Division 9. – Illicit Discharge Detection and Elimination (IDDE)

Section 118-301. General Provisions

a) Findings of Fact.

It is hereby determined that:

1) Federal regulations define an illicit discharge as "...any discharge to an MS4 that is not composed entirely of stormwater..." with some exceptions.
2) Illicit discharges are considered "illicit" because MS4s are not designed to accept, process, or discharge such non-stormwater wastes.
3) Illicit discharges result in untreated discharges that contribute high levels of pollutants, including heavy metals, toxics, oil and grease, solvents, nutrients, viruses and bacteria to receiving waterbodies.

b) Purpose

The purpose and intent of this Ordinance is to ensure the health, safety and general welfare of citizens of the City of Joplin through the regulation of non-stormwater discharges to the storm drain system to the maximum extent practicable BMPs and found them to be effective for the Joplin region and in accordance with current city codes, as required by federal and state law. This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit. The objectives of this Ordinance are:

1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges from any user,
2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system, and
3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance
4) Enforcement – See Section 16

c) Authority.

The City of Joplin, a Missouri Municipal Corporation.

d) Applicability

This Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City of Joplin.

Section 118-302. Definitions

a) *Authorized Enforcement Agency*: Employees or designees of the City of Joplin designated to enforce this Ordinance.

b) *Best Management Practices (BMPs):* 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, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to

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control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

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

d) *Construction Activity*. Activities subject to NPDES Construction Permits, which generally include construction projects resulting in land disturbance of 1 acre or more, or less if part of a larger common project. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

e) *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.

f) *Illegal Discharge*. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 7 of this Ordinance.

g) *Illicit Connections*. An illicit connection is defined as any of the following: 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 which allow any non-stormwater discharge including 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 said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

h) *Industrial Activity*. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

i) *MS4*. Municipal Separate Storm Sewer System; a municipality which has a sanitary sewer system and a stormwater sewer system so that the two systems are completely separate.

j) *National Pollutant Discharge Elimination System (NPDES) Permit*. A permit issued by EPA (or by a State 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.

k) *Non-Stormwater Discharge*. Any discharge to the storm drain system that is not composed entirely of stormwater.

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l) *Person*. Means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

m) *Pollutant*. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinance, and accumulations, so that 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.

n) *Premises*. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

o) *Storm Drain System*. Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any road drainage systems, municipal street, 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.

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

q) *Stormwater Pollution Prevention Plan (SWPPP):* A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

r) *Wastewater*. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Section 118-303. Applicability
This Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Section 118-304. Responsibility for Administration
The City of Joplin shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted, or duties imposed upon the authorized enforcement agency may be delegated in writing by the administrator of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

Section 118-305. 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,

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or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

Section 118-306. Ultimate Responsibility.
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 118-307. Discharge Prohibitions.

a) Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

b) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
    1) The following discharges are exempt from discharge prohibitions established by this Ordinance:
        a. landscape irrigation or lawn watering;
        b. diverted stream flows,
        c. rising groundwater;
        d. uncontaminated groundwater infiltration to storm drains;
        e. uncontaminated pumped groundwater;
        f. foundation or footing drains (not including active groundwater dewatering systems);
        g. uncontaminated water from crawl space/basement sump pumps;
        h. air conditioning condensation;
        i. springs;
        j. individual residential car washing as prescribed in Article IV – Section 114-358 (2)
        k. natural riparian habitat or wetland flows;
        l. flows through mine tailings;
        m. emergency fire-fighting activities; and
        n. any other water source not containing pollutants.
    2) The following discharges are not exempt from discharge prohibitions established by this Ordinance:
        a. Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water.
            1. However, planned discharges from potable water sources may be discharged to the MS4 provided that the City has determined that they are not substantial contributors of pollutants.
        b. Swimming pool discharges
            1. Certain swimming pool discharges are permitted under the MO Department of Natural Resources' NPDES Industrial Permits;
            2. Discharges from swimming pools not subject to MO Department of Natural Resources' NPDES Industrial Permits may be discharged to the MS4 provided

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that they are dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and volumetrically and velocity controlled.

c. Street and sidewalk wash water containing detergents, water used to control dust containing detergents, and routine external building wash down containing detergents. (Also prohibited in City Code Chapter 118 – Utilities – Article II – Sewers and Sewage Disposal - Section 118-86; and Chapter 54 – Environments - Section 54-35 (4)
    1. Street and sidewalk wash water, water used to control dust, and routine external building wash down water may be discharged to the MS4 provided it does not contain detergents, streets and sidewalks are swept and material removed prior to washing. Active construction sites shall be scraped and swept daily prior to washing the street, as outlined in Appendix 29-F. Erosion and Sediment Control Regulations Section VI, 8. b. and c.
d. Discharges specified in writing by the City of Joplin as being necessary to protect public health and safety.
e. Dye testing is an allowable discharge but requires a written/verbal notification to the City of Joplin prior to the time of the test.
f. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the permitting authority, 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.

c) Prohibition of Illicit Connections.
1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. (Also prohibited in Chapter 118 Utilities – Article II – Sewers and Sewage Disposal - Section 118-86; and Chapter 54 - Environment - Section 54-35 (17)
2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3) A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4 or allows such a connection to continue. (Also prohibited in Chapter 118 Utilities – Article II – Sewers and Sewage Disposal - Section 118-86; and Chapter 54 - Environment - Section 54-35 (17).

Section 118-308. Suspension of MS4 Access.

a) Suspension due to Illicit Discharges in Emergency Situations

The City of Joplin may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the State, or to minimize danger to persons.

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b) Suspension due to the Detection of Illicit Discharge
   1) Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Joplin will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
   2) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City of Joplin.

Section 118-309. Powers and Authority of Inspectors

a) The City of Joplin inspector bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, records examination and copying, observation, measurements, sampling, and testing pertinent to discharge or potential to discharge, and for repair and maintenance to the municipal separate storm sewer system.

b) Information and data on a non-domestic source obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the non-domestic source specifically requests and is able to demonstrate to the satisfaction of the City of Joplin that the release of such information would divulge information, processes or methods of production entitled to protection as confidential information according to the criteria set forth in 40 CFR 2.208 and 2.302, as may be amended from time to time. When requested by the person furnishing a report, the portions of a report which might disclose confidential information shall not be made available for inspection by the public. Stormwater constituents and characteristics will not be recognized as confidential information. Information accepted by the City of Joplin as confidential shall be made available upon request to any agency meeting the requirements of Section 308 of the Clean Water Act, including officers, employees or authorized representatives of the United States concerned with carrying out the Clean Water Act, bound by the confidentiality rules in 40 CFR Part 2, as may be amended from time to time.

c) While performing inspections the City of Joplin shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the authorized representative(s), and the City of Joplin shall indemnify the company against loss or damage to its property by City of Joplin employees and against liability claims and demands for personal injury or property damage asserted against the company by City of Joplin employees and growing out of the inspection and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

d) Unreasonable delays in allowing the City of Joplin access to the premises or other interference with the activities of the City of Joplin shall be a violation of this law. Access to property and/or records of a non-domestic source may not be refused on the basis that the City of Joplin refuses to sign any waiver, access agreement, or similar document.

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e) If the City of Joplin has been refused access to a building, structure or property or any part thereof, and if the City of Joplin has demonstrated probable cause to believe that there may be a violation of this law or that there is a need to inspect as part of a routine inspection program of the City of Joplin to verify compliance with this law or any permit or order issued hereunder, or to protect the environment and overall public health, safety and welfare of the community, then the City of Joplin will make an application to a court of competent jurisdiction for a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant application shall specify what, if anything, may be searched and/or seized on the property described. If granted by the court, such warrant shall be served at reasonable hours by the City of Joplin in the company of a uniformed officer of the law enforcement agency with jurisdiction over the property. In the event of an emergency affecting public health and safety, inspections may be made without the issuance of a warrant.

Section 118-310. Industrial or Construction Site Activity Discharges.

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 said permit may be required in a form acceptable to the City of Joplin prior to the allowing of discharges to the MS4.

Section 118-311. Monitoring of Discharges.

a) Applicability.

This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

b) Access to Facilities.

1) The City of Joplin 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. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
2) Facility operators shall allow the City of Joplin ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
3) The City of Joplin shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of Joplin to conduct monitoring and/or sampling of the facility's stormwater discharge.
4) The City of Joplin has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Joplin and shall not be replaced. The costs of clearing such access shall be borne by the operator.

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6) Unreasonable delays in allowing the City of Joplin access to a permitted facility is a violation of a stormwater discharge permit and of this Ordinance. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.
7) If the City of Joplin has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the environment and overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

Section 118-312. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural Best Management Practices (BMPs). Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. 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. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Section 118-313. Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 118-314. 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 which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately

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

Section 118-315. Illegal Dumping Prohibited

No person shall dump or otherwise deposit outside an authorized landfill or other authorized garbage or trash collection point, including but not limited to any grass clippings, leaves, motor oil, paint, wash water, chemicals, trash or garbage of any kind or description on any private or public property, occupied or unoccupied, with the potential to discharge to the municipal storm sewer system.

Section 118-316. Enforcement.

a) Notice of Violation.

Whenever the City of Joplin finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible parties. Such notice may require without limitation:

1) The performance of monitoring, analyses, and reporting;
2) The elimination of illicit connections or discharges;
3) That violating discharges, practices, or operations shall cease and desist;
4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
5) Payment of a fine to cover administrative and remediation costs; and
6) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Section 118-317. Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within fifteen (15) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

Section 118-318. Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within fifteen (15) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are

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authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Section 118-319. Cost of Abatement of the Violation.

a) Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

b) Any person violating any of the provisions of this Ordinance shall become liable to the City of Joplin by reason of such violation. The liability shall be paid in not more than 12 equal payments beginning thirty (30) days following final notification of the abatement costs. Interest at the rate of ten (10) percent per annum shall be assessed on the balance beginning on the 1st day following discovery of the violation.

Section 118-320. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this Ordinance, the City of Joplin may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section 118-321. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City of Joplin may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Section 118-322. Violations Deemed A Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a danger to the environment and threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 118-323. Criminal Prosecution.

Any person who shall violate the provisions of this article shall be guilty of an ordinance violation and shall be subject to the penalties set forth in City Code Section 1-5. – General penalty; continuing violations; violations deemed public nuisance (a), (b), and (c).

Section 118-324. Cost Recovery.

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The City of Joplin may recover all attorney's fees, court costs and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

Section 118-325. 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 of Joplin to seek cumulative remedies.

Section 119-326. Adoption of Ordinance.
This Ordinance shall be in full force and effect immediately after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

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