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May 3, 2019

HONORABLE CITY COUNCIL

RE: Request of the Detroit Water and Sewerage Department to consider a text amendment to the Detroit Zoning Ordinance, Chapter 61, of the 1984 Detroit City Code for proposed modifications that would require new and redevelopment to manage stormwater to the performance standards of the Post-Construction Stormwater Management Ordinance and to allow for site plan review authority for stormwater management plans (**RECOMMEND APPROVAL**)

Before this Honorable Body is the request for a text amendment to the Zoning Ordinance to further facilitate the proposed Post-Construction Stormwater Ordinance.

BACKGROUND

In 2017, City Council reviewed and approved the provisions of Ordinance No. 37-17 commonly referred to as the Fifth General Text Amendment (FGTA) to the Zoning Ordinance. The FGTA included a vast number of amendments. One subset of the text amendments included what is commonly referred to as the "Waste Water and Greening Amendments."

Those specific provisions implemented the following through the Zoning Ordinance: required a permit for parking lots and driveways (61-4-135), required urban agriculture stormwater drainage controls and barriers (61-12-334), required inlets for parking lot wheel stops and curbs (61-14-153), required vegetative parking lot screening opacity of 75% (61-14-221), changed provision for interior landscaping to be triggered by lots that have capacity of 25 or more cars, gave provision to allow for landscaped areas to locate at grade level to capture stormwater runoff or otherwise have inlets to allow infiltration (61-14-223), and lastly the amendments added language to allow for pervious materials to be used for street parking, loading and circulation areas (61-14-150). The amendments proposed at that time came as a first phase of Stormwater amendments to the City Code.

The aforementioned zoning amendments that were adopted in 2017, were spurred by an initiative that began March 1, 2013 when the Michigan Department of Environmental Quality (MDEQ) issued the Detroit Water and Sewerage Department (DWSD) and the National Pollution Discharge Elimination System (NPDES) of the US Environmental Protection Agency (EPA), a permit (Permit No. MI0022802). The permit requires DWSD to develop and implement a Green Infrastructure Plan for 17 specific outfalls along the Rouge River. DWSD submitted an updated

version of this Green Infrastructure Plan to the MDEQ on August 1, 2014. The ¹Green Infrastructure Plan is DWSD’s road map for implementing green infrastructure in the future.

The permit requires DWSD to invest \$15 million in Green Infrastructure between 2013-2017 to reduce 2.8 million gallons (MG) of storm water flow (during the two-year design storm). The permit language identifies a number of specific green infrastructure project types, including downspout disconnections, demolition and removal of vacant structures, bioswales along roadways and parking lots, tree planting and other projects.

NATURE OF PROPOSAL

Even more recently, at the end of 2018, Your Honorable Body approved an amendment to Chapter 56, of the 1984 Detroit City Code, Utilities, to adopt a Post Construction Stormwater Ordinance. The proposal also gives provision for a Stormwater Management Design Manual, and lastly the proposal ultimately requires Zoning Ordinance text amendments to allow DWSD to have Site Plan Review authority to review the site plans of applicable developments.

CPC staff has worked with DWSD and their consultant and program manager, Tetrattech, through their process of drafting these documents and has given guidance on items related to the proposed amendments, and especially as it relates to the Zoning Ordinance amendments.

Chapter 56 Utility Code Post Construction Stormwater Management Ordinance

In general, the Post Construction Stormwater Management Ordinance (PCSWMO) gives provision to require “*Any development site with regulated construction activity that involves the replacement or creation of one-half acre (21,780 square feet) or more of impervious surface is subject to the PCSWMO. DWSD may also require that any construction activity meeting certain conditions (as specified in the Code) must also comply with these requirements.*”

The PCSWMO gives provision for stormwater management requirements and alternative compliance measures for developments that cannot meet those requirements, such as in-lieu fees and off-site stormwater projects that are equivalent to what would be required on the subject site. These are options the ordinance provides for sites that demonstrate extraordinary difficulty in implementation of required practices.

The ordinance grants DWSD the authority to require a performance bond or other financial guarantees until the department can determine that stormwater control measures have been established and installed correctly up to two (2) years after a certificate of occupancy is issued.

Lastly, the ordinance outlines protocols for required maintenance, operations and maintenance plans, easements, records and drawing requirements, authority for right of entry and inspections of developments, appeals, notices, civil penalties and fines and other remedies for violations.

Stormwater Design Manual

The Stormwater Design Manual (SWDM) is a separate document given authority by the

¹ Green infrastructure is a collection of storm water management approaches intended to soak up storm water where it falls before it can enter the sewer system. It is green because these approaches, whether completely natural or constructed, often use trees and native plants to soak up storm water. It is infrastructure because these approaches work together to create a low-cost system for managing storm water.

PCSWMO, and provides consistency in design specifications, engineering methods, controls, and performance and technical standards to support the development community and property owners in understanding how to plan and build projects that comply with requirements under Detroit's PCSWMO.

The primary purposes of the SWDM is to allow DWSD to:

- 1) provide stormwater management site design guidance to help developers and property owners meet requirements of the PCSWMO
- 2) ensure uniformity in standards for Green Storm Infrastructure practices across the City
- 3) allow for efficient design review by DWSD along with appropriate City Departments

Chapters of the SWDM include technical advice, instruction and best practice for Regulatory Requirements, Site Design and Stormwater Management, Hydrologic Procedures, Drainage Conveyance, Soil Aggregates and Water, Detention Practices, Bioretention, Infiltration Practices, Permeable Pavement, Rainwater Harvesting, Living Roofs and Walls, Stormwater Wetlands and Manufactured Treatment Systems.

Chapter 61 Zoning Text Amendments

The PCSWMO requires that text amendments be made to the Detroit Zoning Ordinance in order to give DWSD any authority as the Michigan Zoning Enabling Act MCL 110, statutorily requires that proposed text amendments to Chapter 61, Zoning, to undergo at least one (1) public hearing and be subject to review by CPC with report and recommendation prior to being acted upon by City Council. CPC staff has been involved with DWSD and Tetrattech throughout the process and has worked to come to agreement on language appropriate for the Zoning Ordinance.

The zoning amendments being proposed are largely straightforward and reinforce the PCSWMO. Provisions being proposed apply to:

- Sec. 61-3-113, gives provision that development projects which meet the PCSWMO thresholds are subject to the Site Plan Review (SPR) process conducted by the Buildings Safety Engineering Environmental Department.
- Sec. 61-3-125 (t) and (u) sets provisions for site plans submitted by developers that trigger the PCSWMO and references 56-3-102.
- Sec. 61-3-127 (d) and (6) add language to include copies application and/or permits related to Stormwater be submitted to BSEED for SPR. Also adds language and reference to require a Post Construction Stormwater Management Plan.
- Sec. 61-3-141 adds language to give authorization for DWSD to participate in the site plan review of development plans that are eligible through PCSWMO in zoning districts that are under the purview of the Planning and Development Department.
- Sec. 61-3-142 adds language to give authorization for DWSD to participate in the site plan review of development plans that are eligible through PCSWMO in zoning districts

that are under the purview of the Commission and the City Council

- Sec. 61-3-168 amends the Zoning Ordinance to state that proposed developments shall comply with the PCSWMO and references Chapter 56 Article III, Division 4.

The Post Construction Stormwater Ordinance has also been reviewed by the Legislative Policy Division and looks to be appropriate in accomplishing the objectives set forth by DWSD. Should the Council have any questions, LPD will be happy to answer.

APPROVAL CRITERIA

Sec. 61-3-59 of the Zoning Ordinance specifies that decisions on zoning ordinance text amendments shall be based on the following criteria:

- (1) Whether the proposed amendment is consistent with the stated purposes of this Zoning Ordinance;

Sec. 61-1-5 sets forth criteria that a text amendment should address. Of those, the proposed text amendment will serve to accomplish the following:

- (2) Regulate the location, construction, reconstruction, alteration, and use of buildings, structures, and land;*
- (8) Establish reasonable standards to which buildings, structures, and uses shall conform;*
- (10) Facilitate the adequate provision of transportation, water, sewage disposal, education, recreation, and other public requirements;*
- (13) Protect natural resources and environmentally sensitive areas and ensure that development is consistent with applicable environmental laws and regulations;*
- (14) Define the powers and duties of the administrative officers and bodies;*
- (15) Provide penalties for violations of the provisions of this Zoning Ordinance or any subsequent amendment thereto; and*
- (2) Whether the proposed amendment will protect the health, safety, or general welfare of the public; and

The proposed ordinance is for the health, welfare and safety of the general public, requiring controls on stormwater to decrease stormwater runoff that causes flooding and other undesirable events due to impervious surfaces.

- (3) Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend or fact.

The text amendment meets the challenge bringing City Code into compliance with the National Pollution Discharge Elimination System (NPDES) of the US Environmental Protection Agency (EPA), mandate to come into compliance for our issued permit (Permit No. MI0022802). The permit requires DWSD to develop and implement a Green Infrastructure Plan for 17 specific outfalls along the Rouge River. DWSD submitted an updated version of this Green Infrastructure

Plan to the MDEQ on August 1, 2014. Again, the ²Green Infrastructure Plan is DWSD's road map for implementing green infrastructure in the future.

PUBLIC HEARING RESULTS

The CPC public hearing was held on November 1st before to consider the Stormwater Chapter 61, Zoning text amendments. Two (2) Detroit residents and members of the Green Taskforce-Water Subcommittee attended the public hearing and spoke in support of the proposed text amendment.

RECOMMENDATION

The proposed text amendment meets the requirements to be eligible for approval. At its regular meeting of November 1, 2018, the City Planning Commission voted to recommend **approval** of the subject text amendment request.

Respectfully submitted,



Marcell R. Todd, Jr., Director
Kimani Jeffrey, City Planner

Attachments:

Post-Construction Stormwater Ordinance
Stormwater Design Manual

Cc: Maurice Cox, Director, P&DD
Karen Gage, P&DD
David Bell, BSEED, Director
Gary Brown, DWSD Director
Palencia Mobley, DWSD, Deputy Director
Lawrence Garcia, Corp. Counsel
Kim James, Law Dept.
Daniel Arking, Law Dept.
Arthur Jemison, Chief of Services and Infrastructure

² Green infrastructure is a collection of storm water management approaches intended to soak up storm water where it falls before it can enter the sewer system. It is green because these approaches, whether completely natural or constructed, often use trees and native plants to soak up storm water. It is infrastructure because these approaches work together to create a low-cost system for managing storm water.

SUMMARY

An ordinance to amend Chapter 61 of the 1984 Detroit City Code, '*Zoning*,' commonly known as the Detroit Zoning Ordinance, to require areas of new development or redevelopment to manage stormwater to the performance standards set forth by the Detroit Water and Sewage Department and to authorize the Detroit Water and Sewerage Department to review and approve stormwater management plans as part of the site plan review process by adding Sec. 61-3-168 and by amending Sec. 61-3-113, Sec. 61-3-125, Sec. 61-3-127, Sec. 61-3-141, and Sec 61-3-142.

1 **BY COUNCIL MEMBER _____:**

2 **AN ORDINANCE** to amend Chapter 61 of the 1984 Detroit City Code, ‘Zoning,’
3 commonly known as the Detroit Zoning Ordinance, to require areas of new development or
4 redevelopment to manage stormwater to the performance standards set forth by the Detroit Water
5 and Sewage Department and to authorize the Detroit Water and Sewerage Department to review
6 and approve stormwater management plans as part of the site plan review process by adding Sec.
7 61-3-168 and by amending Sec. 61-3-113, Sec. 61-3-125, Sec. 61-3-127, Sec. 61-3-141, and Sec
8 61-3-142.

9 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:**

10 **Section 1.** Chapter 61 of the 1984 Detroit City Code, ‘Zoning,’ commonly known as the
11 Detroit Zoning Ordinance, is amended to require areas of new development or redevelopment to
12 manage stormwater to the performance standards set forth by the Detroit Water and Sewage
13 Department and to authorize the Detroit Water and Sewage Department to review and approve
14 stormwater management plans as part of the site plan review process by adding Sec. 61-3-168 and
15 by amending Sec. 61-3-113, Sec. 61-3-125, Sec. 61-3-127, Sec. 61-3-141, and Sec 61-3-142 as
16 follows:

17 **CHAPTER 61. ZONING**

18 **ARTICLE III. REVIEW AND APPROVAL PROCEDURES**

19 **DIVISION 5. SITE PLAN REVIEW**

20

21

1 exceeding twenty thousand (20,000) square feet of gross floor area,
2 considering existing floor area and proposed additions, except that on land
3 zoned M1, M2, M3, M4, or M5, the threshold for industrial uses shall be
4 fifty thousand (50,000) square feet of gross floor area.

5 (b) An increase of twenty-five percent (25%) or more in gross square footage
6 to an existing building that contains more than twenty thousand (20,000)
7 square feet of gross floor area, except that on land zoned M1, M2, M3, M4,
8 or M5, the threshold for industrial uses shall be fifty thousand (50,000)
9 square feet of gross floor area.

10 (c) Projects in a one hundred (100) year floodplain.

11 (3) Any development with a lot area of more than one (1) acre in cumulative total
12 (considering existing lot area and any proposed additional lot area), except that on
13 land zoned M1, M2, M3, M4, or M5, the threshold for industrial uses shall be three
14 (3) acres.

15 (4) Substantial changes in use within any building that has more than twenty thousand
16 (20,000) square feet of gross floor area or of any use with a lot area of more than
17 one (1) acre, except that on land zoned M1, M2, M3, M4, or M5, the threshold for
18 industrial uses shall be fifty thousand (50,000) square feet of gross floor area and
19 three (3) acres. For purposes of site plan review, a substantial change in use is one
20 that involves the establishment of a use from one of the major land use
21 classifications that are set out in Article XII of this Chapter which are residential,
22 public/civic/institutional, retail/service/commercial, manufacturing/industrial, and

1 other, where the use immediately preceding the new use was from a different major
2 land use classification.

3 (5) Any Conditional, Regulated, or Controlled land use and any case before the Board
4 of Zoning Appeals as the body of first jurisdiction.

5 (6) Any use that has drive-up or drive-through facilities or a walk-up component.

6 (7) Animated signs as provided for in Sec. 61-6-71 of this Code.

7 (8) Projects within any PD, SD3, or SD5 District. However, in the SD3, and SD5
8 Districts, alterations to an existing structure, that do not involve additions or major
9 structural alterations, qualify for "expedited review" as provided for in Sec. 61-3-
10 121 of this Code.

11 (9) Projects within the SD4 District that involve the following four (4) utility uses:
12 electric transformer station; gas regulator station; telephone exchange building;
13 water works, reservoir, pumping station, or filtration plant.

14 (10) Projects seeking approval under the Alternative Residential Development Options
15 provisions of ARTICLE XIII, Division 3 of this Chapter.

16 (11) Urban farms and all other agricultural uses specified as a conditional use in Sec.
17 61-12-79 of this Code.

18 (12) Any new or newly established motor vehicle salesroom or sales lot for the sale of
19 used vehicles.

20 (13) Development projects which meet the post-construction stormwater management
21 applicability thresholds described at Sec. 48-2-101 of this Code.

22 **Sec. 61-3-125. Proposed site plan.**

23 The site plan shall depict or disclose the following specific information:

- 1 (1) North arrow, legend, if applicable, with graphic and written scale;
- 2 (2) Property line dimensions with ties to major thoroughfares;
- 3 (3) Declaration whether site is within, adjacent to, across an alley, across a public or
- 4 private street, across a railroad right-of-way, or not within, or adjacent to, or across
- 5 an alley, or across a public or private street, or across a railroad right-of-way from
- 6 a City of Detroit historic district, and boundaries of any such historic district, if
- 7 applicable; (4) General layout and dimensions of proposed physical improvements
- 8 showing the following, as applicable:
 - 9 (a) Location of all existing structures to remain or be removed, and location of
 - 10 all proposed structures;
 - 11 (b) Distance between buildings;
 - 12 (c) Front, side, and rear setbacks;
 - 13 (d) Building footprints with square foot area indicated;
 - 14 (e) Detail of foundations and other elements where such elements result in
 - 15 encroachment into the right-of-way;
 - 16 (f) Location of storage area(s) for hazardous substances;
 - 17 (g) Location of proposed parking and parking layout with square foot area
 - 18 indicated, and total number of off-street parking spaces provided;
 - 19 (h) Streets, drives, and rights-of-way;
 - 20 (i) Walls, fences, or greenbelts;
 - 21 (j) General landscaped areas;
 - 22 (k) Dumpster pad location and method of screening;
 - 23 (l) Location of loading and servicing areas;

- 1 (m) Transformer location;
- 2 (n) All mechanical equipment located outside the structure, which includes, but
- 3 is not limited to, condensing units, and roof top units;
- 4 (o) Pedestrian sidewalks, paths, and non-vehicle walkways;
- 5 (p) Locations of all signage and all sign structures;
- 6 (q) Proposed site lighting;
- 7 (r) Proposed contour changes; and
- 8 (s) Proposed cutting, clearing, or retention of existing vegetation.
- 9 (t) Proposed limits of "earth disturbance," as defined in Sec. 56-3-102 of this
- 10 Code, with square footage indicated.
- 11 (u) Areas of "impervious surface," as defined in Sec. 56-3-102 of this Code,
- 12 with square footage indicated and with a distinction made between existing
- 13 and proposed impervious surfaces.
- 14 (5) Any proposed filling, draining, cutting, dredging, grading, clearing, or other
- 15 alterations that are proposed for wetlands, which shall be in accordance with Part
- 16 301 of the Michigan Natural Resources and Environmental Protection Act
- 17 (NREPA), titled *Inland Lakes and Streams*, being MCL 324.30107 through MCL
- 18 324.30113 and with Part 303 of the Michigan Natural Resources and
- 19 Environmental Protection Act (NREPA), titled *Wetland Protection*, being MCL
- 20 324.30307 through 324.30323;
- 21 (6) Generalized location of proposed utilities including electrical, cable, telephone, gas
- 22 connections, water connections, sanitary sewer connections, and storm

- 1 connections, including location and size of any retention or detention ponds, and
2 clearly labeling all proposed and existing easements;
- 3 (7) Street and road names for all proposed rights-of-way, proposed change in rights-
4 of-way and private roads, and submission of project name and street names to
5 City's Street Naming Committee for suitability;
- 6 (8) Where phased construction is proposed, clearly delineate phases and timetable, and
7 each phase must stand on its own regarding density, parking, and landscaping; and
- 8 (9) Development summary:
- 9 (a) Allowable lot coverage versus proposed lot coverage;
- 10 (b) Number and dimensions of required off-street parking spaces as specified
11 in ARTICLE XIV, Division 1 of this Chapter versus proposed off-street
12 parking spaces.
- 13 (c) Number and dimensions of required off-street loading spaces as specified
14 in ARTICLE XIV, Division 1 of this Chapter versus proposed off-street
15 loading spaces.

16 **Sec. 61-3-127. Attachments (8-1/2" x 11", bound).**

17 The following attachments shall be provided in bound format:

- 18 (1) Narrative to include:
- 19 (a) Overall description of the project in detail;
- 20 (b) Existing and proposed use groups for existing and proposed structures;
- 21 (c) Building descriptions in terms of building code construction type;
- 22 (d) Copies of completed applications and/or permits for all applicable state,
23 federal, or county agencies, including, but not limited to wetlands;

- 1 (e) Anticipated volume of truck traffic and anticipated size of trucks regularly
2 servicing the premises, for adequacy of turning radius on site; and
- 3 (f) Other statements as may be specified by the reviewing body.
- 4 (2) Geotechnical study that is supplemented with Phase I Environmental Assessment,
5 if necessary;
- 6 (3) Any baseline environmental assessment or Phase I environmental assessment that
7 may have been prepared for the subject site;
- 8 (4) Traffic Impact Study, as provided for in ARTICLE XIV, Division 4 of this Chapter,
9 if required, that analyzes safety and efficiency of access, adequacy of driveways
10 and internal road systems, and impact on external roads;
- 11 (5) As may be required by the Planning and Development Department, documentation
12 in advance, of compliance with the Operational Performance Standards, as
13 provided for in ARTICLE XIV, Division 7 of this Chapter.
- 14 (6) Post-construction stormwater management plan, in accordance with CHAPTER
15 56, ARTICLE III, DIVISION 4, if required thereunder.

16 **Subdivision C. Authority to Review and Approve Site Plans.**

17 **Sec. 61-3-141. Planning and Development Department.**

18 Within the following zoning districts, the Planning and Development Department shall
19 have the power to review and approve preliminary and final site plans: R1, R2, R3, R4, R5, R6,
20 B1, B2, B3, B4, B5, B6, M1, M2, M3, M4, M5, P1, TM, PR, W1, SD1, SD2, SD3, and SD4 with
21 less than three (3) acres. The Buildings, Safety Engineering and Environmental Department is
22 authorized to participate in the review of all site plans. The Water and Sewerage Department is
23 authorized to participate in the review of all site plans. The Planning and Development Department

1 shall involve other such departments as deemed necessary for proper site plan review, including,
2 but not limited to, the Recreation Department; review of agricultural uses shall also include the
3 City Planning Commission staff, the Department of Public Works, ~~the Detroit Water and Sewerage~~
4 ~~Department,~~ and other departments and agencies as necessary.

5 **Sec. 61-3-142. City Council.**

6 Within the following zoning districts, the City Council shall have the power to review and
7 approve site plans, after recommendation from the City Planning Commission: PD, PC, PCA, SD4
8 with three (3) acres or more, and SD5. The Water and Sewerage Department is authorized to
9 participate in the review of all site plans. The City Planning Commission shall involve other such
10 departments, as deemed necessary, for proper site plan review including, but not limited to, the
11 Buildings, Safety Engineering and Environmental Department and the Recreation Department;
12 review of agricultural uses shall also include the Planning and Development Department, the
13 Department of Public Works, ~~the Detroit Water and Sewerage Department,~~ and other departments
14 and agencies as necessary. Any preliminary site plan approval by City Council shall be indicated
15 by the adoption of a resolution, or in the case of a PD District, by the passing of an ordinance. The
16 City Council may delegate final site plan approval to the City Planning Commission, which shall
17 act consistent with its bylaws with regard to those matters reserved for itself and those matters
18 delegated to its staff. Permit applications for "change of use" not involving alteration to the
19 building or premises are subject to review and approval only by the City Planning commission
20 staff.

21 **Subdivision D. Approval Criteria**

1 **Sec. 61-3-168. Criteria; stormwater management**

2 The proposed development shall comply with the post-construction stormwater
3 management requirements set forth in Chapter 56, Article III, Division 4 of this Code.

4 **Secs. ~~61-3-168~~ 61-3-169-61-3-170. Reserved.**


5 **Section 2.** All ordinances or parts of ordinances in conflict with this ordinance are
6 repealed.

7 **Section 3.** This ordinance is declared necessary for the preservation of the public peace,
8 health, safety, and welfare of the people of the City of Detroit.

9 **Section 4.** This ordinance shall become effective on the eighth (8th) day after publication in
10 accordance with MCL 125.3401(6) and Section 4-118, paragraph 3 of the 2012 Detroit City Charter.

11

12 Approved as to Form:

13 
14 _____
15 Lawrence T. Garcia
16 Corporation Counsel