

AMENDING AND SUPPLEMENTING THE TALLMADGE CODE OF ORDINANCES BY
ADDING CHAPTER 1195—EROSION AND SEDIMENT CONTROL

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

WHEREAS, communities throughout the watersheds encompassing Summit and Portage Counties 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 Cuyahoga River and to protect and enhance the unique water resources and wetlands of the Cuyahoga River watershed; and

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II Program, require designated communities, including the City of Tallmadge to develop and implement a Storm Water Management Program to address, among other components, erosion and sediment control during soil disturbing activities and post construction storm water quality; 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 and Zoning Commission considered this matter and recommended that Council adopt this legislation; and

WHEREAS, a public hearing was held by Council on April 27, 2006.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That the Tallmadge Code of Ordinances is hereby amended and supplemented to add Chapter 1195—Erosion and Sediment Control, which shall provide as follows:

**“CHAPTER 1195
EROSION AND SEDIMENT CONTROL**

1195.01 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 wetlands, and will promote and maintain the health and safety of the citizens of Tallmadge.
- (b) This regulation will:
 - (1) Allow development while minimizing increases in erosion and sedimentation.
 - (2) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.
- (c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving streets, highways, underground cables, or pipelines; subdivisions, planned residential developments, or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section 1195.01(d).
- (d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules. Rules 1501:15-5-01 to 15-5-18 of the Ohio Administrative Code.

1195.02 DEFINITIONS.

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

- (a) **ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN (ABBREVIATED SWP3):** The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter if requested for project less than one acre in size.

- (b) ACRE: A measurement of area equaling 43,560 square feet.
- (c) BEST MANAGEMENT PRACTICES (BMPs): Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to minimize soil erosion and sedimentation and to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.
- (d) COMMUNITY: Throughout this Chapter, this shall refer to the City of Tallmadge, its designated representatives, boards, or commissions.
- (e) CONSTRUCTION ENTRANCE: The permitted points of ingress and egress to development areas regulated under this Chapter.
- (f) 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.
- (g) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
- (h) 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.
- (i) 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.
- (j) 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.
- (k) FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 70% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.
- (l) LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.
- (m) 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.
- (n) MAXIMUM EXTENT PRACTICABLE: The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.
- (o) NPDES: National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
- (p) 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 County Auditor's Fiscal Officer's Office.
- (q) 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.
- (r) PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
- (s) PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio.
- (t) RAINWATER AND LAND DEVELOPMENT MANUAL: Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall apply to this Chapter.
- (u) 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.

- (v) **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.
- (w) **SEDIMENTATION:** The deposition or settling of sediment.
- (x) **SETBACK:** A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. Soil disturbing activities in this area are restricted by this Chapter.
- (y) **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 that may result in, or contribute to, erosion and sediment pollution.
- (z) **SOIL & WATER CONSERVATION DISTRICT:** A subdivision of the State of Ohio organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as SWCD.
- (aa) **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.
- (bb) **STREAM:** A surface water course with a well defined bed and bank, either natural or artificial, which confines and conducts continuous or periodic flowing water (ORC 6105.01).
- (cc) **STORM WATER POLLUTION PREVENTION PLAN (SWP3):** The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter.
- (dd) **UNSTABLE SOILS:** A portion of land that is identified by the County or City Engineer, County or City Building Standards and/or the SWCD 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.
- (ee) **WATER RESOURCE:** Any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.
- (ff) **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).

1195.03 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this Chapter shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Chapter 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.

1195.04 CONFLICTS, SEVERABILITY, NUISANCES, AND RESPONSIBILITY.

- (a) Where this Chapter is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.
- (b) If any clause, section, or provision of this Chapter is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (c) This Chapter 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 Chapter shall not be a defense in any action to abate such a nuisance.
- (d) Failure of the City 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 Tallmadge, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

1195.05 REGULATED ACTIVITIES.

- (a) This Chapter requires that a Storm Water Pollution Prevention Plan be developed and implemented for all parcels of one (1) acre or more and on which any regulated activity of Section 1195.01(c) is proposed.
- (b) At the request of the City Engineer, the following activities may be required to submit an Abbreviated Storm Water Pollution Prevention Plan:

- (1) New single-family residential construction regardless of parcel size.
- (2) Additions or accessory buildings for single-family residential construction regardless of parcel size.
- (3) All non-residential construction on parcels of less than one (1) acre.
- (4) General clearing activities not related to construction and regardless of parcel size.

1195.06 APPLICATION PROCEDURES.

- (a) SOIL DISTURBING ACTIVITIES SUBMITTING A STORM WATER POLLUTION PREVENTION PLAN: The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the SWCD as follows:
 - (1) For subdivisions: After the approval of the preliminary plat and with submittal of the improvement plans.
 - (2) For other construction projects: Before issuance of a building permit by the Building Department.
 - (3) For general clearing projects: Prior to start of clearing or issuance of a building permit by the Building Department.
- (b) SOIL DISTURBING ACTIVITIES SUBMITTING AN ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN: The applicant shall submit two (2) sets of the Abbreviated SWP3 and the applicable fees to the City Engineer as follows:
 - (1) For single-family home construction: Before issuance of a building permit by the Building Department.
 - (2) For other construction projects: Before issuance of a building permit by the Building Department.
 - (3) For general clearing projects: Prior to start of clearing or issuance of a building permit by the Building Department.
- (c) The SWCD and/or the City Engineer shall review the plans submitted under 1195.06 (a) or (b) for conformance with current NPDES permit requirements and this Chapter and approve, or return with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan.
- (d) Soil disturbing activities shall not begin, final plat approvals shall not be issued, zoning certificates and building permits shall not be issued without an approved SWP3 or Abbreviated SWP3.
- (e) A pre-construction meeting may be held with the City Engineer and/or SWCD inspector or their designee, at their discretion, prior to earthwork activities. The developer, contractor, and design engineer should be in attendance at the pre-construction meeting.
- (f) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the subplot is in compliance with this Chapter.
- (g) Approvals issued in accordance with this Chapter shall remain valid for two years. If regulations concerning erosion and sediment control or storm water quality change prior to the beginning of active construction, a new SWPPP may be requested by the SWCD or City Engineer.

1195.07 STORM WATER POLLUTION PREVENTION PLAN.

- (a) In order to control pollution of water resources and wetlands, the applicant shall submit a SWP3 in accordance with the requirements of this Chapter. The SWP3 must comply at a minimum to the most recent Ohio EPA NPDES Permit. For specific requirements of a SWP3, the designer shall refer to the NPDES Ohio EPA General Construction Permit and the SWCD SWP3 Check List. The SWP3 must address erosion and sediment control during construction as well as post construction water quality practices. Post construction practices must meet the requirements of the NPDES Ohio EPA General Construction Permit and the City and/or County storm water management technical guidelines.
- (b) The 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 SWP3 shall incorporate measures as recommended by the most current edition of Rainwater and Land Development as published by the Ohio Department of Natural Resources.

- (d) Trapping Efficiency: All sediment basins and traps must maintain a minimum 75% trapping efficiency throughout the construction period as determined by engineering calculations contained within the applicable County Water Quality and Trapping Efficiency Program. The approved program to determine trapping efficiency is available through the Soil and Water Conservation District.
- (e) Soils Engineering Report: The City Engineer, or the County SWCD 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 upon adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and reviewed by the City Engineer or the SWCD shall be incorporated in the grading plans and/or other specifications for site development.
 - (1) Data regarding the nature, distribution, strength, stability, and erodibility of existing soils.
 - (2) If applicable, data regarding the nature, distribution, strength, stability, 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 concerning the stability of the site.

1195.08 ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN.

- (a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this Chapter.
- (b) The Abbreviated SWP3 shall be developed in accordance with guidance provided by the SWCD SWP3 checklist or comparable checklist from the City.

1195.09 COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS.

Approvals issued in accordance with this Chapter 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 are required to show proof of compliance with all state and federal regulations.

- (a) Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.
- (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. 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 Chapter.
- (c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit 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 is not applicable. 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 Chapter.
- (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 surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.

- (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 Chapter.
- (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.
- (f) Riparian Setback Ordinance: Proof of compliance shall be a copy of the SWCD approval letter. Riparian setbacks must be shown on the SWP3.

1195.10 PERFORMANCE STANDARDS.

The SWP3 must contain a description and location of all appropriate BMPs for each construction operation. Prior to the start of grading and within seven days from the start of grubbing, the applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the person(s) responsible for implementation.

- (a) No project subject to this Chapter shall commence without a SWP3 or Abbreviated SWP3 approved by the SWCD and/or City Engineer.
- (b) No project subject to this Chapter shall commence without a pre-construction meeting, if required, being held with the City Engineer and/or SWCD. It will be the developer or land owner's responsibility to contact the SWCD and/or City Engineer.

The controls shall include the following minimum components:

1. DURING ACTIVE CONSTRUCTION.

- (a) **NON-STRUCTURAL PRESERVATION MEASURES:** The applicant must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing or grubbing practices.
 - (1) Stream protection. The requirements of the T.C.O. Chapter 1190 for Riparian Setbacks shall be followed.
 - (2) Wetland Protection. The setback requirements of the City Subdivision and Zoning Regulations shall be followed in addition to County, State, and Federal regulations.
- (b) **EROSION CONTROL PRACTICES:** The applicant must make use of erosion controls that are capable of providing cover over disturbed soils. A description of control practices designed to restabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover.
- (c) **RUNOFF CONTROL PRACTICES:** The applicant must make use of measures that control the flow of runoff from disturbed areas so as to prevent erosion. Such practices may include rock check dams, pipe slope drains, diversions to direct flow away from exposed soils and protective grading practices. These practices shall divert runoff away from disturbed areas and steep slopes where practicable.
- (d) **SEDIMENT CONTROL PRACTICES:** The applicant must install structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. Such practices may include, among others: sediment settling ponds, silt fences, storm drain inlet protection, and earth diversion dikes or channels which direct runoff to a sediment settling pond. All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond.
- (e) **NON-SEDIMENT POLLUTANT CONTROLS:** No solid or liquid waste, including building materials, shall be discharged in storm water runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands.

- (f) **COMPLIANCE WITH OTHER REQUIREMENTS:** The SWP3 shall be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.
- (g) **TRENCH AND GROUND WATER CONTROL:** There shall be no sediment-laden or turbid discharges to water resources or wetlands 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. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.
- (h) **INTERNAL INSPECTIONS:** All controls on the site shall be inspected by the applicant's agent 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. The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required. Qualified inspection personnel are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls.
- (i) **MAINTENANCE:** The SWP3 shall be designed to minimize maintenance requirements. All control practices shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the SWCD.

When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

- (1) When practices require repair or maintenance. If an inspection reveals that a control practice 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.
 - (2) When practices fail to provide their intended function. If an inspection reveals that a control practice fails to perform its intended function as detailed in the SWP3 and that another, more appropriate control practice is required, the SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.
 - (3) When practices depicted on the SWP3 are not installed. If an inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the internal 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.
- (j) **FINAL STABILIZATION:** Final stabilization is reached when 75% of the disturbed area has been protected from erosion by vegetation, clean stone, pavement, or other acceptable means.

2. POST CONSTRUCTION WATER QUALITY PRACTICES.

- (a) **NON-STRUCTURAL WATER QUALITY PRACTICES:** Non-structural post construction best management practices include preservation, planning, or procedures that direct development away from water resources or limit creation of impervious surfaces. Practices such as conservation easements, riparian and wetland setbacks, and conservation subdivision design are all non-structural controls.
 - (1) All non-structural water quality practices must be protected from disturbance through the construction phase of the project.
 - (2) All non-structural water quality practices must be protected in perpetuity through the use of appropriate legal tools. All easement or conservation areas must appear on the final plat and be disclosed to potential buyers.
- (b) **STRUCTURAL WATER QUALITY PRACTICES:** Structural post construction best management practices are permanent features constructed to provide treatment of storm water runoff either through storage, filtration, or infiltration.
 - (1) All structural water quality practices must be established prior to the completion of the project. Structural water quality practices should be made functional once the disturbed

areas on site are stabilized. If detention/retention facilities were used for sediment control during development, sediments must be removed prior to the basin being used for post construction storm water quality.

- (2) MAINTENANCE. The post construction water quality practice must be maintained in perpetuity by those parties identified in the SWPPP, the applicable recorded plat, or other maintenance requirements of the City.

1195.11 FEES.

- (a) A Storm Water Pollution Prevention Plan review, filing, and inspection fee is part of a complete submittal to the SWCD. Fees are required to be submitted to the SWCD before the review process begins. Fees shall be established by the SWCD.
- (b) The City Engineer may, at his discretion, have any Abbreviated Storm Water Pollution Prevention Plan reviewed by the SWCD. All fees associated with the SWCD review shall be the responsibility of the developer or owner.

1195.12 BOND.

If a Storm Water Pollution Prevention Plan or Abbreviated Storm Water Pollution Prevention Plan is required by this Chapter, soil disturbing activities shall not be permitted until a performance guarantee in the form of a performance bond, irrevocable letter of credit, or cash has been deposited with the Director of Public Service. The bond amount shall be as established by the Director of Public Service. The performance guarantee will be used for the City to perform the obligations otherwise to be performed by the owner of the development area as stated in this Chapter and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this Chapter. The performance guarantee shall be returned after all work required by this Chapter has been completed and final stabilization has been reached, all as determined by the SWCD and/or City Engineer.

1195.13 ENFORCEMENT.

- (a) All development areas will be subject to external inspections by the City and/or SWCD to ensure compliance with the approved SWP3 or Abbreviated SWP3.
- (b) After each external inspection, the City and/or SWCD may prepare and distribute a status report to the applicant.
- (c) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the City may take action as detailed in Section 1195.14 of this regulation.

1195.14 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) If it appears that a violation of any of these regulations has occurred, the owner and developer will be notified of deficiencies or non-compliance in writing by mail. If within 21 days after receipt of the letter, the owner or developer has not rectified the deficiency or received approval of plans for its correction, the deficiency or non-compliance shall be reported to the Director of Law for immediate enforcement of these regulations. Inspections by the City or SWCD do not relinquish the responsibility of the owner to comply with Ohio EPA NPDES inspection requirements.
- (c) Upon notice, the Director of Law may suspend any active soil disturbing activity and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this Chapter. 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 Director of Law 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.
- (d) The City reserves the right to deny the issuance of any further plat approvals or building inspections for the property in question until the site is brought into compliance with this Chapter.

1195.15 APPEALS.

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City in relation to this Chapter may appeal to the Court of Common Pleas.

1195.99 PENALTY.

- (a) A violation of this Chapter is subject to the penalties and procedures set forth in Chapter 1199. Each day a violation occurs constitutes a separate offense.
- (b) The imposition of any other penalties provided herein shall not preclude the City 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 Chapter or other applicable laws, ordinances, rules, or regulations, or the orders of the City.”

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed:

 Susan E. Wilson, Clerk of Council
 PKT/kl
 03/07/06
AMENDED 04/27/06
AMENDED 06/22/06
 Filed with the Mayor_____

Jack L. Sarver, President of Council

Approved:

Christopher B. Grimm, Mayor

This _____ day of _____, 2006

Committee Assignment: _____

Readings: 1st _____ 2nd _____ 3rd _____