ORDINANCE NO. 2023 - 77

AN ORDINANCE AMENDING CHAPTER 1105 ENTITLED "STORM WATER MANAGEMENT, SEDIMENT AND EROSION CONTROL AND WETLANDS PROTECTION" OF THE PARMA HEIGHTS CODIFIED ORDINANCES, AND RENAMING CHAPTER 1105 "EROSION AND SEDIMENT CONTROL", AS AMENDED

WHEREAS, soil is most vulnerable to erosion by wind and water during soil disturbing activities and this eroded soil necessitates repair of sewers and ditches and dredging of rivers, harbors, and lakes; accelerates downstream bank erosion and damage to public and private property; damages water resources by reducing water quality; and causes the siltation of aquatic habitat; and

WHEREAS, communities throughout the watershed(s) in which the City of Parma Heights is located have experienced and continue to experience costs associated with inadequate erosion and sediment control and increased State and Federal regulation; and

WHEREAS, there are watershed-wide efforts to reduce sedimentation in the Big Creek and Rocky River and to protect and enhance the unique water resources of the Big Creek and Rocky River watersheds; and

WHEREAS, 40 C.F.R. Parts 122, 123, and 124, and Ohio Administrative Code 3745-39 require designated communities, including the City of Parma Heights, to develop a Stormwater Management Program that, among other components, requires the City of Parma Heights to address, among other components, erosion and sediment control during soil disturbing activities; and

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to adopt rules to abate soil erosion and water pollution by soil sediments; and

WHEREAS, the Planning Commission met, considered, and recommended the amendment to Chapter 1105 of the Parma Heights Codified Ordinances to Council and the Administration.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Parma Heights, County of Cuyahoga, and State of Ohio:

Section 1: That Chapter 1105 of the Codified Ordinances as it previously existed is amended, and as amended, shall henceforth read as shown by edits set forth in Exhibit "A", which is attached hereto and incorporated by reference, and shall henceforth be renamed "Erosion and Sediment Control".

Section 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 3: That this Ordinance shall take effect and be in force from and after the earliest date provided for by law.

PASSED: January 8, '24 — Thomas Rounds, PRESIDENT OF COUNCIL

ATTEST: Barbara Allen, CLERK OF COUNCIL — January 8, '24, APPROVED

FILED WITH THE MAYOR: January 8, '24 — MAYOR MARIE GALLO

EXHIBIT A

CHAPTER 1105
Erosion and Sediment Control

1105.01 PURPOSE AND SCOPE

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources, and will promote and maintain the health and safety of the citizens of City of Parma Heights:

(b) This regulation will:

(1) Allow development while minimizing increases in erosion and sedimentation.

(2) Reduce water quality impacts to receiving water resources that may be caused by new development, redevelopment, grading, or clearing activities.

(c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing.

1105.02 DEFINITIONS

The definitions contained in Ohio Environmental Protection Agency ("Ohio EPA")'s Construction General Permit entitled "Authorization for Storm Water Discharges Associated with Construction Activity under the National Pollutant Discharge Elimination System" in effect at the time a permit is applied for under this chapter shall apply to this chapter, and the following definitions shall also apply:

For purpose of this regulation, the following terms shall have the meaning herein indicated:

(a) ABBREVIATED EROSION AND SEDIMENT CONTROL PLAN: The written document that sets forth the plans and practices to be used to meet the requirements of this regulation for sites disturbing one-tenth (0.1) to one (1) acre of land.

(b) ACRE: A measurement of area equaling 43,560 square feet.

(c) ADMINISTRATOR: The person or entity having the responsibility and duty of administering and ensuring compliance with this regulation.

(d) COMMUNITY: Throughout this regulation, this shall refer to the City of Parma

Heights, its designated representatives, boards, or commissions.

(e) CONSTRUCTION ENTRANCE: The permitted points of ingress and egress to development areas regulated under this regulation.

(f) CONSTRUCTION GENERAL PERMIT: The most recent General National Pollutant Discharge Elimination System (NPDES) permit for authorization of storm water discharges associated with construction activities issued by Ohio EPA (Ohio EPA Permit #OHC000005 and its successors).

(g) CRITICAL AREA: Any area the disturbance of which would cause soil erosion and sediment runoff and damage to private properties, water courses, storm sewers or public lands due to topography, soil type, hydrology, or proximity to a water course. These areas include, but are not limited to, riparian areas, wetlands, and highly erodible soils.

(h) DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

(i) DEWATERING VOLUME: See current *Ohio Rainwater and Land Development* Manual.

(j) DISCHARGE: The addition of any pollutant to surface waters of the state from a point source.

(k) DISTURBANCE: Any clearing, grading, grubbing, excavating, filling, or other alteration of land surface where natural or man-made cover is destroyed in a manner that exposes the underlying soils.

(l) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities such as grading, excavating, or filling.

(m) DRAINAGE: (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or groundwater from land by surface or subsurface drains.

(n) DRAINAGE WAY: A natural or manmade channel, ditch, or waterway that conveys surface water in a concentrated manner by gravity.

(o) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.

(p) EROSION AND SEDIMENT CONTROL: The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.

(q) EROSION AND SEDIMENT CONTROL PLAN: The written document meeting the requirements of this regulation which sets forth the plans and practices to be used to minimize soil erosion and prevent off-site disposal of soil sediment by containing sediment on-site or bypassing sediment-laden runoff through a sediment control measure during and after land development.

(r) GRADING: The excavating, filling, or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.

(s) GRUBBING: removing or grinding of roots, stumps, and other unwanted material below existing grade.

(t) IMPERVIOUS: That which does not allow infiltration.

(u) LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.

(v) SUBDIVISIONS, MAJOR AND MINOR: See Ohio Administrative Code 711.001 for definition.

(w) PARCEL: Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the Cuyahoga County Auditor's Office.

(x) PERCENT IMPERVIOUSNESS: The impervious area created divided by the total area of the project site.

(y) PERSON: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.

(z) PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

(aa) PRE-CONSTRUCTION MEETING: A meeting between the City of Parma Heights and all principal parties, prior to the start of any construction, at a site that requires a Stormwater Pollution Prevention Plan.

(bb) PRE-WINTER STABILIZATION MEETING: A meeting between the City of Parma Heights and all principal parties, prior to October 1, in order to plan winter erosion and sediment controls for a site that requires a Stormwater Pollution Prevention Plan.

(cc) RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

(dd) SEDIMENT: The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.

(ee) SEDIMENTATION: The deposition or settling of sediment.

(ff) SEDIMENT STORAGE VOLUME: See current edition of *Rainwater and Land Development.*

(gg) SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, grubbing or stump removal that occurs during clearing or timber activities, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.

(hh) SOIL & WATER CONSERVATION DISTRICT: An entity organized under Chapter 940 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Cuyahoga SWCD.

(ii) STABILIZATION: The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.

(jj) STORMWATER POLLUTION PREVENTION PLAN (SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

(kk) STORMWATER: Stormwater runoff, snow melt and surface runoff and drainage.

(ll) SURFACE OUTLET: A dewatering device that only draws water from the surface of the water.

(mm) TEMPORARY STABILIZATION: The establishment of temporary vegetation, mulching, geotextiles, sod, preservation of existing vegetation, and other techniques capable of quickly establishing cover over disturbed areas to provide erosion control between construction operations.

(nn) TOPSOIL: The upper layer of the soil that is usually darker in color and richer in

organic matter and nutrients than subsoil.

(oo) UNSTABLE SOILS: A portion of land that is identified by the City Engineer as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.

(pp) WATER RESOURCE Also SURFACE WATER OF THE STATE: Any stream, lake, reservoir, pond, marsh, wetland, or waterway situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.

(qq) WATERSHED: The total drainage area contributing runoff to a single point.

(rr) WETLAND: Those areas, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

1105.03 DISCLAIMER OF LIABILITY

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

1105.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY

(a) Where this regulation is in conflict with other provisions of law or ordinance or requirements in the Construction General Permit, the most restrictive provisions shall prevail.

(b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(c) This regulation shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

(d) Failure of the City of Parma Heights to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner

from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Parma Heights, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

1105.05 DEVELOPMENT OF STORMWATER POLLUTION PREVENTION PLANS

(a) This regulation requires that a Storm Water Pollution Prevention Plan (SWP3) be developed and implemented for all soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land. The City Engineer may require a SWP3 for sites disturbing less than one (1) acre.

(b) The following activities shall submit an Abbreviated SWP3:

(1) New single-family residential construction that disturbs one-tenth (0.1) up to one (1) acre of land.

(2) Additions or accessory buildings for single-family residential construction that disturb one-tenth (0.1) up to one (1) acre of land.

(3) All non-residential construction that disturbs one-tenth (0.1) - up to one (1) acre of land.

(4) General clearing activities not related to construction that disturb one-tenth (0.1) up to one (1) acre of land.

(5) Activities disturbing one-tenth (0.1) or less of an acre are not required to submit a SWP3, unless required by the City Engineer. These activities must comply with all other provisions of this regulation.

1105.06 APPLICATION PROCEDURES

(a) SOIL DISTURBING ACTIVITIES SUBMITTING A STORMWATER POLLUTION PREVENTION PLAN (SWP3): The applicant shall submit the SWP3 and the applicable fees to the City of Parma Heights:

(1) For subdivisions: After the approval of the preliminary plans and with submittal of the improvement plans.

(2) For other construction projects: Before issuance of a permit by the City.

(3) For general clearing projects: Prior to issuance of a permit by the City.

(b) SOIL DISTURBING ACTIVITIES SUBMITTING AN ABBREVIATED STORMWATER

POLLUTION PREVENTION PLAN (SWP3): The applicant shall submit the Abbreviated SWP3 and the applicable fees to the City of Parma Heights as follows:

(1) For single-family home construction: Before issuance of a permit by the City.

(2) For other construction projects: Before issuance of a permit by the City.

(3) For general clearing projects: Prior to issuance of a permit by the City.

(c) The City Engineer shall review the plans submitted under 1105.06 (a) or (b) for conformance with this regulation and approve, or return for revisions with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a checklist or narrative report stating specific problems and the procedures for filing a revised plan.

(d) Soil disturbing activities (including mechanized clearing) shall not begin and zoning, building, or grading permits shall not be issued without:

(1) Approved SWP3 or Abbreviated SWP3.

(2) NOI submittal to Ohio EPA and NPDES permit coverage issued.

(3) Physical marking in the field of protected areas or critical areas, including wetlands and riparian areas.

(4) Installation of construction entrances, perimeter sediment barriers and other erosion and sediment controls that must be in place to address initial site conditions.

(e) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the sublot is in compliance with this regulation.

(f) The developer, engineer and contractor, and other principal parties, shall meet with the City Engineer for a Pre-Construction Meeting no less than seven (7) days prior to soil-disturbing activity at the site to ensure that erosion and sediment control devices are properly installed, limits of disturbance and buffer areas are properly delineated and construction personnel are aware of such devices and areas. Pre-Construction Meetings for Abbreviated SWP3s may be waived at the discretion of the City Engineer.

(g) Approvals issued in accordance with this regulation shall remain valid for one (1) year from the date of approval.

1105.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these state and federal regulations shall be submitted with SWP3s or Abbreviated SWP3s.

(a) Ohio EPA Construction General Permit: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI), a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit including the NPDES Facility Permit number assigned by Ohio EPA, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable. Please note that when a separate SWP3 shall be prepared for a separate phase or stage of development, a separate NOI or NPDES Facility Permit number must be provided.

(b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable because there are no wetlands on site. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(c) Ohio EPA Isolated Wetland or Ephemeral Stream Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit or Ephemeral Stream application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit or Ephemeral Stream Permit is not applicable because there are no wetlands or ephemeral streams on the site. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

(1) A letter from the site owner certifying that a qualified professional has evaluated the site and determined that Section 404 of the Clean Water Act is not applicable because there are no wetlands on site.

(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

1105.08 STORMWATER POLLUTION PREVENTION PLAN (SWP3)

(a) The applicant shall submit a SWP3 that meets the requirements of the Construction General Permit and the following additional requirements. The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect. The SWP3 shall include control measures to ensure that discharges from the construction site and construction support activities comply with the non- numeric effluent limitations contained in the Construction General Permit.

(b) In addition to all information required by the Construction General Permit, the SWP3 shall also include completed design tools found on Ohio EPA's website such as the Sediment Basin Compliance Spreadsheet.

(c) Before any off-site support areas such as borrow or spoil areas, concrete or asphalt batch plants, equipment staging yards or material storage areas are utilized, a SWP3 for the off-site support area must be submitted and approved by the City Engineer. The applicant shall ensure appropriate permits have been obtained to operate the off-site support area. Failure to do so can lead to enforcement action under Sections 1105.13 and 1105.14 of this code.

(d) The City Engineer may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings and shall contain all the information listed below. Recommendations included in the report and approved by the City Engineer shall be incorporated in the grading plans and/or other specifications for site development.

(1) Data regarding the nature, distribution, strength, and erodibility of existing soils.

(2) If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.

(3) Conclusions and recommendations for grading procedures.

(4) Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.

(5) Design criteria for corrective measures when necessary.

(6) Opinions and recommendations covering the stability of the site.

(7) Delineations of surface waters of the state located on the site. Affirmation by the U.S. Army Corps of Engineers may be required.

1105.09 PERFORMANCE STANDARDS

The SWP3 must contain a description of the controls appropriate for each stage of construction operation and the applicant must implement such controls. BMP selection and design must meet criteria established within the current Construction General Permit. BMPs must be designed, constructed and installed to meet the specifications in *Rainwater and Land Development* or another design manual acceptable to the City of Parma Heights. The approved SWP3, and the sediment and erosion controls, and non-sediment pollution controls contained therein, shall be implemented and maintained according to the requirements in the Construction General Permit. Site operators must conduct site inspections as described in the Construction General Permit.

Certified inspection reports shall be submitted to the City Engineer within seven (7) working days from the inspection and retained at the development site.

The following standards will also apply:

(a) BMPs must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These BMPs must include, but are not limited to, the following:

(1) Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter placed over a geotextile. Culverts shall be provided where construction entrances cross drainage ditches and water bars shall be provided to divert sediment-laden runoff away from connected roadways.

(2) Streets and catch basins adjacent to construction entrances shall be kept free of sediment tracked off site. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall also be cleaned

weekly and protected from sediment-laden runoff, if feasible without posing a public safety hazard.

(3) Based on site conditions, the City Engineer may require additional best management practices to control off-site tracking and dust. These additional BMPs may include:

(a) Fencing shall be installed around the perimeter of the development area to ensure that all vehicle traffic adheres to designated construction entrances.

(b) Applicants shall take all necessary measures to comply with applicable regulations regarding fugitive dust emissions, including obtaining necessary permits for such emissions. The City Engineer may require dust controls including the use of water trucks to wet disturbed areas, tarping stockpiles, temporary stabilization of disturbed areas, and regulation of the speed of vehicles on the site.

(b) Construction vehicles shall avoid water resources. If it is infeasible to provide and maintain an undisturbed natural buffer around water resources, the SWP3 shall comply with all the following additional requirements:

(1) All stream crossings shall be designed as specified in the most recent edition of *Rainwater and Land Development.*

(2) Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.

(3) Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.

(4) Protected areas or critical areas, including wetlands and riparian areas shall be physically marked in the field prior to earth disturbing activities.

(c) For sites that will not be completed by October 1, a Pre-Winter Stabilization Meeting shall be held by the landowner and the developer, engineer and contractor of the project and the City of Parma Heights prior to October 1, in order to plan and approve winter erosion and sediment controls as defined in the most current online edition of *Rainwater and Land Development.*

1105.10 ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (SWP3)

(a) In order to control sediment pollution of water resources, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this

regulation.

(b) The Abbreviated SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The Abbreviated SWP3 shall include a minimum of the following BMPs. The City of Parma Heights may require other BMPs as site conditions warrant.

(1) Construction Entrances: Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter and placed over a geotextile fabric.

(2) Concrete Truck Wash Out: The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be indicated on the plan. Use for other waste and wastewater is prohibited.

(3) Street Sweeping: Streets directly adjacent to construction entrances and receiving traffic from the development area shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall be cleaned weekly.

(4) Stabilization. The development area shall be stabilized as detailed in Table 4.

Table 4: Stabilization

Area requiring stabilization	Time frame to apply erosion controls
Any disturbed area within 50 feet of a surface water of the state and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 14 days
For all construction activities, any disturbed area, including soil stockpiles, that will be dormant for more than 14 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area
Disturbed areas that will be idle over winter	Prior to November 1
Areas at final grade	Within 7 days of reaching final grade or within 2 days of reaching final grade for areas within 50 feet of a surface water of the state

Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.

(5) Inlet Protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed on storm water catch basins located on the subject property and, if there is no threat to public safety, on curb inlets closest to the construction entrance, to minimize sediment-laden water entering active storm drain systems, including rear yard inlets.

(6) Silt Fence and Other Perimeter Controls. Silt fence and other perimeter controls approved by the City of Parma Heights shall be used to protect adjacent properties and water resources from sediment discharged via sheet (diffused) flow. Silt fence shall be placed along level contours and the permissible drainage area is limited to those indicated in the Construction General Permit.

(7) Internal Inspection and Maintenance. All controls on the development area shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24- hour period. Maintenance shall occur as detailed below:

(a) When BMPs require repair or maintenance. If the internal inspection reveals that a BMP is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.

(b) When BMPs fail to provide their intended function. If the internal inspection reveals that a BMP fails to perform its intended function and that another, more appropriate control practice is required, the Abbreviated SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.

(c) When BMPs depicted on the Abbreviated SWP3 are not installed. If the internal inspection reveals that a BMP has not been implemented in accordance with the schedule, the BMP must be implemented within ten (10) days from the date of the inspection. If the inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(8) Final Stabilization: Final stabilization is achieved when the site has reached 70% cover and when the City Engineer approves the site condition.

1105.11 FEES

The SWP3 and Abbreviated SWP3 review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City of Parma Heights before the review process begins. Please consult with the City Engineer for current fee schedule.

1105.12 BOND

(a) If a SWP3 or abbreviated SWP3 is required by this regulation, soil disturbing activities shall not be permitted until a cash bond or deposit has been deposited with the City of Parma Heights Finance Department. The amount shall be a $2,000 minimum, and an additional $2,000 paid for each subsequent acre or fraction thereof or the cost of stabilizing disturbed areas based on a fee schedule established by the City of Parma Heights. The bond will be used for the City of Parma Heights to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The cash bond shall be returned, less City of Parma Heights administrative fees as detailed in the City of Parma Heights Codified Ordinances, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the City Engineer.

(b) A portion of bond (equivalent of cost to apply final stabilization) will be retained until all areas disturbed by construction activity are permanently stabilized and a Notice of Termination has been submitted to Ohio EPA. Where vegetative growth is used to achieve permanent stabilization, the area shall comply with final stabilization requirements of the Construction General Permit.

(c) No project subject to this regulation shall commence without a SWP3 or Abbreviated SWP3 approved by the City Engineer.

1105.13 ENFORCEMENT

(a) If the City of Parma Heights or its duly authorized representative determines that a violation of the rules adopted under this code exist, the City of Parma Heights or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity.

(b) All development areas may be subject to external inspections by the City Engineer and/or his duly authorized representative to ensure compliance with the approved SWP3 or Abbreviated SWP3.

(c) After each external inspection, the City Engineer and/or his duly authorized representative shall prepare and distribute a status report to the applicant.

(d) If an external inspection determines that operations are being conducted in

violation of the approved SWP3 or Abbreviated SWP3, the City Engineer and/or his duly authorized representative may take action as detailed in Sections 1105.13 and 1105.14 of this regulation.

(e) Failure to maintain and repair erosion and sediment controls per the approved SWP3 plan may result in the following escalation. The penalty is determined by the total number of violations per site even if the violations are for different BMPs.

(1) First Violation: The City Engineer will issue a Notice of Deficiency to the owner or operator. All controls are to be repaired or maintained per the SWP3 plan within three (3) days of the notification. If controls have not been corrected after this time, the City Engineer may issue a Stop Work Order for all activities until corrections have been made.

(2) Second Violation: The City Engineer may issue a formal Notice of Violation which includes a $500 administrative fee against the SWP3 Bond or site plan deposit. All controls are to be repaired or maintained per the approved SWP3 plan within three (3) days of the Notice of Violation. If controls have not been corrected after this time, the City Engineer may issue a Stop Work Order for all activities until corrections have been made.

(3) Third and subsequent violations: The City Engineer may issue a Stop Work Order for all construction activities and charge a $1,000 administrative fee against the SWP3 bond or site plan deposit. The Stop Work Order will be lifted once all controls are in compliance with the approved SWP3 plan.

(f) The City Engineer shall have the authority to make immediate on-site adjustments to the SWP3 in order to achieve compliance with this ordinance.

(g) A final inspection will be made to determine if the criteria of this code has been satisfied and a report will be presented to the City of Parma Heights and the site operator on the site's compliance status.

(h) The City Engineer will monitor soil-disturbing activities for non-farm residential, commercial, industrial, or other non-farm purposes on land of less than one contiguous acre to ensure compliance required by these Rules.

(i) The City Engineer shall notify the U.S. Army Corps of Engineers when a violation on a development project covered by an Individual or Nationwide Permit is identified. The City Engineer shall notify the Ohio Environmental Protection Agency when a violation on a development project covered by a Section 401 Water Quality Certification and/or Isolated Wetland Permit is identified.

(j) The City of Parma Heights shall not issue building permits for projects regulated under this code without approved SWP3s.

1105.14 VIOLATIONS

(a) No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

(b) Upon notice, the Mayor and/or designee may suspend any active soil disturbing activity for a period not to exceed ninety (90) days, and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this regulation. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the Mayor and/or designee finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

1105.15 APPEALS

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City of Parma Heights in relation to this regulation may appeal to the Board of Zoning Appeals per Chapter 1139 of this code.

1105.99 PENALTY

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars ($500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The imposition of any other penalties provided herein shall not preclude the City of Parma Heights instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the City of Parma Heights.

~~Storm Water Management, Sediment and Erosion Control and Wetlands Protection~~

~~EDITOR'S NOTE: Ordinance 2005-6, passed March 28, 2005, adopted a Storm Water~~

~~Management Program for the City. Copies may be obtained from the City Clerk.~~

~~CROSS REFERENCES~~
~~Shore erosion - see Ohio R.C. 1507.01 et seq.~~
~~Water pollution - see GEN. OFF. 660.04~~
~~Notice to fill lots; remove putrid substances - see GEN. OFF. 660.13~~
~~Excavation in public ways - see S. & P.S. Ch. 901~~
~~Storm water drainage - see S. & P.S. 931.11, 1301.04 (RDH 1593.65)~~
~~Grading of yards - see BLDG. Ch. 1381~~
~~Flood damage prevention - see BLDG. Ch. 1385~~

~~1105.01 SCOPE.~~
~~This chapter applies to development areas having new or relocated projects involving highways, underground cables, pipelines, subdivisions, industrial projects, commercial projects, building activities on farms, redevelopment of urban areas and all other land uses not specifically exempted. This chapter does not apply to:~~
~~(a) Land-disturbing activities related to producing agricultural crops or silviculture operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (O.A.C. 1501: 15-3-01 to 1501: 15-3-09) and existing at the time of passage of this regulation.~~

~~(b) Coal surface mining operations regulated by Ohio R.C. Chapter 1513 and existing at the time of passage of this regulation.~~
~~(c) Other surface mining operations regulated by Ohio R.C. Chapter 1514 and existing at the time of passage of this regulation.~~
~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.02 DEFINITIONS.~~
~~As used in this chapter:~~
~~(1) "Approving Authority." The official responsible for administering the applicable program(s).~~
~~(2) "Best Management Practice (BMP)." Any practice or combination of practices that is determined to be the most effective, practicable (including technological, economic, and institutional considerations) means of preventing or reducing the amount of pollution generated by non-point sources of pollution to a level compatible with water quality goals. "BMPs" may include structural practices, conservation practices and operation and maintenance procedures.~~
~~(3) "Certified professional in erosion and sediment control (CPESC)." A person that has subscribed to the Code of Ethics and has met the requirements established by the CPESC Council of Certified Professional in Erosion and Sediment Control, Inc. to be a certified professional in erosion and sediment control.~~
~~(4) "Channel." A natural stream that conveys water, or a ditch or channel excavated for the natural flow of water.~~
~~(5) "Concentrated storm water runoff." Surface water runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.~~
~~(6) "Conservation." The wise use and management of natural resources.~~
~~(7) "Cut and fill slopes." A portion of land surface or area from which soil material is excavated and/or filled.~~
~~(8) "Damaged or diseased trees." Trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; leaning as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling.~~
~~(9) "Denuded area." A portion of land surface on which the vegetation or other soil stabilization features have been removed, destroyed or covered, and which may result in or contribute to erosion and sedimentation.~~
~~(10) "Designated watercourse." A watercourse that is contained within, flows through, or borders the City and meets the criteria set forth in these regulations.~~
~~(11) "Detention basin." A storm water management pond that remains dry between storm events. Storm water management ponds include a properly engineered/designed volume which is dedicated to the temporary storage and slow release of runoff waters.~~
~~(12) "Deteriorated structure." A structure which has sustained substantial damage from any origin whereby the cost of restoring the structure to its before-damaged condition would be equal to or greater than 50% of the market value of the structure before the damage occurred.~~

~~(13) "Development area." Any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land, which are in one ownership or are contiguous and in diverse ownership, where earth-disturbing activity is to be performed.~~

~~(14) "Ditch." An excavation, either dug or natural, for the purpose of drainage or irrigation, and having intermittent flow.~~

~~(15) "Dumping." The grading, pushing, piling, throwing, unloading or placing of soil or other material.~~

~~(16) "Earth-disturbing activity." Any grading, excavating, filling or other alteration of the earth's surface where natural or man-made ground cover is destroyed.~~

~~(17) "Earth material." Soil, sediment, rock, sand, gravel and organic material or residue associated with or attached to the soil.~~

~~(18) "Erosion." The process by which the land surface is worn away by the action of water, wind, ice or gravity.~~

~~(19) "Erosion and sediment control." A written and/or drawn soil erosion and sediment pollution control plan to minimize erosion and prevent off-site sedimentation throughout all earth-disturbing activities on a development area.~~

~~(20) "Erosion and sediment control practices." Conservation measures used to control sediment pollution and including structural practices, vegetative practices and management techniques.~~

~~(21) "Existing." In existence at the time of the passage of these regulations.~~

~~(22) "Federal Emergency Management Agency (FEMA)." The agency with overall responsibility for administering the National Flood Insurance Program.~~

~~(23) "Frequency storm." A rainfall event of a magnitude having a specified average recurrence interval and is calculated with Natural Resources Conservation Service, USDA Type II 24-hour curves or depth-duration frequency curves.~~

~~(24) "Grading." Earth-disturbing activity such as excavation, stripping, cutting, filling, stockpiling or any combination thereof.~~

~~(25) "Grubbing." Removing, clearing or scalping material such as roots, stumps or sod.~~

~~(26) "Impervious cover." Any surface that cannot effectively absorb or infiltrate water. This includes roads, streets, parking lots, rooftops and sidewalks.~~

~~(27) "Intermittent stream." A natural channel that may have some water in pools but where surface flows are nonexistent or interstitial (flowing through sand and gravel in stream beds) for periods of one week or more during typical summer months.~~

~~(28) "Larger common plan of development or sale." A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.~~

~~(29) "Landslide." The rapid mass movement of soil and rock material downhill under the influence of gravity in which the movement of the soil mass occurs along an interior surface of sliding.~~

~~(30) "Local County SWCD." The local County Soil and Water Conservation District.~~

~~(31) "National Wetlands Inventory Map." Wetland maps that were created by the Fish and Wildlife Service, United States Department of Interior.~~

~~(32) "Natural Resources Conservation Service (NRCS)." An agency of the United States Department of Agriculture, formerly known as the Soil Conservation Service (SCS).~~

~~(33) "Noxious weed." Any plant species defined by the Ohio Department of Agriculture as a "noxious weed" and listed as such by the Department. For the purposes of this~~

~~regulation, the most recent version of this list at the time of application of these regulations shall prevail.~~

~~(34) "NPDES permit." A National Pollutant Discharge Elimination System permit issued by Ohio EPA under the authority of the USEPA, and derived from the Federal Clean Water Act.~~

~~(35) "Ohio EPA." The Ohio Environmental Protection Agency.~~

~~(36) "Ohio Wetlands Inventory Map." Wetland maps that were created by the Natural Resources Conservation Service, USDA and the Ohio Department of Natural Resources.~~

~~(37) "Ordinary high water mark." The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.~~

~~(38) "Outfall." An area where water flows from a structure such as a conduit, storm sewer, improved channel or drain, and the area immediately beyond the structure which is impacted by the velocity of flow in the structure.~~

~~(39) "Perennial stream." A natural channel that contains water throughout the year, except possibly during periods of extreme drought.~~

~~(40) "Person." Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, township, county, state agency, the Federal government, or any combination thereof.~~

~~(41) "Professional engineer." A person registered in the State of Ohio as a professional engineer, with specific education and experience in water resources engineering, acting in strict conformance with the Code of Ethics of the Ohio Board of Registration for Engineers and Surveyors.~~

~~(42) "Qualified forester." Any forester employed by the Ohio Department of Natural Resources, Division of Forestry, or any person attaining the credential of certified forester as conferred by the Society of American Foresters.~~

~~(43) "Qualified Wetland Professional." An individual competent in the areas of botany, hydric soils, and wetland hydrology, and is acceptable to the City Engineer.~~

~~(44) "Redevelopment." The demolition or removal of existing structures or land uses and construction of new ones.~~

~~(45) "Retention basin." A storm water management pond that maintains a permanent pool of water. These storm water management ponds include a properly engineered/designed volume dedicated to the temporary storage and slow release of runoff waters.~~

~~(46) "Riparian area." Naturally vegetated land adjacent to watercourses which, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood flows and/or filter and settle out runoff pollutants, or which performs other functions consistent with the purposes of these regulations.~~

~~(47) "Riparian setback." Those lands within the City which are alongside streams where earth-disturbing activities will not take place and natural vegetation will not be removed.~~

~~(48) "Sediment." Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity or ice, and has come to rest on the earth's surface either on dry land or in a body of water.~~

~~(49) "Sediment barrier." A sediment-control device such as a geotextile silt fence or a grass filter strip, usually capable of controlling only small flow rates. Straw bale barriers~~

~~are not acceptable.~~

~~(50) "Sediment control." The limiting of sediment being transported by controlling erosion or detaining sediment-laden water and allowing the sediment to settle out.~~

~~(51) "Sediment pollution." A failure to use management or conservation practices to control wind or water erosion of the soil and to minimize the degradation of water resources by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for commercial, industrial, residential or other purposes.~~

~~(52) "Sediment settling pond/basin." A temporary sediment pond that releases runoff at a controlled rate. It is designed to slowly release runoff, detaining it long enough to allow most of the sediment to settle out of the water. The outlet structure is usually a designed pipe riser and barrel. The entire structure is removed after construction. Permanent storm water detention structures can be modified to function as temporary sediment basins.~~

~~(53) "Sediment trap." A temporary sediment-settling pond having a simple spillway outlet structure stabilized with geotextile and riprap.~~

~~(54) "Sensitive area." An area or water resource that requires special management because of its susceptibility to sediment pollution, or because of its importance to the well-being of the surrounding communities, region, or the State, and includes, but is not limited to, the following:~~

~~A. Ponds, wetlands or small lakes with less than five acres of surface area;~~

~~B. Small streams with gradients less than ten feet per mile with average annual flows of less than 3.5 feet per second, containing sand or gravel bottoms.~~

~~C. Drainage areas of a locally or Ohio-designated scenic river.~~

~~D. Riparian and wetland areas.~~

~~(55) "Settling pond." A runoff detention structure, such as a sediment basin or sediment trap, which detains sediment-laden runoff, allowing sediment to settle out.~~

~~(56) "Sheet flow." Water runoff in a thin uniform layer or rills and which is of small enough quantity to be treated by sediment barriers.~~

~~(57) "Silviculture." The theory and practice of controlling forest establishment, composition and growth.~~

~~(58) "Slip." A landslide as defined in this section under "Landslides."~~

~~(59) "Sloughing." A slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.~~

~~(60) "Soil." Unconsolidated erodible earth material consisting of minerals and/or organics.~~

~~(61) "Soil Conservation Service, USDA." The federal agency now titled the "Natural Resources Conservation Service," which is an agency of the United States Department of Agriculture.~~

~~(62) "Soil-disturbing activity." Clearing, grading, excavating, filling or other alteration of the earth's surface where natural or human-made ground cover is destroyed and which may result in, or contribute to, soil erosion and sediment pollution.~~

~~(63) "Soil Erosion and Sediment Control Plan." A written and/or drawn soil erosion and sediment pollution control plan to minimize erosion and prevent off-site sedimentation throughout all earth-disturbing activities on a development area.~~

~~(64) "Soil erosion and sediment control practices." Conservation measures used to control sediment pollution, and including structural practices, vegetative practices and~~

~~management techniques.~~

~~(65) "Soil stabilization." Vegetative or structural soil cover that controls erosion, and includes permanent and temporary seeding, mulch, sod, pavement, etc.~~

~~(66) "Soil survey." The official soil survey produced by the Natural Resources Conservation Service, USDA in cooperation with the Division of Soil and Water Conservation, ODNR and the local Board of County Commissioners.~~

~~(67) "Storm water control structure." Practice used to control accelerated storm water runoff from development areas.~~

~~(68) "Storm water conveyance system." All storm sewers, channels, streams, ponds, lakes, etc., used for conveying concentrated storm water runoff, or for storing storm water runoff.~~

~~(69) "Storm Water Pollution Prevention Plan (SWP3)." The plan required by Ohio EPA to meet the requirements of its National Pollutant Discharge Elimination System (NPDES) permit program for construction activities.~~

~~(70) "Storm water runoff." Surface water runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.~~

~~(71) "Stream." A body of water running or flowing on the earth's surface, or a channel with a defined bed and banks in which such flow occurs. Flow may be seasonally intermittent.~~

~~(72) "Substantial damage." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to or greater than 50% of the market value of the structure before the damage occurred.~~

~~(73) "Unstable soil." A portion of land surface or area which is prone to slipping, sloughing or landslides, or is identified by Natural Resources Conservation Service methodology as having a low soil strength.~~

~~(74) "USEPA." The United States Environmental Protection Agency.~~

~~(75) "Wastewater." Any water that is contaminated with gasoline, fuel oil, hydrocarbon based chemicals, paint, paint-washing liquids or other paint wastes, sanitary wastes or any other Ohio EPA-regulated contaminants.~~

~~(76) "Water resources." All streams, lakes, ponds, wetlands, watercourses, waterways, drainage systems and all other bodies or accumulations of surface water, either natural or artificial, which are situated wholly or partly within, or border upon this State, or are within its jurisdiction, except those private waters which do not combine or affect a junction with natural surface waters.~~

~~(77) "Watercourse." Any natural, perennial or intermittent channel with a defined bed and banks, stream, river or brook.~~

~~(78) "Wetland." Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. (40 C.F.R. 232, as amended). Wetlands shall be delineated by a site survey approved by the City using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetlands shall apply.~~

(79) "Wetland; Ohio EPA Category 2 Wetlands." Those wetlands classified by the Ohio EPA as Category 2 Wetlands under O.A.C 3745-1-54(C)(2), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.

(80) "Wetland; Ohio EPA Category 3 Wetlands." Those wetlands classified by the Ohio EPA as Category 3 Wetlands under O.A.C. 3745-1-54(C)(3), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.

(81) "Wetland setback." Those lands adjacent to wetlands where earth-disturbing activities will not take place and natural vegetation will not be removed.

(82) "Winter." October 1 to April 1 of each year.

(83) "100-year floodplain." Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a 1% or greater chance of being equaled or exceeded in any given year. For the purposes of this regulation, the 100-year floodplain shall be defined by FEMA or a site-specific floodplain delineation in conformance with standard engineering practices and approved by the City.

(Ord. 2005-10. Passed 5-9-05.)

1105.03 COMPREHENSIVE STORM WATER MANAGEMENT PLAN.

A Construction Site Conservation Plan, Riparian and Wetland Setback Plan and a Post-Construction Water Quality Plan shall be developed to meet this regulation. These plans will be titled and numbered in one consecutive sequence to make a Comprehensive Storm Water Management Plan for the site. The Comprehensive Storm Water Management Plan so developed will serve as the Storm Water Pollution Prevention Plan (SWP3) required by Ohio EPA as part of the NPDES Storm Water Permit for General Construction.

(Ord. 2005-10. Passed 5-9-05.)

1105.04 PURPOSE.

The intent of this regulation is to establish consistent technically feasible and operationally practical standards to achieve a level of storm water management, and erosion and sediment control that will minimize damage to public and private property and the degradation of water resources, and will promote and maintain the health, safety and welfare of the residents of the City. This regulation further intends, but is not limited to:

(a) Allow development while minimizing increases in downstream flooding, erosion and sedimentation.

(b) Reduce damage to receiving water resources and drainage systems that are caused by new development or redevelopment activities.

(c) Control storm water runoff resulting from soil-disturbing activities.

(d) Assure that development site owners control the volume and rate of storm water runoff originating from their property so that surface water and ground water are protected, soil erosion is controlled, and flooding potential is not increased.

(e) Preserve to the maximum extent practicable the natural drainage characteristics of the building site and minimize the need to construct, repair and replace enclosed storm drain systems.

~~(f) Preserve to the maximum extent practicable natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, wetlands and wells.~~

~~(g) Assure that storm water controls are incorporated into site planning and design at the earliest possible stage.~~

~~(h) Prevent unnecessary stripping of vegetation and loss of soil, especially adjacent to water resources and wetlands.~~

~~(i) Reduce the need for costly maintenance and repairs to roads, embankments, sewage systems, ditches, water resources, wetlands and storm water management practices that are the result of inadequate soil erosion, sediment and storm water control.~~

~~(j) Reduce the long-term expense of remedial projects needed to address problems caused by inadequate storm water, erosion and sediment control.~~

~~(k) Require the construction of storm water management practices that serve multiple purposes, including flood control, soil erosion and sediment control, and require water quality protection, and encourage such practices that promote recreation and habitat preservation.~~

~~(l) Ensure that all storm water management, soil erosion and sediment control practices are properly designed, constructed and maintained.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.05 CONSULTATIONS.~~

~~In implementing these regulations the City Engineer or other City officials may consult with the local County SWCD, State and Federal agencies and other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant or their designated representative.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.06 ISSUANCE OF BUILDING PERMITS FOR RESIDENTIAL PROJECTS.~~

~~(a) Two building permits will be issued for all single-family residential construction and similar types of construction as determined by the City Engineer. The first building permit shall allow the construction of the footers and basement walls or slab. No additional construction shall be performed and no additional building materials shall be allowed on the site until the City has issued the second building permit. The City Engineer may approve the stockpiling of additional construction materials on the site prior to the issuance of the second permit if a suitable location can be identified. Proper soil erosion and sediment control must be maintained on the stockpile area prior to, during and after the area is used for stockpiling.~~

~~(b) The second building permit, allowing delivery of the remaining building materials and the remaining construction activities, shall not be issued until the City Engineer certifies that the required BMPs and any other BMPs identified in the Soil Erosion and Sediment Control Plan submitted with the application for the first building permit have been properly installed, pursuant to the most recent edition of the Ohio Rainwater and Land Development manual.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.07 CONSTRUCTION SITE CONSERVATION PLAN.~~

~~In order to control storm water damage and sediment pollution of water resources, wetlands, riparian areas, other natural areas, and public and private lands, the owner of each development area shall be responsible for developing a comprehensive Construction Site Conservation Plan. This plan will address storm water management (volume and peak rate of runoff), soil erosion, sediment and other waste control. This plan must contain a description of controls appropriate for each construction operation covered by these regulations, and the operator must implement the planned controls in a timely manner. The plans and BMPs used to satisfy the conditions of these regulations shall meet the standards and specifications in the current edition of the Ohio Rainwater and Land Development manual. The plans must make use of the practices that preserve the existing natural condition to the maximum extent practicable.~~

~~(a) Development Sites Under One Acre in Size. Individual development sites that are larger than 20,000 square feet and smaller than one acre (43,560 square feet) in total size of disturbed area, can submit abbreviated soil erosion and sediment control plans with the topography plan for the requested permit(s). The abbreviated plan must cover the following items, in addition to any other items from this chapter that are required by the City Engineer.~~

~~(1) Storm water issues. A statement as to how the increased storm water runoff that will be caused by the planned development project will be handled. This statement must identify the Best Management Practices (BMPs) the new construction project will include in order to address storm water runoff.~~

~~(2) Redevelopment exemption. Owners of development sites that were created by demolishing an older existing structure can request, in writing, that the City Engineer exempt them from the storm water issues if the total soil surface area being made impermeable is the same or less than the total soil surface area that was impermeable due to the structure(s) being torn down and removed.~~

~~(3) Riparian and wetland setbacks. All riparian and wetland setback areas will be identified in the plan and in the field before construction starts.~~

~~(4) Soil erosion and sediment issues. A sketch of the entire development site must be submitted that identifies the location of:~~

~~A. All existing and planned impervious areas, storm water inlets, drainage swales, wetlands, streams, conservation easements and other natural features to be saved and protected on the property.~~

~~B. All existing and planned temporary and permanent conservation practices for the site. Residential lots shall include at a minimum the following:~~

~~1. Soil erosion and sediment control BMPs; and~~

~~2. Construction entrance; and~~

~~3. Temporary grass seeding with two tons per acre of straw mulch; and~~

~~4. Storm drain inlet protection around every storm yard inlet on the site or accepting drainage from the site; and~~

~~5. Silt fence protection for any stream located on or close to the site and lacking an adequate vegetative buffer; and~~

~~6. Silt fence to prevent sediment discharge into street storm sewer inlets where no centralized sediment control exists for the drainage area that includes the lot; and~~

~~7. Construction fence to protect any conservation easements, riparian setbacks and wetland setbacks from encroachment by construction activities.~~

(5) The schedule for the use of temporary seeding developed according to the Temporary Seeding Table contained in this chapter must be included. The location of construction material stockpile areas, if such have been approved by the City Engineer, with a description of the soil erosion and sediment controls to be maintained on the stockpile area prior to, during and after the area is used for stockpiling.

(b) Development Sites One Acre in Size or Larger. All developments that have a larger common plan of development or sale equal to or larger than one acre in size of disturbed area are subject to this chapter and shall follow all of the requirements set forth in this chapter.

(1) Description of the plan of construction. The following information shall be included in the Construction Site Conservation Plan:

A. Site description:

1. A description of the prior land uses of the site.

2. A description of the nature and type of construction activity (e.g., low-density residential, shopping mall, highway, etc.).

3. A description of the total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavating, filling or grading, including off-site borrow, fill or spoil areas and off-site utility installation areas).

4. An estimate of the impervious area and percent imperviousness created by the construction activity.

5. The types of soils within, or affected by the development area, and the location of all highly erodible or unstable soils as determined by the most current edition of the soil survey of the County, by the Natural Resources Conservation Service (NRCS).

6. An on-site, detailed Soils Engineering Report, if required by the City Engineer.

7. The name and/or location of the immediate receiving stream or surface water(s) and the first subsequent named receiving water and the major river watersheds in which it is located.

B. A vicinity sketch locating:

1. The larger common plan of development or sale.

2. The development area.

3. All pertinent surrounding natural features within 200 feet of the development site including, but not limited to:

a. Water resources such as wetlands, springs, lakes, ponds, rivers and streams, including intermittent streams with a defined bed and bank.

b. Conservation easements.

c. Other sensitive natural resources.

d. The sensitive areas receiving runoff from the development.

4. All off-site borrow or spoil areas.

5. All off-site utility installation areas that are related to the planned project.

C. The existing and proposed topography shown in the appropriate contour intervals as approved by the City Engineer.

D. The location and description of existing and proposed drainage patterns and facilities, including any allied drainage facilities beyond the development area and the larger common plan of development or sale.

E. Existing and proposed watershed boundary lines, direction of flow and watershed acreage.

F. The person or entity responsible for continued maintenance of all vegetative and/or mechanical BMPs for both the construction and post- construction phases of the development.

G. Long-term maintenance requirements and schedules of all BMPs for both the construction and post-construction phases of the development.

H. Long-term maintenance inspection schedules.

I. The person or entity financially responsible for conducting the inspections of and the maintenance of permanent storm water conveyance and storage structures and all other conservation practices.

J. The method of ensuring that funding will be available to conduct the long-term maintenance and inspections of all permanent storm water, soil erosion and sediment control and water quality practices.

K. The location of any existing or planned riparian and/or wetland setback areas on the property.

L. The plan must clearly describe, for each major construction activity, the appropriate BMPs and the general timing, or sequence, during the construction process of when the measures will be implemented, and who (which contractor) will be responsible for implementation (e.g., Contractor A will clear, grub and install perimeter controls and Contractor B will maintain perimeter controls until final stabilization; Contractor C will conduct and document the scheduled inspections).

M. Location and description of any storm water discharges associated with dedicated asphalt and concrete plants covered by this regulation and the best management practices to address pollutants in these storm water discharges.

(2) Construction Site Conservation Plan elements. The Construction Site Conservation Plan shall include, at a minimum, the following information:

A. The Construction Site Conservation Plan shall include a map showing the location of:

1. The limits of earth-disturbing activity including excavations, filling, grading or clearing.

2. Drainage patterns during major phases of construction.

3. The location of each proposed soil erosion and sediment control BMP, including:

a. Permanent soil erosion control practices to be left in place after construction operations have been completed (e.g. level spreaders, permanent erosion control matting, gabions, rock- lined channels, etc.).

b. Areas likely to require temporary stabilization during the course of site development.

c. Designated construction entrances where vehicles will access the construction site.

d. In-stream activities, including stream crossings.

e. Areas designated for the storage or disposal of solid, sanitary and toxic wastes.

f. Dumpsters.

g. Cement truck washout.

h. Fuel tanks.

i. BMPs that divert runoff away from disturbed areas and steep slopes where practicable, including rock check dams, pipe slope drains, diversions to direct flow away from exposed soils, and protective grading practices.

j. Sediment settling ponds drawn to scale.

4. Existing and proposed locations of buildings, roads, parking facilities and utilities.

5. Boundaries of wetlands and stream channels the owner intends to fill or relocate for which the owner is seeking approval from the U.S. Army Corps of Engineers and/or Ohio EPA.

B. The Construction Site Conservation Plan shall include a list of soil erosion and sediment control BMPs being used and the standards and specifications, including detailed drawings, for each BMP. This list shall include:

1. Methods of controlling the flow of runoff from disturbed areas so as to prevent or minimize erosion.

2. Identification of the structural practices to be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. A description shall be included of how each selected control will store runoff so as to let sediments settle out and/or divert flows away from exposed soils or act to limit runoff from exposed areas.

3. Identification for each structural practice of its size, detail drawings, maintenance requirements and design calculations.

4. The type and amount of plant seed, live plants, fertilizer, agricultural ground limestone and mulch to be used. Specification of soil testing requirements for fertility and lime requirements will be included. Specification for the use of perennial grass seed will also be included.

5. Settling ponds will be identified with basic dimensions and the calculations for size and volume.

6. Detailed drawings and installation requirements of all other structural control BMPs.

7. Any other soil erosion and sediment control related BMPs and items that are required by the City Engineer.

8. For developments where the overall plan does not call for centralized sediment control capable of controlling multiple individual lots, a detail drawing of a project-specific typical individual lot showing standard individual lot soil erosion and sediment control practices and the sequence and timing of BMP installation for the individual lots. This does not remove or eliminate the responsibility to designate and install specific soil erosion and sediment control practices for the storm water discharges.

C. The Construction Site Conservation Plan shall include the scheduling, phasing and coordination of construction operations and erosion and sediment control BMPs, including vegetative plantings and mulch.

(3) The Construction Site Conservation Plan shall include a description of the storm water management (SWM) practices to be used on the site. The SWM element of the Plan shall include, at a minimum, the following:

A. A map showing the location, drawn to scale, of permanent SWM conveyance, detention and retention structures, other SWM control structures and the SWM easements.

B. A general description of the SWM strategy proposed to meet this chapter.

C. Design calculations for all permanent SWM conveyance, detention and retention structures, and other SWM control structures.

D. Any other SWM related items required by the City Engineer.

(Ord. 2005-10. Passed 5-9-05.)

~~1105.08 EASEMENTS.~~

~~Future access to floodplains, flood control facilities, runoff drainage ditches and channels, runoff storage facilities, storm sewers and other drainage ways and structures, as required by the City Engineer, shall be secured by means of easements.~~

~~(a) The easements shall be recorded in the name of the City and, in single-family residential developments, the homeowners' association.~~

~~(b) Such easements shall be not less than 25 feet in width, in addition to the width of the ditch, channel, or other facility it is to serve. Access easements of this type shall be provided on one side of the flood control or storm drainage ditch, channel, or similar type facility.~~

~~(c) Access along the initial drainage system shall be by means of easements. Such easements shall be not less than 25 feet in width, with a minimum ten-foot width on either side of the centerline.~~

~~(d) Access adjacent to storage facilities shall consist of a 25-foot easement in the case of detention (dry) basins, and a 25-foot easement with a 25-foot level bench in the case of retention (wet) basins, measured from the top of the bank, and shall include the storage facility itself.~~

~~(e) Easements for the emergency flow ways shall be a minimum of 25 feet in width, or larger if required by the City Engineer.~~

~~(f) Flood control or storm drainage easements containing underground facilities shall have a minimum width of 25 feet.~~

~~(g) The easements shall be restricted against the planting within said easement of trees, shrubbery or plantings with woody growth characteristics, and against the construction therein of buildings, accessory buildings, fences, walls or any other obstructions to the free flow of storm water and the movement of inspectors and maintenance equipment, and also restricted against the changing of final grade from that described by the grading plan.~~ ~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.09 MAINTENANCE.~~

~~Any portion of the permanent drainage and soil erosion systems, including on-site and off-site storage facilities that are constructed by the owner, will be continuously maintained in perpetuity.~~

~~(a) Maintenance Plans. Maintenance plans shall be provided by the permittee to both the City Engineer and the post-construction operator of the BMP (including homeowners' associations) upon completion of construction activities and prior to the City Engineer giving final approval for the completed construction.~~

~~(b) Single-Family and Multi-Family Residential Developments. A homeowners' association shall be created and placed in title of the affected lands and shall be continuously responsible for post-construction maintenance and inspections in perpetuity unless such maintenance and inspections become officially accepted by the City.~~

~~(c) Apartments, Commercial and Industrial Developments. The plans will clearly state that the owner of the property shall be continuously responsible for post- construction maintenance and inspections in perpetuity, unless the City officially accepts such maintenance and inspections.~~

~~(d) Maintenance Design. All temporary and permanent soil erosion and sediment control practices shall be designed and constructed to minimize maintenance requirements. Multi-use facilities incorporating assets such as aesthetics and recreation may be incorporated~~

into the design of the drainage facilities. All permanent drainage, soil erosion, sediment control, water quality management systems and BMPs, including on-site and off-site structures and vegetation that are constructed or planted, must be inspected and maintained in perpetuity by the responsible party designated in the plans. Inspections and maintenance will be incorporated periodically throughout the year to ensure that the facilities are properly operational.

(e) Perpetual Maintenance Inspections. One inspection with a written report will be performed each year. The written report will be given to the City Engineer by May 1 of each and every year after the Best Management Practice (BMP) has been completed.

(1) Structures that require a permit from the Ohio Division of Water. A written and stamped report from a professional engineer on the status of all structural BMPs that require a permit from the Ohio Department of Natural Resources (ODNR), Division of Water. This applies to all BMPs that require a permit either at the time of construction or fall under the jurisdiction of the ODNR Division of Water at any time after construction is completed.

(2) Easements. A written report from an inspector on the status of all storm water management easements for each project shall be submitted to the City Engineer by May 1 of each year in perpetuity. These reports will document if restricted plantings, fences and structures are on the easement and will identify the location of the noted easement restriction violations.

(3) Best Management Practices (BMPs) that do not have a high risk for loss of life, bodily injury, or damage to structures or infrastructure related to imminent failure as determined by the City Engineer. A written and stamped report from a professional engineer, landscape architect or Certified Professional in Erosion and Sediment Control (CPESC) on the status of permanent soil erosion, sediment control, water quality management systems and the status of the related easements shall be submitted to the City Engineer by May 1 of each year in perpetuity.

(4) BMPs that have a potential loss of life. A written and stamped report covering the status of all BMPs that have a potential for loss of life, bodily injury, or damage to structures or infrastructure will be prepared by a professional engineer or other individual possessing a valid State license that authorizes them to design the same type of BMP for construction. (Ord. 2005-10. Passed 5-9-05.)

1105.10 MINIMUM STANDARDS.

In order to control sediment pollution of water resources, the owner or person responsible for the development area shall use conservation planning and practices to maintain the level of conservation established in the following standards.

(a) The plan shall include measures that control the flow of runoff from disturbed areas so as to prevent soil erosion from occurring.

(b) Structural practices shall be used to control erosion and trap sediment from areas remaining disturbed for more than 14 days.

(c) Sediment Barriers.

(1) Sheet flow runoff from denuded areas shall be intercepted by silt fence or diversions to protect adjacent properties and water resources from sediment. Where intended to provide sediment control, silt fence shall be placed on a level contour. The relationship between the maximum drainage areas to silt fence for a particular slope is

shown in the table below.

Table 1: Silt Fence Applicability

Maximum Drainage Area (in acres) to 100 Linear Feet of Silt Fence	Range of Slope for a Particular Drainage Area
0.5	<2%
0.25	≥ 2% but <20%
0.125	≥ 20% but <50%

(2) This does not preclude the use of other sediment barriers designed to control sheet flow runoff. The total runoff flow treated by a sediment barrier shall not exceed the design capacity for that sediment barrier. Straw bale barriers are not acceptable.

(d) Storm Water Diversion Practices. Storm water diversion practices shall be used to keep runoff away from disturbed areas and steep slopes where practicable. Such practices, which include swales, dikes or berms, pipe slope drains and diversions, may receive storm water runoff from areas up to ten acres. Storm water diversion practices alone are not considered a sediment control practice unless those are used in conjunction with a sediment settling pond.

(e) All sediment control practices must be capable of ponding runoff in order to be considered functional.

(f) Clearing and grubbing will be done in two or more phases. The first phase will include only those locations necessary to install the perimeter soil erosion, sediment and storm water control BMPs. After the perimeter controls are in place and functioning, the remaining phase(s) of clearing and grubbing may continue.

(g) Timing of Sediment Trapping Practices. Sediment control practices shall be functional throughout all phases of up slope earth-disturbing activity. Settling facilities, perimeter controls and other practices intended to trap sediment shall be implemented prior to grading and within seven days from the start of grubbing. They shall continue to function until the up slope development area is permanently restabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.

(h) Stabilization of Denuded Areas.

(1) Disturbed areas must be stabilized as specified in the tables below, or according to the Ohio EPA NPDES Storm Water Permit Rules, whichever is most restrictive:

Table 2: Permanent Stabilization

Area Requiring Permanent Stabilization	Time Frame to Apply Erosion Controls
Any areas that will lie dormant for one year or more	Within seven days of the most recent disturbance
Any areas within 50 feet of a stream and at final grade	Within two days of reaching final grade

Any other areas at final grade	Within seven days of reaching final grade within that area

Table 3: Temporary Stabilization

Area Requiring Temporary Stabilization	Time Frame to Apply Erosion Controls
Any disturbed areas within fifty (50) feet of a stream and not at final grade	Within two days of the most recent disturbance if the area will remain idle for 21 days or more
Disturbed areas that will be dormant for more than 21 days but less than one year and not within 50 feet of a stream	Within seven days of the most recent disturbance within the area
Residential subdivisions for disturbance which has occurred on building lots	Within seven days of the most recent disturbance if housing unit construction on the lot is not scheduled to begin within 21 days of the disturbance In any case, temporary or permanent stabilization will be properly installed, pursuant to the most recent edition of the Ohio Rainwater and Land Development manual, before the second building permit is issued

Area Requiring Temporary Stabilization	Time Frame to Apply Erosion Controls
Nonresidential subdivisions and commercial developments	Within seven days of the most recent disturbance if further construction activity will not occur within 21 days of the disturbance. Where vegetative stabilization techniques may cause structural instability or are otherwise prohibited, alternative stabilization techniques must be employed.
Disturbed areas that will be idle over winter	Prior to the onset of winter weather

(2) Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed.

(i) Sediment Settling Ponds. Storm water runoff that exceeds the design capacity of sediment barriers and concentrated storm water flows shall pass through a sediment settling facility.

(1) Where storm sewer drainage areas include ten or more acres disturbed at one time, a temporary, or permanent sediment settling pond must be provided until final stabilization of the site. In single-family residential construction, final stabilization is after

~~the houses are built and permanent landscaping is done.~~

~~A. Alternative equivalent controls may be used if the owner can show, in writing, that the Ohio EPA approved the use of the alternatives in the Ohio EPA NPDES Permit for Construction Activity, Storm Water Pollution Prevention Plan (SWP3) for the site.~~

~~B. It is recommended that for drainage locations of less than ten acres, smaller sediment settling basins and/or sediment traps be used.~~

~~(2) Each facility's storage capacity shall be no less than 67 cubic yards per acre of total contributing drainage area. The storage volume will be measured from the bottom of the basin to the top of the primary (principal) spillway.~~

~~(3) Permanent storm water management ponds that are designed to trap sediment during construction shall be designed to provide for a slow release of sediment-laden water. The draw down time must be at least 72 hours, or meet the criteria in the Ohio Rainwater and Land Development manual, whichever is most stringent.~~

~~(4) The design configuration between inlet(s) and the outlet of settling ponds must provide at least two units of length for each one unit of width (> 2:1 length to width ratio).~~

~~(5) The depth of the sediment settling pond must be less than or equal to five feet.~~

~~(6) Sediment must be removed from the sediment settling ponds when the design capacity has been reduced by 40%.~~

~~(7) Public safety, especially as it relates to children, must be considered in the design. Alternative sediment controls must be used where site limitations would preclude a safe design.~~

~~(8) Temporary sediment settling ponds will not be constructed in any stream channel.~~

~~(j) Storm Sewer Inlet Protection.~~

~~(1) All storm sewer inlets that accept water runoff from the development area shall be protected so that sediment-laden water will not enter the storm sewer, unless the storm drain system drains to a sediment settling pond and is exempted in writing by the City Engineer. In areas where construction will be ongoing, such as subdivisions, the storm sewer protection shall be maintained until all up slope areas reach final stabilization, as determined by the City Engineer.~~

~~(2) At the end of this period the site owner shall hydraulically clean the storm sewers to the satisfaction of the City Engineer. All sediments shall be removed from the system and shall not be flushed downstream.~~

~~(k) Storm Sewer and Other Drainage Outlets. All storm sewers, footer drains, roof gutter drains and all other drains will be outletted at the bottom of the slope. The slope below the outlet will be able to control the water being drained through the storm sewer or other drains without causing erosion of the stream or channel banks or channel bottom or other areas that the water is outletted on.~~

~~(l) Working Near or Crossing Streams and Wetlands.~~

~~(1) Construction vehicles shall avoid water resources, wetlands, riparian areas and their setbacks. If construction vehicles must cross these areas during construction, an approved temporary crossing shall be constructed. Streams, including intermittent streams with a defined bed and banks, shall be restabilized immediately after in-channel work is completed, interrupted, or stopped. Erodible materials will not be used in making stream crossings.~~

~~(2) No soil, rock, debris or any other material shall be dumped or placed into a water resource or into such proximity that it may slough, slip, or erode into a water resource,~~

~~unless such dumping or placing is authorized by the approving authority and, when applicable, the U.S. Army Corps of Engineers and Ohio EPA, for such purposes as, but not limited to, constructing bridges, culverts and erosion or sediment control structures.~~

~~(3) If construction activities disturb areas adjacent to streams, structural practices shall be designed and implemented on site to protect the adjacent streams from the impacts of sediment runoff.~~

~~(4) No temporary or permanent sediment controls will be constructed in a stream channel.~~

~~(5) Streams and wetland setbacks required by the City will be implemented. As a minimum a setback of 25 feet, as measured from the ordinary high water mark of the surface water, will be maintained in its natural state as a permanent buffer.~~

~~(m) Construction Entrance.~~

~~(1) Measures shall be taken to prevent soil transport onto public roads or surfaces where runoff is not checked by sediment controls.~~

~~(2) Stone with geotextile construction entrance(s) shall be implemented as required by the City Engineer and the Ohio EPA. These will be planned and installed according to the requirements in the most recent edition of the Ohio Rainwater and Land Development manual.~~

~~(3) Where soil is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day, or more frequently, in order to ensure public safety. Soil shall be removed from paved surfaces by shoveling or sweeping. Street washing shall be allowed only after shoveling or sweeping has removed most of the sediment and street sewer inlet protection is properly installed unless end of sewer sediment ponds exist and are properly functioning.~~

~~(4) Erodible material ramps in streets will not be used to enable equipment to cross curbs. Non-erosive materials (e.g. wood and stone) can be used.~~

~~(n) Unstable Soils.~~

~~(1) Unstable soils will be as determined by the local county soil survey or by a detailed soils report.~~

~~(2) The City Engineer may require detailed soil reports when deemed necessary.~~

~~(3) Unstable soils prone to slipping or land sliding shall not be graded, excavated, filled or have loads imposed upon them unless the work is performed in accordance with a qualified professional engineer's recommendations to correct, eliminate, or adequately address the problems.~~

~~(o) Cut and Fill Slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion and slippage. Consideration shall be given to the length and steepness of the slope, soil type, up slope drainage area, ground water conditions and slope stabilization. The minimum final unreinforced soil slopes will have a horizontal to vertical ratio of 2:1 (the horizontal will be two times the vertical).~~

~~(p) Stabilization of Outfalls and Channels. Outfalls and constructed or modified channels shall be designed and constructed to withstand the expected velocity of flow from the planned post-development frequency storm without eroding. The planned post-construction velocity and flow shall include the entire contributing watershed.~~

~~(q) Establishment of Permanent Vegetation. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until ground cover is achieved which, in the opinion of~~

~~the City Engineer, has 80% vegetative density over the entire disturbed area and provides adequate cover, and is mature enough to satisfactorily control soil erosion and survive adverse weather conditions.~~

~~(r) Disposition of Temporary Practices. All temporary soil erosion and sediment control practices shall be disposed of immediately after final site stabilization is achieved or after the temporary practices are no longer needed, unless otherwise required by the City Engineer. Trapped sediment shall be permanently stabilized to prevent further erosion. The construction maintenance guarantee shall not be released by the City until all temporary soil erosion and sediment control practices that are no longer needed have been removed, properly disposed of and any trapped sediment has been stabilized.~~

~~(s) Underground Utility Construction. The construction of underground utility lines, pipes, etc. shall be subject to the following criteria:~~

~~(1) Trenches shall remain open for no more than five days.~~

~~(2) There shall be no turbid discharges to surface waters resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment settling pond or other equally effective sediment control device, prior to being discharged from the construction site or to waters of the State.~~

~~(3) When discharging clean ground water, care must be taken to ensure that it does not become pollutant-laden by crossing over disturbed soils or other pollutant sources.~~

~~(t) Inspections.~~

~~(1) If inspections or other information indicates a control has been used inappropriately or incorrectly or it has failed, it must be replaced or modified for the site conditions.~~

~~(2) The owner of the development area shall have the site inspected for soil erosion, sediment control and other environmental concerns every seven calendar days, and within 24 hours of a 0.5 inch or greater rainfall event until the City Engineer certifies the site as being stable. The City Engineer certification does not relieve the permittee from meeting the Ohio EPA NPDES inspection requirements.~~

~~(3) The owner, or his designated representative, shall keep a written log of each inspection and any subsequent improvements to the soil erosion, sediment control or other environmental controls. The inspections shall include the date of the inspection, the name of the inspector, weather conditions, and the actions needed to correct the identified problems.~~

~~(4) The inspection log will include the date and actions taken to correct problems noted in past inspection logs.~~

~~(5) If the construction site is subject to Ohio EPA's National Pollutant Discharge Elimination System (NPDES) permit for construction activity, a copy of all of the required inspection sheets will be submitted to the City Engineer within three working days of the date that the inspection was conducted.~~

~~(6) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for pollutants entering the drainage system.~~

~~(7) Erosion and sediment controls identified in the Storm Water Pollution Prevention Plan shall be observed to ensure that they are operating correctly.~~

~~(8) Discharge locations shall be inspected to ascertain whether erosion and sediment control measures are effective in preventing significant impacts to the receiving waters.~~

(9) Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.

(10) If the inspection reveals that a control practice is in need of repair or maintenance, with the exception of sediment settling ponds, it must be repaired or maintained within three days of the inspection. Sediment settling ponds must be repaired or maintained within ten days of the inspection.

(11) If any inspection reveals that a control practice fails to perform its intended function and that another, more appropriate control practice is required, the Construction Site Conservation Plan must be amended and the new control practice must be installed within ten days of the inspection.

(12) If the inspection reveals that a control practice has not been implemented in the time required by this chapter it must be installed within ten days from the date of inspection.

(13) If the inspection reveals that a planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(u) Control of Materials and Debris. Site management practices shall be implemented to prevent toxic materials, hazardous materials, or other debris from entering the City's and State's water resources or wetlands. These practices shall include, but are not limited to, the following:

(1) A covered dumpster shall be made available for the proper disposal of construction site waste materials, garbage, plaster, drywall, grout, gypsum, etc. A second covered dumpster will be provided for the proper disposal of toxic and hazardous wastes.

(2) The washing of excess concrete material into a street, catch basin or other public facility or natural resource shall not occur. A designated area for concrete washouts shall be made available and used for all concrete washouts.

(3) All fuel tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of the largest container in the storage area. All additional requirements of the local fire authority must be followed. If the fuel tanks have a self-contained dike, the plug will be kept in the dike tank at all times.

(4) Any toxic or hazardous wastes and/or contaminated soils must be disposed of according to all applicable environmental laws and statutes. Local health districts and Ohio EPA can provide guidance on these issues.

(5) On a site with a prior industrial land use or a site that is contaminated with gasoline, fuel oil, hydrocarbon-based chemicals or other Ohio EPA-regulated contaminants, the storm water is considered wastewater. A permit from Ohio EPA is required to address these sites.

(6) Proper permits shall be obtained for development projects on solid waste landfill sites.

(7) Paint, paint-washing liquids, excess paints and other paint wastes are considered solid wastes and shall be disposed of in accordance with applicable State regulations. Appropriate handling of these wastes shall occur at the site so as to prevent the discharge of these wastes into surface or ground waters.

A. Water-based paint-washing liquids and small quantities of excess water-based paints may be disposed of by flushing down a connected sanitary sewer, but may not be disposed of in an on-lot disposal system.

B. All other paints, paint thinners and paint-cleaning materials will be disposed of in the site's hazardous waste disposal dumpster.

(8) Restroom facilities will be provided for site workers at all times that workers are present on the site and during all phases of the construction.

(9) All required permits from appropriate Federal, State, or local agencies are required to develop land with a previous industrial or commercial use or another use that may have led to soil contamination by a regulated pollutant.

(v) Pre-winter Stabilization. If the development area will, or is planned to remain, active through the winter months, the owner of the development area shall hold a Pre-winter Stabilization Meeting. The meeting will be held before October 1. The owner shall invite the operator, developer, engineer, contractor, City Engineer and anyone else requested by the City Engineer to the meeting.

(w) Water Quality Requirements.

(1) Storm water detention. The post-construction BMP(s) chosen must be able to detain storm water runoff for protection of the stream channels, stream erosion control, and improved water quality.

(2) Structural BMPs. Structural (designed) post-construction storm water treatment practices shall be incorporated into the permanent drainage system for the site.

(3) Properly sized BMPs. The BMP(s) chosen must be sized to treat the water quality volume (WQV) and ensure compliance with Ohio's Water Quality Standards in O.A.C. Chapter 3745-1. The WQV shall be equivalent to the volume of runoff from a 0.75-inch rainfall and shall be determined according to one of the two following methods:

A. Through a site hydrologic study approved by the local municipal permitting authority that uses continuous hydrologic simulation and local long-term hourly precipitation records; or

B. Using the following equation:

WQV = C * P * A/12

where: WQV = water quality volume in acre-feet

C = runoff coefficient appropriate for storms less than one inch (see Table 4)

P = 0.75 inch precipitation depth

A = area draining into the BMP in acres

Table 4 Runoff Coefficients Based on the Type of Land Use

Land Use	Runoff Coefficient
Industrial and commercial	0.8
High-density residential (>8 dwellings/acre)	0.5
Medium-density residential (4 to 8 dwellings/acre)	0.4
Low-density residential (<4 dwellings/acre)	0.3
Open space and recreational areas	0.2

(4) Where the land use will be mixed, the runoff coefficient should be calculated using a weighted average. For example, if 60% of the contributing drainage area to the storm water treatment structure is low-density residential, 30% is high-density residential, and 10% is open space, the runoff coefficient is calculated as follows (0.6)(0.3) + (0.3)(0.5) + (0.1)(0.2)

= 0.35.

(5) An additional volume equal to 20% of the WQV shall be incorporated into the BMP for sediment storage and/or reduced infiltration capacity. The BMPs will be designed according to the methodology included in the Ohio Rainwater and Land Development manual, ODOT Post-Construction Storm Water Standards, or other manual that is acceptable to Ohio EPA.

(6) BMPs shall be designed such that the drain time is long enough to provide treatment, but short enough to provide storage available for successive rainfall events as described in Table 5 below.

Table 5: Target Draw Down (Drain) Times for Structural Post-Construction Treatment Control Practices

Best Management Practice Drain Time of WQV

Best Management Practice

Drain Time of WQV

Infiltration

24 - 48 hours

Vegetated swale and filter strip

24 hours

Extended detention basin (dry basins)

48 hours

Retention basins (wet basins)*

24 hours

Constructed wetlands (above permanent pool)

24 hours

Media filtration, bioretention

40 hours

* Provide both a permanent pool and an extended detention volume above the permanent pool, each sized at 0.75 * WQV

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(7) The owner may request approval from the City Engineer to use alternative structural post-construction BMPs if the owner can demonstrate, in a way that is acceptable to Ohio EPA rules and regulations, that the alternative BMPs are equivalent in effectiveness to those listed in Table 5 above. The use of alternative or vendor-supplied post-construction BMPs should be limited to redevelopment projects where justification is provided that the traditional BMPs in Table 5 are technically and economically infeasible.

(8) Construction activities shall be exempt from this condition if it can be demonstrated that the WQV is provided within an existing structural post- construction BMP that is part of a larger common plan of development or sale, or if structural Post-construction BMPs are addressed in a regional or local storm water management plan.

(9) For redevelopment projects (i.e., developments on previously developed property), post-construction practices shall either ensure a 20% net reduction of the site's impervious area, provide for treatment of at least 20% of the WQV, or a combination of the two.

(x) Storm Water Basins.

(1) Pool geometry. The minimum length-to-width ratio for the pond is 3:1 (the length will be three times the width).

(2) Riser in embankment. The riser shall be located within the embankment for purposes of maintenance access. Access to the riser will be by manholes.

(3) Water drains. Each retention basin shall have a drainpipe that can completely drain the pond. The drain shall have an elbow within the pond to prevent sediment deposition from plugging the drain.

(4) Adjustable gate valves. Both the storm water management and water quality basin drains shall have adjustable gate valves. Valves shall be located inside the riser at a point where they will remain dry and can be operated in a safe and convenient manner. During the annual inspections the valves shall be fully opened and closed at least once, and the certifying official shall attest to this on the inspection form. To prevent vandalism, the handwheel shall be chained to a ringbolt or manhole step.

(5) Principal spillway. Each principal spillway shall be designed in accordance with the NRCS standards and specifications for the office serving the County. Each principal spillway shall have the capacity to pass the 100-year design storm flow. The inlet or riser size for the pipe drops shall be designed so that the flow through the structure goes from weir flow control to pipe flow control without going into orifice control in the riser. The crest elevation of the primary spillway shall be no less than one foot below the emergency spillway crest. Premium joint pipe is required and a removable trash rack shall be installed at each location. Anti-seep collars shall be provided for all pipe conduits through an embankment.

(6) Emergency spillway. An emergency spillway shall be provided on each storm water management basin. Emergency spillways shall convey flood flows safely past the embankment, and shall be designed in accordance with NRCS standards and specifications for the office serving the local county. Emergency spillways shall have a 100-year design storm capacity unless exempted in writing by the City Engineer.

(7) Embankments. Each dam embankment shall be designed in accordance with the NRCS standards and specifications for the office serving the county that the project is located in. Anti-seep collars shall be provided for all pipe conduits through an embankment.

(8) Safety features.

A. The primary spillway opening shall not permit access to the public and other non-maintenance personnel.

B. The perimeter of all water pool areas that are deeper than three feet shall be surrounded by benches that meet the following:

1. A safety bench, with a maximum slope of 3%, which extends outward, on dry land, from the shoreline. This bench will be a minimum of 25 feet wide to provide for the safety of individuals and maintenance vehicles that are adjacent to the water pool. The safety bench may be landscaped, without the use of structures, to prevent access to the water pool.

2. Side slopes between the safety bench and the aquatic bench shall not be steeper than 3:1 (three feet horizontal for every one foot vertical).

3. An aquatic bench that extends inward from the shoreline far enough to ensure public safety and has a maximum depth of 15 inches below the normal water surface elevations. The aquatic bench may be landscaped to prevent access to the deeper water pool.

4. Side slopes beyond the aquatic bench and below the permanent water level shall

not be steeper than 2:1 (two feet horizontal for every one foot vertical).

5. The contours of the pond will be designed and managed to eliminate drop-offs and other hazards.

6. Side slopes getting to the pond shall not exceed 3:1 and shall terminate on a safety bench.

7. Soil erosion and sediment control practices used to satisfy these standards shall meet the standards and specifications in the current edition of the Ohio Rainwater and Land Development manual, NRCS Field Office Technical Guide for the local county or the Ohio EPA, whichever is most stringent.

(9) Water quality basin. If a water quality basin is needed and cannot be incorporated into an existing or planned detention or retention basin, then a separate water quality basin will need to be planned, designed, constructed and maintained in perpetuity.

(10) Water quality basins will not be constructed in any stream channel.

(11) Flexibility. These standards are general guidelines and shall not limit the right of the City Engineer to impose at any time additional and/or more stringent requirements, nor shall the standards limit the right of the City Engineer to waive, in writing, individual requirements. If the City Engineer waives, in writing, individual requirements, the owner will provide the City Engineer with the information and documentation required to assure Ohio EPA that the waived requirement will not degrade water quality.

(y) These standards are general guidelines and shall not limit the right of the City Engineer to impose at any time additional, more stringent requirements, nor shall the standards limit the right of the City Engineer to waive, in writing, individual requirements.

(z) Soil limitations shall be determined by using the current edition of the county soil survey written by the NRCS, USDA.

(aa) Methods for controlling increases in storm water runoff peaks and volumes may include, but are not limited to:

(1) Retarding flow velocities by increasing friction; for example, grassed road ditches rather than paved street gutters where practical, discharging roof water to vegetated areas, or grass and rock-lined drainage channels.

(2) Grading and use of grade control structures to provide a level of control in flow paths and stream gradients.

(3) Induced infiltration of increased storm water runoff into soil, where practical; for example, constructing special infiltration areas where soils are suitable, retaining topsoil for all areas to be vegetated, or providing good infiltration areas with proper emergency overflow facilities.

(4) Provisions for detention and retention, for example, permanent retention ponds and lakes, dry detention basins and subsurface detention tanks.

(Ord. 2005-10. Passed 5-9-05.)

1105.11 STREAM CHANNEL AND FLOODPLAIN EROSION DESIGN CRITERIA.

(a) Runoff Rate. The peak runoff rate from the development area shall not be greater after development than it was before development. The applicant shall provide calculations proving no increase in the runoff rates from the 1-, 2-, 5-, 10-, 25-, 50- and 100-year storms.

(b) Runoff Volume. Increases in the runoff volume shall be offset by further restricting runoff rates. Based on the increase in runoff volume, the applicant shall determine the critical storm for the development area. The runoff rate from the critical storm shall be

~~restricted to the one-year pre-development storm runoff rate. The critical storm shall be calculated as follows:~~

~~(1) Determine the total volume of runoff from a one-year frequency, 24-hour storm, occurring on the development area before and after development.~~

~~(2) From the volumes in division (b)(1) of this section, determine the percent of increase in volume of runoff due to development according to the equation (Q after divided by the Q before) X 100 and, using this percentage, select the critical storm from this table:~~

~~Table 6: Critical Storm Selection~~

~~The Percentage Increase in Volume of Runoff is:~~

~~Equal to or Greater Than~~

~~And Less Than~~

~~The 24-Hour "Critical Storm" For Discharge Will Be:~~

~~The Percentage Increase in Volume of Runoff is:~~

~~Equal to or Greater Than~~

~~And Less Than~~

~~The 24-Hour "Critical Storm" For Discharge Will Be:~~

~~0~~

~~10~~

~~1 year~~

~~10~~

~~20~~

~~2 years~~

~~20~~

~~50~~

~~5 years~~

~~50~~

~~100~~

~~10 years~~

~~100~~

~~250~~

~~25 years~~

~~250~~

~~500~~

~~50 years~~

~~500~~

~~—~~

~~100 years~~

~~(c) Detention or Retention Basin Exemption for Redevelopment or for Expansion of Existing Facilities.~~

~~(1) For any development regulated by this chapter, the construction of a detention or retention basin may not be required for the development if the post-development peak discharge for a 100-year frequency 24-hour storm increases the existing peak discharge by one cubic foot per second or less using the TR-55 method of calculation or other method approved by the City Engineer. The City Engineer can waive this requirement if existing storm sewers and drainage structures can safely handle the expected increase in flow.~~

(2) Only one exemption will be allowed per parcel. Any subsequent expansion must provide for detention or retention and must include the previously exempted area.

(d) Where the City Engineer determines that site constraints exist in a manner that compromises the intent of this chapter to improve the management of storm water runoff as established in this section, practical alternatives may be used to result in an improvement of water quality and/or a reduction of storm water runoff. Such alternatives must be in keeping with the intent and likely cost of those measures that would otherwise be required to meet the objectives of this section. When possible, all practical alternatives shall be implemented within the drainage area of the proposed development project. Practical alternatives can include, but are not limited to:

(1) Fees shall be paid in an amount specified by the City Engineer. These fees shall be applied by the City to storm water management practices that reduce existing storm water runoff.

(2) Implementation of off-site storm water management practices.

(3) Watershed or stream restoration.

(4) Retrofitting of an existing storm water management practice.

(5) Other practices approved by the City Engineer in keeping with the intent of this section.

(Ord. 2005-10. Passed 5-9-05.)

1105.12 COMPLIANCE WITH OTHER RULES AND REGULATIONS.

(a) Ohio Dam Safety Laws. The provisions of the Ohio Dam Safety Laws shall be followed. Proof of compliance with the Ohio Dam Safety Laws administered by the ODNR Division of Water shall be, but is not limited to, a copy of the ODNR Division of Water permit number or a copy of the project approval letter from the ODNR Division of Water or a letter from the site owner explaining why the Ohio Dam Safety Law is not applicable. The written proof will be provided to the City Engineer before a construction permit will be issued.

(b) NPDES Permits. The provisions of the National Pollutant Discharge Elimination System (NPDES) permits issued by the Ohio EPA shall be followed. Proof of compliance shall be, but is not limited to, a copy of the Ohio EPA NPDES permit number or a letter from the site owner explaining why the NPDES permit is not applicable. The written proof will be provided to the City Engineer before a construction permit will be issued.

(c) Federal and State Wetland Permits. The provisions of the U.S. Army Corps of Engineers dredge and fill permits for federally-protected wetlands shall be followed. The provisions of Ohio EPA's Isolated Wetlands permits shall also be followed. Wetlands and other waters of the United States shall be delineated by protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of the application of these regulations. Written proof of compliance with both permit programs will be provided to the City Engineer before a construction permit will be issued. Proof of compliance shall be, but is not limited to, the following:

(1) A copy of the U.S. Army Corps of Engineers Individual permit, if required for the project, showing project approval and any restrictions that apply to site activities; or

(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and specific conditions specified in the applicable Nationwide permit; or

(3) A letter from the site owner verifying that a qualified professional has surveyed the site and found no wetlands or other waters of the United States. Such a letter shall be noted

on site plans submitted to the City.
(Ord. 2005-10. Passed 5-9-05.)

1105.13 CONSTRUCTION AND MAINTENANCE GUARANTEE.

All permanent storm water, soil erosion, other wastes control, and water quality practices not specifically waived by the City shall be constructed prior to the granting of the final plat approval. Upon the request of the owner, the City may defer the construction or installation of a permanent storm water, soil erosion, sediment, or other waste control or water quality practice prior to the approval of the final plat where, in the City Engineer's judgment, such proper construction or installation is not immediately necessary for the protection of the public health and safety; and where the prior installation or construction of such improvement would constitute an undue hardship on the owner because, in the case of new vegetation or weather conditions, or because in the case of concrete, building construction could cause cracking and excessive wear and tear on new structures. In such event, the City shall require a security bond, escrow account, certified check or cash to guarantee that such deferred improvements will be properly constructed or installed within an agreed specified time, but not to exceed six months after the filing of such final plat. The owner will provide a maintenance guarantee for all permanent improvements, and soil erosion, waste controls and water quality practices. The City shall require a security bond, escrow account, certified check or cash to guarantee that the planned temporary and permanent soil erosion, sediment, and other waste controls and water quality practices will be constructed and removed in a timely manner, as determined by the City Engineer.

(a) The Guarantee. The guarantee of both performance and maintenance will be in the form of a security bond, escrow account, verified check or cash. The security bond, escrow account, verified check or cash will be used by the City to complete any guaranteed construction or removal of improvements or temporary and permanent soil erosion, sediment and other waste control practices that are not adequately completed, maintained or removed by the owner in a timely manner, as determined by the City Engineer. The security bond, escrow account, verified check or cash will be in the total amount of both the performance guarantee and the maintenance guarantee. Ohio municipalities and counties may require performance bonds or other guarantees for water management improvement as stated in Ohio R.C. 711.101.

(1) Security bond, escrow account, verified check or cash shall be deposited with the City prior to review by the City Engineer and/or its consultants to cover professional services of the City Engineer, Building Commissioner, Zoning Inspector and/or other experts required by the City Engineer, City Council, Mayor or Review Boards.

(2) No soil-disturbing activities shall be permitted until a security bond, escrow account, verified check or cash has been posted to the satisfaction of the City Engineer sufficient for the City to perform the obligations otherwise to be performed by the owner or person responsible for the development area as stated in this regulation, and to allow all work to be performed as needed in the event that the owner or person responsible for the development area fails to comply with the provisions of this regulation. The security bond, escrow account, verified check or cash shall be released only after all work required by this regulation has been completed to the satisfaction of the City Engineer and all permit and inspection fees required by these regulations have been paid in full.

(3) No project subject to this regulation shall commence without the Construction Site Conservation Plan having been approved by the City Engineer.

(b) Performance Guarantee. The furnishing of a performance guarantee will be maintained in an amount of not less than 120% of the estimate approved by the City Engineer, of installation of the deferred improvements.

(c) Maintenance Guarantee. The maintenance guarantee shall be maintained for a period of not less than two years after final acceptance of the storm water, soil erosion, sediment and other waste control practices in an amount equal to 20% of the estimate approved by the City Engineer, of the construction and, where necessary, removal of such practices.

(d) Time Extension. The City Engineer may extend for cause the time allowed for the installation of the improvements for which the performance guarantee has been provided with the receipt of a written request from the owner.

(e) Completion. Upon completion of the construction of improvements or temporary and/or permanent soil erosion, sediment and other waste control practices and the removal of the temporary soil erosion, sediment and other waste control practices for which the performance guarantee has been provided, the owner shall notify the City Engineer of this fact.

(f) Inspection. The City will not release the security bond, escrow account, verified check or cash guarantee until the City Engineer has inspected the site to ensure that the guaranteed item(s) have been completed and/or removed.

(g) Slow Release Devices. Performance and maintenance guarantees will be maintained on the temporary sediment removal slow release devices installed in detention and retention basins until the entire site has reached final soil stabilization. Final stabilization in single-family residential developments is when 90% of the homes are constructed with their lawns completely installed and any remaining unbuilt lots having been permanently stabilized with a uniform ground cover at a growth density of 80% or better.

(h) Release. The construction maintenance guarantee shall not be released by the City until all temporary soil erosion and sediment control practices that are no longer needed have been removed, properly disposed of and any trapped sediment has been stabilized. (Ord. 2005-10. Passed 5-9-05.)

1105.14 APPLICATION PROCEDURES FOR EROSION AND SEDIMENT CONTROL PLANS.

(a) Plans developed by the site owners and approved by the City in accordance with this regulation do not relieve the site owner of responsibility for obtaining all other necessary permits and/or approvals from Federal, State, County and local agencies and departments. If requirements vary, the most stringent requirement shall be followed. Plans submitted to the City Engineer for review and approval shall be accompanied by all other required permits and documentation relevant to the project, including but not limited to the permits required and issued by the U.S. Army Corps of Engineers, Ohio EPA and ODNR Division of Water.

(b) Five sets of the plans and necessary data required by this regulation shall be submitted to the City Engineer as follows:

(1) Format.

A. Text material will be on 8.5 by 11-inch paper.

B. Drawings will be on paper sized no larger than 24 inches by 36 inches.

(2) Construction projects.

A. At the preliminary plan approval request the preliminary plans shall show all of the following existing and planned features: streams, water bodies, wetlands, riparian and wetland setback areas, permanent BMPs, storm water management detention and retention basins.

B. At the improvement plan approval request, the entire Comprehensive Storm Water Management Plan must be submitted.

(3) For general clearing projects. Thirty working days prior to any soil- disturbing activities.

(4) Permits list. A list of all the permits that will be needed from Federal, State and local agencies.

(5) Long-term maintenance.

A. The requirements and schedules of all permanent vegetative and/or mechanical post-construction water quality conservation BMPs.

B. Long-term maintenance inspection schedules for all permanent vegetative and/or mechanical post-construction water quality conservation BMPs.

C. The person or entity financially responsible for inspecting and maintaining all permanent vegetative and/or mechanical post- construction water quality conservation BMPs.

D. The method of ensuring that funding will be available to conduct the long-term maintenance and inspections of all permanent vegetative and/or mechanical post-construction water quality conservation BMPs.

(c) The City Engineer shall review the plans, including the review report from the local County SWCD, and shall approve or return these with comments and recommendations for revisions within 30 working days after receipt of the plan as described above. A plan rejected because of deficiencies shall receive a report stating specific problems. At the time of receipt of a revised plan, another 30-day review period shall begin.

(d) Approved plans shall remain valid for two years from the date of approval. After two years the plan(s) approval automatically expires.

(e) No soil disturbing activity shall begin before all necessary local, County, State and Federal permits have been granted to the owner or operator.

(f) The City will do construction inspections until the site reaches final stabilization as determined by the City Engineer.

(Ord. 2005-10. Passed 5-9-05.)

1105.15 RIPARIAN AND WETLAND SETBACK REQUIREMENTS.

(a) It is hereby determined that the system of wetlands, riparian areas, rivers, streams, and other natural watercourses within the City contributes to the health, safety, and general welfare of the residents. The specific purpose and intent of this part of these regulations is to regulate uses and developments within riparian and wetland setbacks that would impair the ability of riparian and wetland areas to:

(1) Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters and regulating base flow.

(2) Assist in stabilizing the banks of watercourses to reduce bank erosion and the downstream transport of sediments eroded from watercourse banks.

(3) Reduce pollutants in watercourses during periods of high flows by filtering, settling and transforming pollutants already present in watercourses.

(4) Reduce pollutants in watercourses by filtering, settling, transforming and absorbing pollutants in runoff before they enter watercourses.

(5) Provide watercourse habitats with shade and food.

(6) Provide habitat to a wide array of aquatic organisms, wildlife, many of which are on Ohio's Endangered and/or Threatened Species listings, by maintaining diverse and connected riparian and wetland vegetation.

(7) Benefit the City economically by minimizing encroachment on wetlands and watercourse channels and the need for costly engineering solutions such as dams, retention basins, and riprap to protect structures and reduce property damage and threats to the safety of residents; and by contributing to the scenic beauty and environment of the City, and thereby preserving the character of the City, the quality of life of the residents of the City, and corresponding property values.

(b) The regulations in this section have been enacted to protect these services of riparian and wetland areas by providing reasonable controls governing structures and uses within a wetland and/or riparian setback along designated watercourses in the City.

(c) Applicability and Compliance.

(1) These regulations shall apply to:

A. All lands that are within the jurisdiction of the City and that border designated watercourses and wetlands as defined in these regulations.

B. These regulations shall apply to property/parcel split plan approvals, site plan approvals and land development plan approvals requested of the City.

C. These regulations shall apply to all building permits, which involve soil-disturbing activities.

(2) The City shall issue no approvals or permits without full compliance with the terms of these regulations.

(Ord. 2005-10. Passed 5-9-05.)

1105.16 ESTABLISHMENT OF DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS:

(a) Designated watercourses shall include those watercourses meeting any one of the following criteria:

(1) All watercourses draining an area greater than one-half square mile; or

(2) All watercourses draining an area less than one-half square mile and having a defined bed and bank.

(3) In determining if watercourses have a defined bed and bank, the City may consult with a representative of the local County SWCD or other technical experts as necessary.

(b) Riparian setbacks on designated watercourses are established as follows:

(1) A minimum of 300 feet on both sides of all watercourses draining an area greater than 300 square miles.

(2) A minimum of 120 feet on both sides of all watercourses draining an area greater than 20 square miles and up to and including 300 square miles.

(3) A minimum of 75 feet on both sides of all watercourses draining an area greater than one-half square mile and up to and including 20 square miles.

(4) A minimum of 25 feet on both sides of all watercourses draining an area less than one-half square mile and having a defined bed and bank as determined above.

(c) Riparian Setback Map.

(1) The City shall use the latest edition of the official soil survey that shows drainage

features on the paper maps in the back of the book as the map identifying designated watercourses and their riparian setbacks. The drainage features identified on the paper maps in the official soil survey and the information contained therein shall be believed to be accurate.

(2) At the time of application of this regulation, if any discrepancy is found between the Riparian Setback Map and the criteria for designated watercourses or riparian setbacks as set forth in these regulations, the criteria shall prevail.

(3) In reviewing and interpreting the maps the City may consult with a representative of the local County SWCD and other technical experts as necessary.

(d) The following conditions shall apply in riparian and wetland setbacks:

(1) Riparian and wetland setbacks shall be measured in a perpendicular and horizontal direction outward from the ordinary high water mark of each designated watercourse and defined wetland boundary.

(2) Except as otherwise provided in this regulation, riparian and wetland setbacks shall be preserved in their natural state and shall be established and marked in the field prior to any soil-disturbing or land-clearing activities.

(3) Where the 100-year floodplain is wider than a riparian setback on either or both sides of a designated watercourse, the riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be determined by the project engineer conducting a hydrologic analysis of the project area in conformance with standard engineering practices and approved by the City Engineer.

(4) Where wetlands are identified within a riparian setback, the minimum riparian setback width shall be extended to the outer boundary of the wetland. In addition, wetlands shall be protected to the extent detailed in these regulations.

(5) Wetlands shall be delineated by a site survey approved by the City using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.

(e) The applicant or their designated representative shall be responsible for delineating riparian and wetland setbacks, including any expansions or modifications as required by these regulations, and identifying these setbacks on all property/parcel splits, commercial development or other land development plans, and/or building permit applications submitted to the City. This delineation may be done by a metes and bounds, or higher level, survey and shall be subject to review and approval by the City. As a result of this review, the City may consult with a representative of the local County SWCD or other technical experts as necessary.

(f) Prior to any soil-disturbing activity, riparian and wetland setbacks shall be clearly delineated on-site by the applicant or their designated representative, and such delineation shall be maintained throughout soil-disturbing activities.

(g) No approvals or permits shall be issued by the City prior to on-site delineation of riparian and wetland setbacks in conformance with these regulations.

(h) Upon completion of an approved property/parcel split, land development, or other improvement, riparian and wetland setbacks shall be permanently recorded on the plat records of the City.

(Ord. 2005-10. Passed 5-9-05.)

~~1105.17 ESTABLISHMENT OF WETLAND SETBACKS.~~

~~Wetland setbacks are established as follows:~~

~~(a) A minimum of 120 feet surrounding and including all Ohio EPA Category 3 Wetlands, or current equivalent Ohio EPA classification.~~

~~(b) A minimum of 75 feet surrounding and including all Ohio EPA Category 2 Wetlands, or current equivalent Ohio EPA classification.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.18 PROCEDURE FOR WETLAND SETBACKS.~~

~~(a) No change to parcel boundaries or land use:~~

~~(1) Upon filing a request for a building permit that does not involve changing of any parcel boundaries or changes in land use, the applicant will check for indicators of wetlands on the National Wetlands Inventory maps and Ohio Wetlands Inventory map and the Cuyahoga County Wetlands Inventory in the Cuyahoga River Watershed map (if applicable). A photocopy of the applicable section of each map will be attached to the permit application.~~

~~(2) If a potential wetland is shown on any of the maps or if there is reason for the City to believe that an unmapped wetland exists on or within 120 feet of the project site the applicant will retain a qualified wetland professional to evaluate the proposed project site for wetlands or wetland buffer areas. If no wetland or wetland buffer areas are found, the applicant shall submit a letter from the qualified wetland professional with the preliminary plat or permit application verifying their negative findings.~~

~~(b) New Residential or Commercial or Other Type Development and Projects Involving a Change to Parcel Boundaries or a Land Use Change. Upon filing a request for approval of a preliminary plat or building permit for new residential, commercial or other type of development that involves changes in any parcel boundaries or changes in land use, the applicant or their designated representative shall retain a qualified wetland professional to survey the proposed development site for wetlands. If no wetlands are found, the applicant or their designated representative shall submit a letter with the preliminary plat or permit application verifying that a qualified wetland professional has surveyed the site and found no wetlands. If wetlands are found, the following procedures shall be followed:~~

~~(1) A qualified wetland professional, acceptable to the City Engineer, shall determine the presence of Ohio EPA Category 2 or 3 wetlands (or current equivalent Ohio EPA classification) on the proposed development site using the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of this regulation. Acceptance of this determination shall be subject to approval by the City Engineer.~~

~~(2) If Ohio EPA Category 2 or 3 wetlands (or current equivalent Ohio EPA classification) are located on the proposed development site, the applicant or their designated representative shall delineate these wetlands and the wetland setback in conformance with these regulations. The applicant or their designated representative shall identify all delineated wetlands and their associated setbacks on all property/parcel split plans, land development plans, and/or permit applications submitted to the City.~~

~~A. Wetlands shall be delineated by a site survey, approved by the City, using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the~~

time of application of this regulation. If conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.

B. Wetland setbacks shall be delineated through a metes and bounds, or higher level, survey subject to approval by the City.

(3) Prior to any soil or vegetation-disturbing activity, the applicant or their designated representative shall delineate wetland setbacks on the development site in such a way that they can be clearly viewed, and such delineation shall be maintained throughout construction.

(4) No approvals or permits shall be issued by the City prior to delineation of wetland setbacks in conformance with this regulation.

(c) Upon completion of an approved property/parcel split, commercial development or other land development or improvement, riparian and wetland setbacks shall be permanently recorded on the plat records for the City and shall be maintained as open space thereafter through a permanent conservation easement. A third party, not the landowner or permittee or the City, that is allowed by State law, shall be given the conservation easement. If no third party will accept the conservation easement, the City shall accept it and protect it in perpetuity.

(Ord. 2005-10. Passed 5-9-05.)

1105.19 USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS.

(a) By-right Uses Without a Permit. Open space uses that are passive in character shall be permitted in riparian and wetland setbacks, including, but not limited to, those listed in these regulations. No use permitted under these regulations shall be construed as allowing public trespass on privately-held lands.

(1) Recreational activity. Passive recreational uses, as permitted by Federal, State, and local laws, such as hiking, fishing, hunting, picnicking and similar uses.

(2) Removal of damaged or diseased trees. Damaged or diseased trees may be removed.

(3) Revegetation and/or reforestation. Riparian and wetland setbacks may be revegetated with non-invasive plant species.

(4) Maintenance of lawns, gardens and landscaping. Lawns, gardens and landscaping, that existed at the time this chapter was passed may be maintained as long as they are not increased in size.

(b) By-right Uses with a Permit.

(1) Selective harvesting of timber. Selective harvesting of timber may be allowed upon presentation of a Forest Management and Harvest Plan prepared by a qualified forester and accepted by the City Engineer.

A. Any landowner harvesting timber for sale shall post a one thousand dollar ($1,000.00) performance guarantee with the City. This performance guarantee shall be in the form of a security bond, escrow account, certified check or cash, and it shall be held until completion of the timber-harvesting operation.

B. Due to the potential for felled logs and branches to damage downstream properties and/or to block ditches or otherwise exacerbate flooding, logs or branches resulting from permitted selective harvesting that are greater than six inches in diameter at the cut end shall be cut into sections no longer than six feet or removed from the 100-year floodplain.

Harvested trees or felled logs and branches that are part of a designed and approved Streambank Stabilization and Erosion Control Measure shall be allowed to remain in a designated watercourse.

C. The Forest Management and Harvest Plan must:

1. Show that the site will be adequately stocked after the approved selective harvest. "Adequately stocked" shall be defined as the residual stocking level greater than the B-Level on the Allegheny Hardwood Stocking Guide produced by the United States Forest Service, or other United States Forest Service stocking guides as dictated by the forest City to be harvested.

2. Show that trees located less than 25 feet from the ordinary high water mark will not be impacted by the proposed harvesting.

3. Include a map of the site. This map shall specify the location of any skid and haul roads required for transporting harvested trees and firewood from riparian and wetland setbacks.

4. Include the method to be used to transport harvested trees from riparian and wetland setbacks.

5. Specify the erosion control best management practices that will be employed during and after the proposed harvest. These erosion control practices shall be in conformance with the Ohio Department of Natural Resources, Division of Forestry's BMPs for Erosion Control on Logging Jobs in Ohio.

6. Provide the U.S. Army Corps of Engineers and the Ohio EPA Wetland and Stream protection permit numbers and the associated permit requirements.

(2) Streambank stabilization and erosion control measures. Streambank stabilization and erosion control measures may be allowed provided that such measures are ecologically compatible and substantially utilize natural materials and native plant species where practical. The streambank stabilization and erosion control measures shall only be undertaken upon approval of an Soil Erosion and Sediment Control Plan by the City

(3) Crossings. Crossings of designated watercourses and through riparian setbacks by publicly and privately-owned sewer and/or water lines and public and private utility transmission lines shall only be allowed upon approval of a Crossing Plan by the City Engineer. Such crossings shall minimize disturbance in riparian setbacks and shall mitigate any necessary disturbances. Erosive materials will not be used in making stream crossings. (Ord. 2005-10. Passed 5-9-05.)

1105.20 USES PROHIBITED IN RIPARIAN AND WETLAND SETBACKS.

Any use not authorized under these regulations shall be prohibited in riparian and wetland setbacks. By way of example, the following uses are specifically prohibited. However, prohibited uses are not limited to those examples listed here.

(a) Construction. There shall be no structures of any kind.

(b) Dredging or Dumping. There shall be no drilling, filling, dredging, or dumping of soil, spoils, liquid, or solid materials, except for noncommercial composting of uncontaminated natural materials, and except as permitted under this section.

(c) Roads or Driveways. There shall be no roads or driveways permitted in riparian and/or wetland setback area, except as permitted under this section. There shall be no roads or driveways or roads permitted in wetlands or watercourses without a permit issued by the U.S. Army Corps of Engineers and/or the Ohio EPA.

~~(d) Motorized Vehicles. There shall be no use of motorized vehicles, except as permitted under this section.~~

~~(e) Disturbance of Natural Vegetation. There shall be no disturbance, including mowing, of the natural vegetation, except for such conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with this regulation; for such disturbances as are approved under this section; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of this regulation. Nothing in this regulation shall be construed as requiring a landowner to plant or undertake any other activities in riparian and wetland setbacks.~~

~~(f) Parking Lots. There shall be no parking lots or other human-made impervious cover, except as permitted under this section.~~

~~(g) New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Riparian and wetland setbacks shall not be used for the disposal or treatment of sewage except in accordance with local County Board of Health regulations in effect at the time of application of this regulation.~~

~~(h) Crossings. Crossings of designated riparian and wetland setbacks by publicly and privately-owned sewer and/or water lines and small public and small private utility transmission lines without a permit issued by the U.S. Army Corps of Engineers and/or the Ohio EPA.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.21 NONCONFORMING STRUCTURES OR USES IN RIPARIAN AND WETLAND SETBACKS.~~

~~(a) A nonconforming use within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is not otherwise permitted under these regulations, may be continued. However, the use shall not be changed or enlarged unless it is changed to a use permitted under these regulations.~~

~~(b) A nonconforming structure within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is not otherwise permitted under these regulations, may be continued. However, the existing building footprint or roofline may not be expanded or enlarged in such a way that would move the structure closer to the stream or wetland.~~

~~(c) A nonconforming structure or use or deteriorated structure within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is discontinued, terminated or abandoned for a period of six months or more, may not be revived, restored or re-established.~~

~~(d) A nonconforming structure or use that is discontinued may be resumed any time within six months from such discontinuance but not thereafter. No change or resumption shall be permitted that is more detrimental to riparian and wetland setbacks, as measured against the intent and objectives of these regulations as determined by the City, than the existing or former nonconforming structure or use.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.22 VARIANCES WITHIN RIPARIAN AND WETLAND SETBACKS.~~

~~(a) The City may grant a variance from this regulation as provided herein. In determining whether there is unnecessary hardship or practical difficulty such as to justify~~

~~the granting of a variance, the City shall consider the potential harm or reduction in riparian and/or wetland area functions that may be caused by a proposed structure or use.~~

~~(b) In making a variance determination, the City shall consider the following:~~

~~(1) Varying the front, rear and side yard setback before the riparian and wetland setbacks are varied.~~

~~(2) Variances should not be granted for asphalt or concrete paving in the riparian and wetland setbacks in any situation where gravel or porous pavement (i.e., porous pavers and similar products) will do the job.~~

~~(c) In making a variance determination, the City may consider the following:~~

~~(1) A parcel existing at the time of passage of this chapter is made unbuildable.~~

~~(2) The soil type natural vegetation of the parcel, as well as the percentage of the parcel that is in the 100-year floodplain. The criteria of the City's flood damage prevention regulations may be used as guidance when granting variances in the 100-year floodplain.~~

~~(3) The extent to which the requested variance impairs the flood control, soil erosion control, sediment control, water quality protection or other functions of the riparian and/or wetland area. This determination shall be based on sufficient technical and scientific data.~~

~~(4) The degree of hardship this regulation places on the landowner, and the availability of alternatives to the proposed activity.~~

~~(5) Soil-disturbing activities permitted in a riparian and/or wetland setback through variances should be implemented in order to minimize clearing to the extent possible, and to include best management practices necessary to minimize soil erosion and maximize sediment control.~~

~~(6) The presence of significant impervious cover or smooth vegetation, such as maintained lawns, in riparian setback areas compromises their benefits to the City.~~

~~(7) A reduction in storm water infiltration into the soil in wetland areas will occur.~~

~~(8) A requested above-ground fence does not increase the existing area of mowed grass or lawn.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.23 BOUNDARY INTERPRETATION AND APPEALS PROCEDURE.~~

~~(a) When an applicant or their designated representative disputes the boundary of a riparian or wetland setback or the ordinary high water mark of a watercourse, the applicant or their designated representative shall submit documentation to the City which describes the boundary, the applicant's proposed boundary, and justification for the proposed boundary change.~~

~~(b) The City shall evaluate this documentation and shall make a written determination within a reasonable period of time, not to exceed 60 days, a copy of which shall be submitted to the applicant. If, during this evaluation, the City requires further information, it may be required of the applicant. In the event that the City requests such additional information, the 60-day limit on the City's review shall be postponed until the applicant provides such information.~~

~~(c) Any party aggrieved by any wetland or riparian setback determination under this regulation may appeal to the Board of Zoning Appeals.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.24 INSPECTION OF RIPARIAN AND WETLAND SETBACK.~~

~~The delineation of riparian and/or wetland setbacks shall be inspected by the City, as follows:~~

~~(a) The inspection shall be done prior to any soil-disturbing activities authorized by the City under a property/parcel split, land development plan, and/or building permit. The applicant or their designated representative shall provide the City with at least five working days notice prior to starting a soil-disturbing or land- clearing activities.~~

~~(b) Prior to starting any of the activities authorized by the City under Section 1105.19, the applicant or their designated representative shall provide the City with at least five working days notice prior to starting such activities.~~

~~(c) Any time evidence is brought to the attention of the City that uses or structures are occurring that may reasonably be expected to violate the provisions of these regulations.~~
~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.25 DISCLAIMER OF LIABILITY.~~

~~Neither submission of a plan under the provisions herein, nor compliance with the provisions of these regulations shall relieve any person or entity from responsibility for damage to any person or property that is otherwise imposed by law.~~
~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.26 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.~~

~~(a) Where this chapter imposes a greater restriction upon land than is imposed or required by other City provisions of law, ordinance, contract or deed, the provisions of this chapter shall prevail.~~

~~(b) If a court of competent jurisdiction declares any clause, section, or provision of these regulations invalid or unconstitutional, the validity of the remainder shall not be affected thereby.~~

~~(c) These regulations shall not be construed as authorizing any person to maintain a private or public nuisance on their property. Compliance with the provisions of this regulation shall not be a defense in any action to abate such nuisance.~~

~~(d) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees or agents being responsible for any condition or damage resulting therefrom.~~
~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.27 VIOLATIONS.~~

~~No person shall violate or cause, or knowingly permit to be violated, any of the provisions of these regulations, or fail to comply with any such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations.~~
~~(Ord. 2005-10. Passed 5-9-05.)~~

~~1105.99 PENALTIES.~~

~~(a) Whoever violates or fails to comply with any provision of this regulation is guilty of a~~

~~misdemeanor of the first degree and shall be fined no more than one thousand dollars ($1,000.00) or imprisoned for no more than 18) days, or both, for each offense.~~

~~(b) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.~~

~~(c) Upon notice from the City Engineer, or designated representative, that work is being performed contrary to this regulation, such work shall immediately stop. Such notice shall be in writing and shall be given to the owner or person responsible for the development area, or person performing the work, and shall state the conditions under which such work may be resumed; provided, however, in instances where immediate action is deemed necessary for public safety or the public interest, the City Engineer may require that work be stopped upon verbal order pending issuance of the written order.~~

~~(d) The imposition of any other penalties provided herein shall not preclude the City, by or through its Law Director and/or any of their assistants, from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful development or to restrain, correct or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules or regulations or the orders of the City Engineer.~~

~~(Ord. 2005-10. Passed 5-9-05.)~~