will offer to meet with the person that filed the Notice of Appeal and the person’s representative, and receive written evidence and argument in support of the appeal. The City Manager shall conduct an informal review and investigation of the violation and render a decision in writing.

2. The person who appealed the Notice of Violation and Order may, within 10 days after the mailing of the City Manager’s decision, appeal the City Manager’s decision in writing to the council. The appeal shall state:

- a. The name and address of the appellant;
- b. The nature of the determination being appealed;
- c. The reason the determination is incorrect; and
- d. What the correct determination of the appeal should be.

3. The council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal.

4. At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence used by courts of law do not apply, and the decision of the council after the hearing is final.

5. An appellant who fails to appeal the City Manager's decision within the time permitted waives objections, and the right to appeal and the matter shall be deemed conclusively determined.

6. The city council may, by resolution, establish a fee for an appeal under this section, which must be paid when the appeal is filed.

Section 6.396. Violations.

1. A violation of or failure to comply with any of the requirements of this Ordinance shall constitute a civil infraction punishable as follows:

\$350 per day for the first offense.

\$500 per day for the second offense (within a 2year period).

\$750 per day for the third offense (within a 2year period).

2. There shall be an additional penalty of \$200 per day if there is any discharge of Hazardous Materials in any amount.

3. There shall be an additional penalty of \$500 per day if the discharge is fully or partially intentional.

4. The imposition of a penalty under this section does not relieve a person of the duty to abate the nuisance or comply with a Notice of Violation and Order issued under Section 6.392.

Section 6.398. Compensatory Action. In addition to enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City may impose upon a violator alternative compensatory or compliance actions, including, but not limited to, storm drain stenciling, attendance at compliance workshops, and Waterway cleanup.

Section 6.399. 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 City to seek cumulative remedies.

Read for the first time:

Read for the second time:

Passed by the City Council: Approved
by the Mayor:

KENNETH L. WOODS, JR., MAYOR

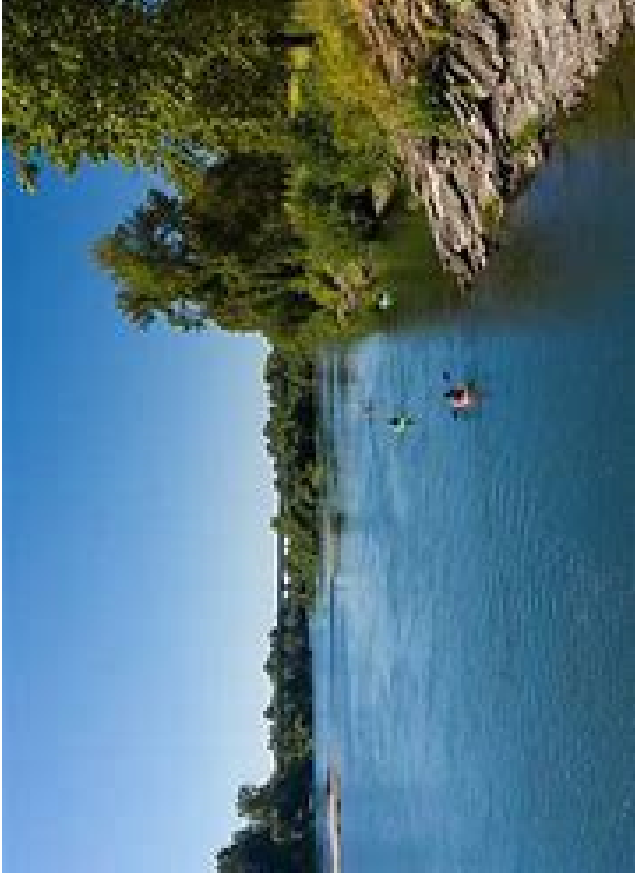
ATTEST:

APPROVED AS TO FORM:

BRIAN LATTA,
CITY MANAGER

LANE P. SHETTERLY,
CITY ATTORNEY

EXHIBIT B



City of Dallas Illicit Discharge Ordinance

Elizabeth Sagmiller, E and S Consulting LLC

May 28, 2024

Ordinance Points

- ▶ The ordinance is a combination of inputs from DEQ, the EPA, Public Works staff, Lane Shetterley, and Elizabeth Sagmiller.
- ▶ The requirements in the ordinance are not more restrictive than what is required.
- ▶ The ordinance covers illegal discharges, intentional dumping, illegal connections, and protection of waterways.
- ▶ The ordinance allows the City to lead with education for violations, and opportunities to correct.
- ▶ The penalties in the ordinance are primarily for repeat and intentional behavior.



Directive Language

- ▶ The Water Quality Management Plan states:
- ▶ *“DMAs must implement and enforce a program to detect and eliminate illicit discharges into the stormwater conveyance system. An illicit discharge is any discharge to a stormwater conveyance system that is not composed entirely of stormwater.*
- ▶ *The DMA must develop and maintain a current map of their stormwater conveyance system. The stormwater conveyance system map and digital inventory must include the location of outfalls and an outfall inventory, conveyance system and stormwater control locations.*
- ▶ *The DMA must make maps and inventories available to DEQ upon request. When in digital format, the DMA must fully describe mapping standards in the TMDL implementation plan or other city planning document. “*



- ▶ *The IDDE program must prohibit non-stormwater discharges into the stormwater conveyance system through enforcement of an ordinance or other legal mechanism, including appropriate enforcement procedures and actions to ensure compliance.*
- ▶ *The ordinance or other regulatory mechanism must also define the range of illicit discharges it covers, including those discharges that are conditionally allowed, such as groundwater and lawn watering discharges.*
- ▶ *The IDDE program must also maintain a procedure or system to document all complaints or reports of illicit discharges into and from the stormwater conveyance system.*
- ▶ *The DMA must track implementation of the IDDE program requirements. In each TMDL Annual Report, the DMA must assess their progress towards implementation of the program.*

Section 6.370 Prohibition of Illegal Discharges

- ▶ Except as provided in section 6.372, no person shall discharge or cause to be discharged into the Storm Drain System, or any Waterways in the city, any water fluid, substances or materials including but not limited to Pollutants and waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards.
- ▶ Section 6.370 Allowable Non-Stormwater Discharges – Section 6.370 does not apply to the following non-Stormwater discharges; provided, if any of the following allowable non-Stormwater discharges are or become a significant source of Pollutants, the City shall prohibit that discharge or require implementation of appropriate Best Management Practices to reduce the discharge of Pollutants associated with the source before discharge to the Storm Drain System.

Enforcement Response Plan

- ▶ Escalating steps of enforcement
- ▶ Provide adequate public education and outreach material
- ▶ Step 1 - Start with education.
- ▶ Step 2 - Verbal warning. Opportunity to correct with timeline.
- ▶ Step 3 - Written warning. Stop work. Correction.
- ▶ Step 4 - Violation
- ▶ Step 5 – Fines, remediation, etc.



Behavior Change - Messaging

- ▶ Positive tone
- ▶ Educational
- ▶ Lots of available resources
- ▶ Information that is easy to find
- ▶ Proactive
- ▶ Regulatory requirements delivered in a useful manner

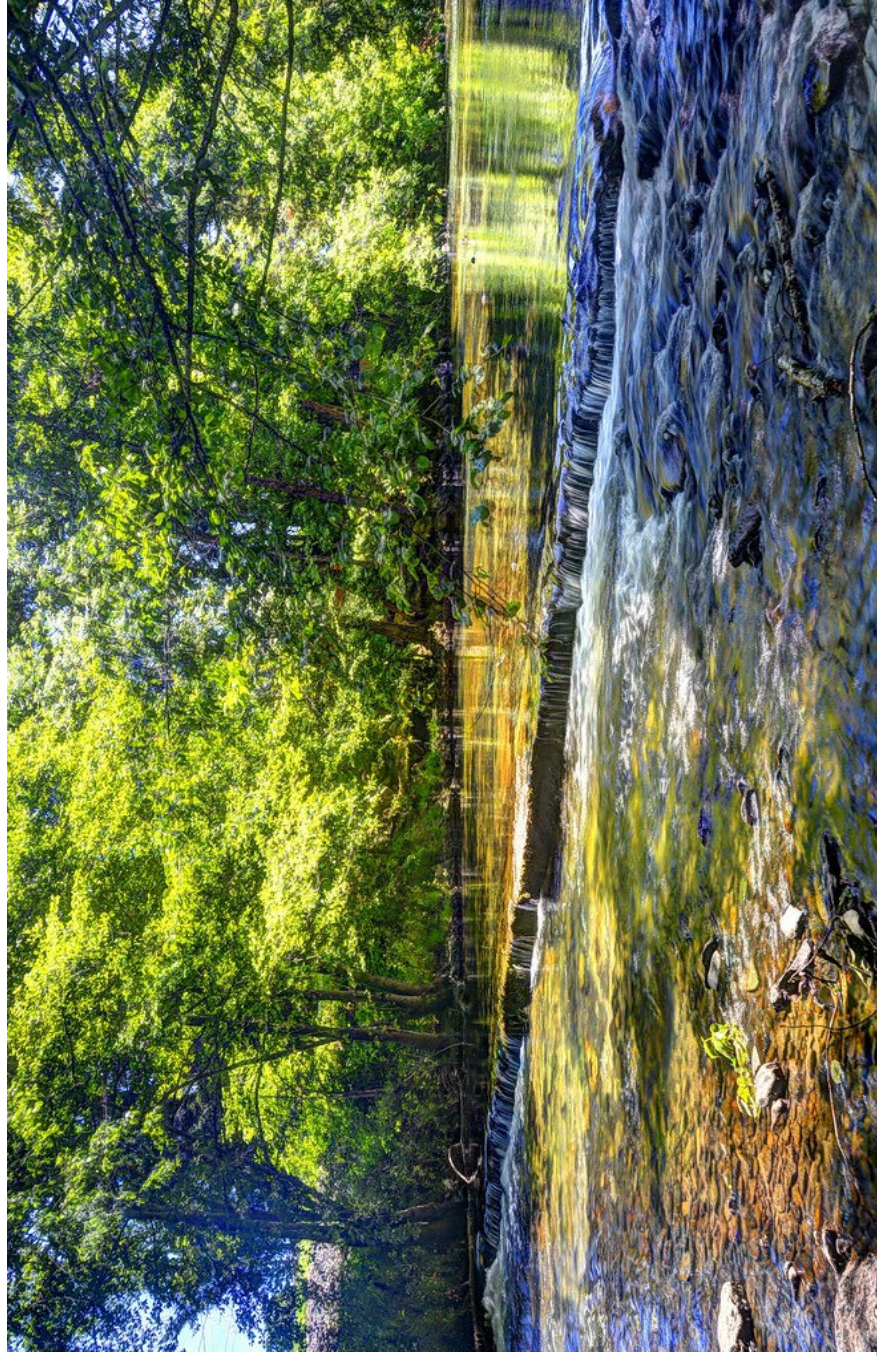


Next Steps




- ▶ Review and finalize ordinance.
- ▶ Address questions from committee members.
- ▶ Ask for approval at the next meeting in July.
- ▶ Move forward to City Council.
- ▶ Adoption.

QUESTIONS?





**PUBLIC WORKS COMMITTEE
STAFF REPORT**

MEETING DATE: May 28, 2024
AGENDA ITEM NO. E
TOPIC: Public Works Department Reorganization.
PREPARED BY: Gary Marks, Public Works Director.
APPROVED BY:  City Manager
ATTACHMENTS: None.

RECOMMENDED ACTION:

This report is for information only. No action is needed.

BACKGROUND:

The Approved FY2024-25 Budget is structured for a staff reorganization of the Public Works Department with a goal of improving the department’s ability to keep up with growing infrastructure, maintenance and service needs.

Currently, our Parks Manager, Jennifer Ward, oversees the Parks, Aquatic Center, and Facilities Divisions. She will be shifting into the new position of Administrative Services Manager. This position expands the scope of her job to include departmental purchasing, policy administration, grant management, and supervision of development review, permitting, and environmental services. She will maintain oversight of the Parks, Aquatic Center, and Facilities Divisions and will also take on oversight of the Engineering Division which is being renamed, Development, Permitting and Environmental Services. Jennifer will continue to be a direct report to the Public Works Director.

The department will gain a new Operations Manager who will become a direct report to the Public Works Director. The Operations Manager will have oversight of the Water Treatment & Distribution Division; Streets, Sewer Collection and Storm Water Division; and Fleet Division, as well as providing supervision of the City’s Jacobs contract to operate the Wastewater Treatment Facility. This new position will be responsible for managing the City’s public works operations to include budget tracking and management, planning and implementation of

systems maintenance schedules, capital improvement plan project planning and implementation, training for utility crews, management of safety programs, and emergency management preparation for public works operations. The Operations Manager will be a direct report to the Public Works Director.

Tom Gilson, who currently serves as the Engineering Supervisor, will shift to the new position of Special Projects Manager with a primary focus on assessing, planning and implementing projects to maintain, improve and expand the City's infrastructure. Tom will work with staff, engineers and contractors to plan and implement infrastructure projects, such as the Mercer Dam Water Storage Expansion Project, the James Howe Road Water Reservoir, La Creole Node Sewer Project, Godsey Bridge and Road Projects, and street corridor construction projects among others. He will also be responsible for updating and implementing the department's master plans and projects within the annual capital improvement plan. The Special Projects Manager will be a direct report to the Public Works Director.

Finally, the department's executive assistant, Megan Johnson, will become a direct report to the Public Works Director. She is currently a member of the Engineering Division.

Given ongoing community growth and the increasing challenges of managing and replacing aging infrastructure, the department's reorganization will allow us to more effectively address infrastructure maintenance needs, manage multiple capital projects, maintain thorough development reviews and inspections, assure compliance with state and Federal environmental mandates, and continue to effectively manage our parks, trails, Aquatic Center and other City facilities.

SUMMARY TIMELINE:

May 28, 2024 Public Works Committee Meeting.

FISCAL IMPACT:

As provided in the Approved FY2024-25 Budget.

RECOMMENDED MOTION:

This report is for information only. No action is needed.

ATTACHMENTS:

None.