

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5658

**AN ORDINANCE AMENDING CHAPTER 1331
TITLED "CONSTRUCTION SITE SOIL EROSION,
SEDIMENT, STORMWATER RUNOFF AND
STORMWATER QUALITY CONTROLS AND
REGULATIONS" OF THE BUILDING
CODE; AND DECLARING AN EMERGENCY**

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

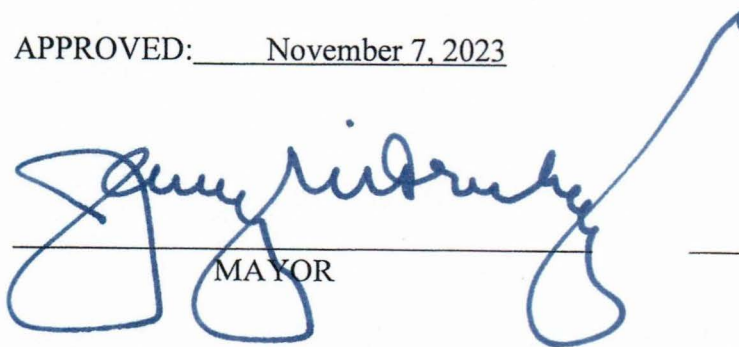
SECTION 1. That Chapter 1331 of the Building Code be amended to read as attached hereto as Exhibit "A" and made a part hereof.

SECTION 2. That Chapter 1331 as it existed prior to the effective date of this Ordinance be, and the same hereby is, repealed.

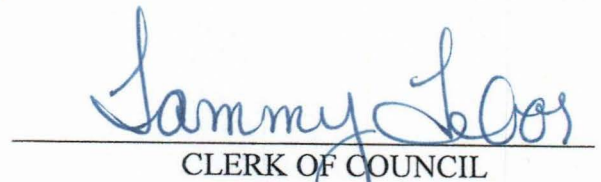
SECTION 3. The Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is to be in compliance with the current Ohio EPA Storm Water General Permit, therefore, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: November 7, 2023

APPROVED: November 7, 2023

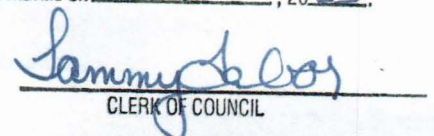


MAYOR



CLERK OF COUNCIL

I do hereby certify that the foregoing is a true and correct copy of Ordinance No. 5658 duly passed by the Council of the City of Brecksville, Ohio, on 11.7, 20 23 and that same was duly posted in accordance with the existing Charter of the City of Brecksville on 11.9, 20 23.



CLERK OF COUNCIL

CHAPTER 1331: CONSTRUCTION SITE SOIL EROSION, SEDIMENT, STORMWATER RUNOFF AND STORMWATER QUALITY CONTROLS AND REGULATIONS

Section

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§ 1331.01 PURPOSE.

The intent of this chapter is to comply with the requirements of the Ohio Environmental Protection Agency (EPA) Permit No. [OHQ000002](#)[OHQ000004](#): Authorization for Small Municipal Separate Storm Sewer Systems to Discharge Stormwater Under the National Pollutant Discharge Elimination System (NPDES) and its successors by establishing standards to achieve a level of soil erosion and stormwater control that will minimize and abate degradation of land and water resources and damage to public and private property resulting from earth disturbing activities involving one (1) acre or more. Reduction of stormwater discharges from construction activity disturbing less than one (1) acre must be considered if that construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more. In addition, this regulation further intends to:

(a) Assure that those involved in earth-disturbing activities minimize both soil erosion and the volume and rate of stormwater runoff from their sites.

(b) Assure that stormwater controls are incorporated into site planning and design at the earliest possible stage and that all stormwater management practices are properly designed, constructed, and maintained.

(c) Prevent unnecessary stripping of vegetation and loss of soil and to promptly revegetate and stabilize the site following earth disturbing activities.

(d) Encourage the construction of stormwater management practices that serve multiple purposes such as flood control, erosion control, water quality protection, recreation, and habitat preservation.

~~(Ord. 4622, passed 4-5-11)~~

§ 1331.02 SCOPE.

(a) *Site development plan.* Any person or persons proposing to disturb one (1) acre or more of land for residential, institutional, commercial, office and industrial purposes, including land development proposals for non-agricultural uses and public infrastructure uses, including transportation and utilities within the city shall design, develop, and submit a site development plan as described in § 1331.06. Said plan will be evaluated to determine the potential for erosion, runoff, and sedimentation impacts that may result from such development activities.

(b) *Stormwater management plan.* A stormwater management (SWM) plan shall be prepared as described in § 1331.07 to minimize the impacts of increased impervious surfaces.

(c) No earth disturbing activity subject to regulation under this chapter shall be undertaken for any land disturbance equal to or greater than one (1) acre without an approved site development plan as required under § 1331.06 and a stormwater management (SWM) plan as required under § 1331.07.

(d) Final approval of a proposed development, redevelopment, street or utility project shall not be given unless:

(1) A determination is made by the City Engineer based on submission of a site development plan as detailed in § 1331.06 that the proposed earth disturbing activity will minimize accelerated runoff, erosion, and/or sediment.

(2) A SWM plan in accordance with § 1331.07 has been approved by the City Engineer ~~that determines that the proposed earth disturbing activity will not cause accelerated runoff, erosion, and/or sediment.~~

(e) Any person or persons seeking approval to construct a structure shall be exempted from having to prepare a site development plan and a SWM plan with site-specific SWP3 developed to meet the requirements of the Ohio EPA Construction General Permit, provided they meet all of the following:

- (1) Construction takes place on one (1) parcel.
- (2) The earth disturbing activity does not affect more than one (1) acre of the development site at a time.
- (3) The activity is not located within a floodplain or floodway as identified by FEMA.
- (4) The parcel is part of an overall development plan which has received approval of a SWM plan and the developer certifies that they will comply with said plan, or the parcel is not part of a larger development plan and the applicant certifies that they will comply with and implement all applicable standard pollution prevention practices as described in the Small Construction Site Controls section of the Rainwater and Land Development manual.

(f) This chapter does not apply to:

- (1) Land-disturbing activities related to producing agricultural crops or silviculture operations regulated by Ohio Administrative Code (OAC) 1501:15-3-01 to 1501:15-3-09, Ohio Agricultural Sediment Pollution Abatement Rules.
- (2) Existing strip mining operations regulated by R.C. Chapter 1513.
- (3) Existing surface mining operations regulated by R.C. Chapter 1514.

~~(Ord. 4622, passed 4-5-11)~~

§ 1331.03 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 the provisions contained in this chapter invalid or unconstitutional, the validity of the remainder shall not be affected thereby.

(c) The provisions contained in this chapter shall not be construed as authorizing any person to maintain a private or public nuisance on their property.

Compliance with the provisions of this chapter shall not be a defense in any action to abate such nuisance.

~~(d)~~—Failure of the city to observe or recognize hazardous or unsightly

(d) 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. 4622, passed 4-5-11)~~

§ 1331.04 DEFINITIONS.

All words used in this chapter shall have their customary meanings as defined in Webster's New World Dictionary, ~~Ohio EPA Permit No. OHC000003: Authorization for Stormwater Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System (NPDES),~~ the most recent Ohio EPA Construction General Permit, and/or the current edition of *Rainwater and Land Development*, except those specifically defined in this section.

APPROVAL AUTHORITY. An official, organization, or group designated to review and approve/disapprove stormwater pollution prevention plans (SWP3s), site development plans, and/or stormwater management plans submitted to the city.

AUTHORIZED AGENT. An official, organization, or group which has official permission to represent or act on behalf of the city.

BEST MANAGEMENT PRACTICES (BMPS). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of surface waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant and/or construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

BUFFER. A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the surface waters of the state from runoff pollution. Construction activities in this area are restricted or prohibited.

BUSINESS DAY. A day of the week excluding Saturday, Sunday, and a legal holiday as defined in R.C. § 1.14.

THE CITY. The City of Brecksville, State of Ohio, and its authorized agents and representatives.

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 #OHC000006 and its successors).

CRITICAL STORM. A storm which is calculated by means of the percentage increase in volume of runoff by a proposed earth disturbing activity or development area. The critical storm is used to calculate the maximum allowable stormwater

_discharge rate from a site.

CUT. An excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade.

CWA. Refers to the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended, Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117 and Pub. L. 100-4, 33 U.S.C. 1251 et seq.

DETENTION BASIN. An impoundment area created by constructing an embankment, excavating a pit, or both, for the purpose of temporarily storing stormwater.

DETENTION FACILITY. A detention basin or alternative structure designed to temporarily store stormwater runoff and gradually release the stored water at a controlled rate.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavating or drilling operations; or the storage of equipment or materials.

DEVELOPMENT AREA. Any area upon which earth-disturbing activities are planned or underway for a development.

EARTH-DISTURBING ACTIVITY or **SOIL-DISTURBING ACTIVITY.** Any clearing, grading, excavation, filling, or other alteration of the earth's surface where natural or man-made ground cover is destroyed in a manner that exposes the underlying soils.

~~**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA).** The agency with the overall responsibility for administering the National Flood Insurance Program.~~

FILL. Any act by which, earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade.

~~**GRASS COVERAGE.** To grass over, cover with grass. The planting, growing and maintaining of grass seed as specified in the current edition of the *Rainwater and Land Development* manual for the purpose of creating a thick porous mat which dissipates small flows causing filtration of particulates.~~

~~**GRUBBING.** Machine clearing of vegetation. Usually performed as the first step in the development of land.~~

GRUBBING. Removing or grinding of roots, stumps, and other unwanted material below existing grade.

NON-STRUCTURAL CONTROLS. Stormwater runoff control and treatment techniques that use natural measures to control runoff and/or reduce pollution levels. Examples include minimizing impervious area, buffer strips along streams, and preserving natural vegetation.

NPDES. National Pollutant Discharge Elimination System, which is the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the CWA. The term includes an "approved program."

~~**OHIO EPA CONSTRUCTION PERMIT** or **OHIO EPA PERMIT NO. OHC000002.** Refers to Ohio EPA Permit Number OHC000003: Authorization for Stormwater Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System (NPDES).~~

PARCEL. Any legally described piece of land created by a partition, subdivision, deed or other instrument recorded with the appropriate entity or agency.

PEAK RATE OF RUNOFF. The maximum rate of runoff for any twenty-four (24)-hour storm of a given frequency.

PERMANENT STABILIZATION. The establishment of permanent vegetation, decorative landscape mulching, matting, sod, rip rap and landscaping techniques to provide permanent erosion control on areas where construction operations are complete or where no further disturbance is expected for at least one (1) year.

PERMITTEE. The operator or operators responsible for obtaining authorization to discharge stormwater associated with construction activity under the terms and conditions of the Ohio EPA Construction General Permit No. OHC000003 or an individual NPDES permit, or coverage under an ~~alternate~~ alternative NPDES general ~~NPDES~~ permit as described in ~~Ohio EPA~~ the Construction General Permit No. OHC000003, Part I.C.1, for a development.

PRE-DEVELOPMENT CONDITIONS. Site conditions as they existed as prior to clearing or initiation of January 1, 2011 soil disturbing activity, and reflecting the average type of land use over the past 20 years, or as agreed by the City Engineer based upon the specific site details.

QUALIFIED INSPECTION PERSONNEL. A person knowledgeable in the

principles and practices of erosion and sediment control, who possesses the skills to assess all conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activity.

RAINWATER AND LAND DEVELOPMENT or ***RAINWATER AND LAND***

DEVELOPMENT MANUAL. Refers to the current edition of *Rainwater and Land Development: Ohio's Standards for Stormwater Management, Land Development and Urban Stream Protection* developed by the Ohio Department of Natural Resources, U.S. Department of Agriculture Natural Resource Conservation Service, and the Ohio Environmental Protection Agency. This manual describes construction and post construction best management practices and associated specifications. A copy of the manual may be obtained by contacting the Ohio Department of Natural Resources, Division of Soil & Water Conservation.

RIPARIAN. Relating to the banks of the surface waters of the State of Ohio.

SEDIMENT SETTLING POND. A sediment trap, sediment basin or permanent basin that has been temporarily modified for sediment control, as described in the *Rainwater and Land Development* manual.

SITE DEVELOPMENT PLAN. The written document or set of plans meeting the requirements of this chapter that provides information on the location of the area proposed for development, the site in relation to its general surroundings, and existing characteristics of the site, including limits of earth disturbing activities.

SILVICULTURE. A branch of forestry dealing with the development and care of forests.

STOP-WORK ORDER. An order issued which requires that all work on the site must cease except work associated with bringing the site into compliance with the approved SWM plan or site development plan.

STORMWATER CONTROL MEASURE (SCM). A structure or area designed to remove pollutants from stormwater and/or reduce stormwater flow rates. SCMs are a subset of Best Management Practices (BMPs) as defined in the Construction General Permit.

STORMWATER MANAGEMENT (SWM) PLAN. The written document meeting the requirements of this chapter that sets forth the plans and practices to be used to minimize stormwater runoff from a site and to safely convey or temporarily store and release post-development stormwater runoff at an allowable rate to minimize flooding and erosion.

SWP3. Stormwater pollution prevention plan as described in the Ohio EPA Construction General Permit #OHC000003. The requirements of the SWP3 will be coordinated and combined with the requirements for a stormwater management plan as defined above and described in this chapter.

STORM FREQUENCY or STORM RETURN INTERVAL. The average period of time in years within which a storm of a given duration and intensity can be expected to be equaled or exceeded.

STRUCTURAL CONTROLS. Any human-made facility, structure, or device that is constructed to provide temporary storage and/or treatment of stormwater runoff. Examples include retention and detention basins, rock check dams, swales, and constructed wetlands.

~~constructed wetlands.~~

SURFACE WATERS OF THE STATE, WATER RESOURCES, or WATER BODIES.

All streams, lakes, reservoirs, ponds, marshes, wetlands or other waterways which are situated wholly or partially within the boundaries of the State of Ohio, except those private waters which do not combine or effect a junction with natural surface ~~or underground~~ waters. Waters defined as sewerage systems, treatment works or disposal systems in R.C. § 6111.01 are not included.

SWALE. A low lying stretch of vegetated land which gathers and carries surface water.

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.

TEMPORARY VEGETATION. Short term vegetative cover such as oats, rye, or wheat, used to stabilize the soil surface until final grading and installation of permanent vegetation.

TR55. Refers to the Natural Resources Conservation Service (NRCS) Technical Release 55, Urban Hydrology for Small Watersheds, current edition. This document presents simplified procedures to calculate storm runoff volume, peak rate of discharge, hydrographs, and storage volumes required for floodwater reservoirs. These procedures are applicable in small watersheds, especially urbanizing watersheds, in the United States.

~~{Ord. 4622, passed 4-5-11}~~

§ 1331.05 PERFORMANCE STANDARDS.

(a) *Erosion and sediment kept on site.* Using BMPs, erosion and sedimentation caused by accelerated wind or stormwater runoff over the site shall be stabilized within the boundaries of the development site to the maximum extent practicable.

(b) *Structural and nonstructural best management practices.* Nonstructural stormwater management practices shall be encouraged. Such practices may include, but not be limited to, preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction, and designation of tree preservation

areas.

(c) ~~Stream and wetland riparian buffers. The site owner and/or applicant shall leave~~ Construction activities adjacent to water resources. During the construction phase of a riparian project, an undisturbed natural buffer on sides of and/or surrounding surface waters of the state around water resources shall be provided and maintained, except for crossings and other riparian area impacts approved by the City Engineer. Buffer ~~area~~ shall ~~equal~~ include all areas within identified FEMA floodways and floodplains or revised floodplain via FEMA unless otherwise approved by the City Engineer. and areas as required by the City Engineer.

(d) ~~Channel protection. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in Rainwater and Land Development, or in a manner approved by the City Engineer.~~

(e) ~~Temporary stabilization of disturbed areas and soil stockpiles.~~

(1) ~~A temporary vegetative cover shall be established on disturbed areas as specified in Table 1331.05(e)(1).~~

Table 1331.05(e)(1): Temporary Stabilization	
Area Requiring Temporary Stabilization	Time Frame To Apply Erosion Controls
Any disturbed areas within fifty (50) feet of a stream but not at final grade.	Within two (2) days of the most recent disturbance if that area will remain idle for more than twenty-one (21) days.
For all construction activities, any disturbed area, including soil stockpiles that will be dormant for more than twenty-one (21) days but less than one (1) year.	Within seven (7) days of the most recent disturbance within the area.
Disturbed areas that will be idle over winter.	Prior to November

(2) ~~Application practices include vegetation establishment, mulching, and the early application of gravel base on areas to be paved. Soil stabilization measures should be appropriate for the time of year, site conditions and estimated time of use.~~

(3) ~~Topsoil shall be maintained in a usable condition for sustaining~~

~~vegetation and reused on the site.~~

~~(f) — *Permanent stabilization.*~~

~~(1) — A permanent vegetative cover shall be established on disturbed areas as specified in Table 1331.05(f)(1).~~

Table 1331.05(f)(1): <i>Permanent Stabilization</i>	
<i>Area Requiring Permanent Stabilization</i>	<i>Time Frame To Apply Erosion Controls</i>
Any area that will lie dormant for one (1) year or more.	Within seven (7) days of the most recent disturbance.
Any areas within fifty (50) feet of any stream and at final grade.	Within two (2) days of reaching final grade.
Any area at final grade.	Within seven (7) days of reaching final grade within that area.

~~(2) — Permanent vegetation shall not be considered established until a ground cover is achieved which is mature enough to control soil erosion and will survive severe weather conditions.~~

~~(g) — *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, groundwater conditions and slope stabilization.~~

~~(h)(d) *Protection of adjacent properties/public right-of-ways.* Properties, public right-of-ways, and thoroughfares adjacent to the site of an earth disturbing activity shall be protected from sediment deposition. This may be accomplished by preserving a well-vegetated buffer at the perimeter of the site whenever possible, by installing perimeter controls such as sediment barriers, filters, dikes, sediment basins, or by a combination of such measures as applicable.~~

~~(i) — *Control structures.*~~

~~(1) — *Erosion practices.* The SWP3 must contain a description of the controls appropriate for each stage of construction operation and sediment control; the applicant must implement such controls. BMP selection and stormwater management practices used to satisfy the performance standards should design must meet the standards criteria established within the current Construction General Permit. BMPs must be designed, constructed and installed to meet the specifications in the current edition of *Rainwater and Land Development* or other~~

standards acceptable to the Ohio EPA. This does not preclude the applicant from proposing an alternate solution as approved by the City Engineer. ~~The engineer shall design and implement control practices which comply with these~~ The approved SWP3, and the sediment and ~~the minimum~~

erosion controls, and non-sediment pollution controls contained therein, shall be implemented and maintained according to the requirements in Ohio EPA Permit No. OHC000003, Part III.G.2.

~~(2) — Sediment control structures~~the Construction General Permit. Site operators must conduct site inspections as described in the Construction General Permit. Certified inspection reports shall be used to control erosion and trap sediment on a site remaining disturbed for more than fourteen (14) days. Such structures may include, but are not limited to, silt fences, storm drain inlet protection, sediment basins and diversions or channels which direct runoff to a sediment basin. All sediment control practices must be capable of ponding runoff in order to be considered functional.

~~(e) — Sediment control structures shall be set up within seven (7)~~the City Engineer within five (5) working days from the start of grubbing inspection and retained at the development site.

~~(3) — Construction access routes~~ and shall be made functional before other earth disturbing activities take place. Earthen structures such as dams, dikes and diversions shall be seeded and mulched as soon as the installation is complete. Sediment control structures shall be functional throughout the course of earth disturbing activity and until the site is stabilized with permanent vegetation.

~~(4) — Sheet flow runoff from disturbed areas of the site shall be intercepted by silt fence or diversions. Silt fence shall be placed on a level contour and shall be capable of temporarily ponding runoff. The relationship between the maximum drainage area to silt fence for a particular slope range is shown in Schedule 1331.05(i)(4). Placing silt fence in parallel does not extend the permissible drainage area to the silt fence.~~

Schedule 1331.05(i)(4): <i>Maximum Drainage Area For Silt Fence</i>	
<i>Maximum drainage area (in acres) to 100 linear feet of silt fence</i>	<i>Range of slope for a particular drainage area (in percent)</i>
0.5	<2%
0.205	>2% but <20%
0.125	>20% but <50%

~~(5) — Concentrated stormwater runoff from denuded areas flowing at rates that exceed the design capacity of sediment barriers shall pass through a~~

~~sediment-settling facility.~~

~~(6) — Stormwater diversion practices shall be used to keep runoff away from disturbed areas and steep slopes. Such devices, which include swales, dikes or berms, may receive stormwater runoff from areas up to ten (10) acres.~~

~~(7) — A centralized sedimentation basin shall be utilized for common drainage areas equal to or greater than ten (10) acres.~~

~~(8) — A sediment settling pond, or equivalent best management practice upon approval from the City Engineer, is required for any one (1) of the following conditions:~~

~~A. — Concentrated stormwater runoff;~~

~~B. — Runoff from drainage areas that exceeds the design capacity of silt fence or inlet protection;~~

~~C. — Ten (10) acres of disturbed area.~~

~~The sediment settling pond shall provide both a sediment storage zone and a dewatering zone. The volume of the dewatering zone shall be at least sixty-seven (67) cubic yards or one thousand, eight hundred (1,800) cubic feet of storage per acre of total contributing drainage area and have a minimum of forty-eight (48)-hour drain time for sediment basins serving a drainage area over five (5) acres.~~

~~The volume of the sediment storage zone shall be calculated by one (1) of the following methods:~~

~~A. — The volume of the sediment storage zone shall be thirty-seven (37) cubic yards or one thousand (1,000) cubic feet per disturbed area within the watershed of the basin.~~

~~B. — The volume of the sediment storage zone shall be the volume necessary to store the sediment as calculated with a generally accepted erosion prediction model.~~

~~The depth of the dewatering zone must be less than or equal to five (5) feet.~~

~~The configuration between the inlets and the outlet of the basin must provide at least two (2) units of length for each one (1) unit of width (greater than two (2) to one (1) length to width ratio). However a length to width ratio of four (4) to one (1) is recommended.~~

~~(9) — If the City Engineer determines that site conditions do not warrant its construction, based upon hydrological and hydraulic data, the stormwater detention requirement may be modified.~~

~~(j) — *Stabilization of waterways and outlets.* All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow. Methods adequate to minimize erosion shall also be provided at the outlets of all pipes~~

and paved channels.

~~(k) — Storm sewer inlet protection.~~

~~(1) — Unless otherwise provided for on the approved stormwater management plan, storm sewer inlets shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment, unless otherwise approved by the City Engineer. All inlets receiving runoff from drainage areas of one (1) or more acres will require a sediment settling pond. Straw or hay bales are not acceptable forms of inlet protection.~~

~~(2) — There shall be no sediment-laden discharges to drainage channels resulting from dewatering activities. If any sediment-laden ground water is encountered during trenching activities, then the sediment-laden ground water must pass through an effective sediment control device prior to being discharged from the construction site.~~

~~(3) — Areas designated for the storage or disposal of solid, sanitary, and toxic wastes, dumpsters, concrete truck washout pits, and fuel tanks shall be shown on the stormwater management (SWM) plan.~~

~~(l) — Working in or crossing streams.~~

~~(1) — Construction activities shall be kept out of streams to the maximum extent possible. Where in-channel work is necessary, precautions shall be taken to stabilize the work area during construction to minimize erosion. The channel (including bed and banks) shall be restored and all disturbed area stabilized immediately after in-channel work is completed.~~

~~(2) — Where a stream will be crossed regularly during construction, a non-erodible temporary stream crossing shall be provided.~~

~~(f) _____~~

~~(m) — (1) Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. ~~Construction access routes.~~~~

~~(1) — Measures shall be taken to prevent soil transport onto surfaces where runoff is not checked by sediment controls, such as public roads. Stone construction entrance(s) shall be implemented as soon as possible.~~

The entrances shall be planned and installed according to the requirements in the most recent edition of the *Rainwater and Land Development* manual or as directed by the City Engineer.

~~(2)~~ (2) Where soil is transported onto public road surfaces, the roads

shall be cleaned thoroughly by either sweeping or scraping ~~at the end of~~as needed each ~~work~~ day or ~~more frequently~~as directed by the City, in order to ensure public safety. Street washing shall not be permitted.

~~(3)~~ (3) Erodible material ramps placed temporarily in streets to enable equipment to cross

curbs shall be properly removed immediately after use.

~~(n) — Maintenance and removal of temporary measures.~~

~~(1) — All temporary erosion and sediment control practices shall be maintained and repaired to assure continued performance.~~

~~(2) — All temporary erosion and sediment control measures shall be removed within thirty (30) days of achieving final site stabilization or after the temporary measures are no longer needed. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall have the final grade re-established and be permanently stabilized to prevent further erosion and sedimentation.~~

~~(e)~~ **(g) — Control of construction site debris and wastes.** All owners, applicants, contractors and developers shall control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste on debris from the site to the extent practical. Site management practices shall be implemented to prevent toxic materials, hazardous materials, or other debris from entering drainage channels. These practices shall include, but are not limited to, the following: Additional Site Pollution Controls specified in the Rainwater and Land Development manual.

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

~~(2) — The washing of any 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. All containment requirements of the local fire authority must be followed.~~

~~(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) — 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 sites hazardous waste disposal dumpster.~~

~~(p) Use, safety and maintenance of stormwater practices.~~

~~(1) Stormwater management practices shall be designed for the ultimate use of the site and function safely and with minimal maintenance. Areas developed for a subdivision shall provide a stormwater management system for the ultimate development of all the subdivided lots.~~

~~(2) If an inspection by a representative of the city reveals that a control practice is in need of repair or maintenance upon proper notice the permittee shall repair same in accordance with § 1331.08(f)(2): Timeline for Corrective Action.~~

~~(q)~~ **(h)** *Inspection of stormwater controls.* All on-site, and off site if applicable, control practices shall be inspected by both the permittee and/or permittee's representative and a representative of the city to ensure proper function and to identify failures in accordance with the requirements of § 1331.08(h).

~~(Ord. 4622, passed 4-5-11)~~

§ 1331.06 SITE DEVELOPMENT PLAN.

(a) Any person seeking approval of residential, industrial, commercial, office, and industrial purposes, including land development proposals for non-agricultural uses and public infrastructure uses, shall develop and submit to the City Engineer for review and approval a site development plan prepared by a professional engineer licensed by the State of Ohio as detailed below.

(b) *Site development plan requirements.*

(1) Site plan map that shows the location of existing features and proposed improvements on the site including:

A. Total area of the site and the area of the site that is expected to be disturbed (e.g., grubbing, cleaning, excavation, filling or grading, including off-site borrow areas).

B. Area of land not to be disturbed shall be shown.

~~C.~~ Surface water locations, including known springs, wetlands, streams, lakes, water wells, etc., on or within two hundred (200) feet of the site,

C.

including the boundaries of stream channels and first subsequent named receiving water(s).

D. The general directions of surface water flow and one hundred (100)-year floodway and floodplain when applicable.

E. All existing and proposed improvements, including but not limited to buildings, retaining walls, sidewalks, streets, parking lots, driveways, utilities and stormwater basins, drainage impoundments, channels and outlets, etc.

(2) A description of the nature and type of the earth disturbing/construction activity (e.g. residential, commercial, highway, etc.).

(3) A ~~photocopy~~depiction of soil types for all areas of the ~~appropriate soil survey sheets~~site as found in the USDA Soil Survey of Cuyahoga County ~~with location of site identified.~~

(4) An estimate of the impervious area and percent imperviousness created by the earth disturbing activity.

(c) *Site development plan submission, review and action.*

(1) Submission of a site development plan by an applicant as prepared by a professional engineer seeking approval initiates the review process.

(2) The City Engineer shall review the site development plan.

(3) Review of the site development plan shall be completed within thirty (30) calendar days of submittal.

(4) Following the plan review the City Engineer shall either:

A. Approve the site development plan;

B. Conditionally approve the site development plan pending additional information and/or the incorporation of required changes; or

C. Reject the plan and request a revised plan be submitted addressing noted items.

~~(Ord. 4622, passed 4-5-11)~~

§ 1331.07 STORMWATER MANAGEMENT (SWM) PLAN REQUIREMENTS.

~~(a)~~—Stormwater management (SWM) plans are intended to provide critical

information on all soil erosion and run off control activities and Best Management

(a)

Practices (BMPs) to be used and incorporated on the site both during and after site development. This information includes, but is not limited to, site grading, stormwater management facilities and practices, erosion and runoff control information, maintenance plans, and other measures that focus on managing the effects of earth disturbing activities that occur as a result of site development. Said plan shall be prepared and stamped by a licensed professional engineer authorized in the State of Ohio. To minimize duplication, stormwater pollution prevention plans developed to meet the requirements of the Ohio EPA Construction General Permit No. OHC000003 ~~may~~will be coordinated and combined with requirements of this section to serve as the ~~applicant's~~applicant's SWM plan.

(b) Each SWM plan shall provide site design that meets the performance standards presented in § 1331.05 and provide practical treatment for both water quality and quantity of stormwater from the site as appropriate.

(c) In general, SWM plans need to address:

(1) Erosion and sediment control. Provide measures to insure that earth disturbing activities at the site during and after development will be managed in a manner that will minimize increased erosion and sedimentation from the site resulting in impacts to water quality and that meet the performance standards specified in § 1331.05.

(2) Runoff control. Providing measures to insure that the rate of surface water runoff from the development site during and after construction will approximate the predevelopment conditions and that meet the performance standards specified in § 1331.05.

(3) Non-structural preservation methods. Preserving existing natural conditions as much as feasible, in accordance with the Ohio EPA Construction General Permit No. OHC000002, Part III.G.2.a.

(4) Post construction stormwater management practices. Providing practices which offer perpetual management of runoff quality and quantity; ensure stream functions are maintained; and ensure receiving stream's physical, chemical, and biological characteristics are protected in accordance with the Ohio EPA Construction General Permit No. OHC000003, Part III.G.2.e.

(5) Maintenance. Providing a description of maintenance procedures needed to ensure the continued performance of control practices ~~as described in division (d)(2)G. of this section~~in accordance with the Ohio EPA Construction General Permit, Part III.G.2.h.

(6) Inspections. Providing procedures for inspection of all on-site

controls as specified in § 1331.08(h).

(d) A SWM plan shall specifically include all the following:

(1) The minimum elements required in the site development plan described in § 1331.06(b).

(2) The contents of the ~~stormwater~~storm water pollution prevention plan (SWP3) required by the Ohio EPA Construction General Permit No. ~~OHC000003~~ and incorporated herein by reference. ~~The contents of the stormwater management (SWM) plan include, but are not limited to:~~

~~A. A determination of runoff coefficients for both the pre-construction and post-construction site conditions.~~

~~B. For all disturbances of five (5) or more acres of land (or less than five (5) acres, but part of a larger common plan of development or sale which will "in total" disturb five (5) or more acres of land), a description of post construction BMP(s) chosen and designed to detain and treat a water quality volume (WQv) equivalent to the volume of runoff from a 0.75-inch rainfall in accordance with the methodology outlined in Ohio EPA Permit Number OHC000003, Part III.G.2.e Large Construction Activities.~~

~~Post construction 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 1331.07(d)(2)B. The developer must provide the City Engineer with written approval from the Ohio EPA to use any post construction BMP not listed in Table 1331.07(d)(2)B.~~

<i>Table 1331.07(d)(2)B.:</i>	
<i>Target Draw Down (Drain) Times for Structural Post-Construction Treatment Control Practices</i>	
<i>Best Management Practice (BMP)</i>	<i>Drain Time of WQv</i>
Infiltration	24 b 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

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Media Filtration, Bioretention	40 hours	
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Table 1331.07(d)(2)B.: Target Draw Down (Drain) Times for Structural Post-Construction Treatment Control Practices	
Best Management Practice (BMP)	Drain Time of WQv
* Provide both a permanent pool and an extended detention volume above the permanent pool, each size at 0.75 * WQv.	

~~C.—— For all disturbances of more than one (1) acre but less than five (5) acres of land and is not a part of a larger common plan of development or sale which will disturb five (5) or more acres of land, a description of measures that will be installed during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Structural practices must comply with the requirements of the Ohio EPA Permit No. OHC000003: Authorization for Stormwater Discharges Associated with Construction Activity under the National Pollutant Discharge Elimination System (NPDES) Part III.G.2.e.~~

~~D.—— An implementation schedule which describes the sequence of major construction operations (e.g., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion, sediment and stormwater management practices or facilities to be employed during each operation of the sequence.~~

~~E.—— A detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices.~~

~~F.—— A detailed description of the stormwater controls to be incorporated and how these meet or exceed the appropriate performance standards presented in § 1331.05.~~

~~G.—— A detailed maintenance plan that describes procedures including, but not limited to, inspections, cleaning, maintenance, repair, and replacement needed to ensure the continued performance of control practices and the party, such as a homeowner association, that will be responsible for implementing this plan. Such plans must ensure that pollutants collected within structural post construction practices, be disposed of in accordance with local, state, and federal regulations.~~

~~H.—— A site map including:~~

~~i.—— Limits of earth-disturbing activity of the site including~~

~~associated offsite borrow or spoil areas.~~

~~ii.—— Soil types on the site, including locations of unstable or highly erodible soils.~~

~~iii.—— Existing and proposed elevations and contours. A delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed, in acres.~~

~~iv.—— Existing and planned locations of buildings, roads, parking facilities and utilities.~~

~~v.—— The location of all erosion and sediment control practices, including areas likely to require temporary stabilization during site development.~~

~~vi.—— Sediment and stormwater management basins noting their sediment settling volume and contributing drainage area.~~

~~vii.—— Permanent stormwater management practices to be used to control pollutants in stormwater after construction operations have been completed (as applicable).~~

~~viii.—— Areas designated for the storage or disposal of solid, sanitary, and toxic wastes, including dumpster areas, cement truck washout areas, and vehicle fueling and maintenance.~~

~~ix.—— The location of designated construction entrances where vehicles will access the site.~~

~~x.—— The location of any in-stream activities, including stream crossings.~~

~~xi.—— Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within two hundred (200) feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the permittee intends to fill or relocate for which the permittee is seeking approval from the Army Corps of Engineers and/or Ohio EPA.~~

~~l.———(3)———~~ A copy of the written notification from the director of the Ohio EPA that the developer or permittee has been granted ~~permit coverage and is authorized to discharge stormwater associated with construction activity under the conditions of the permit and a copy of the Ohio EPA permit under which the permittee has been granted coverage or a copy of the permit requirements.~~ Construction General Permit coverage. The permittee shall reference its Ohio EPA Facility Permit Number on the SWM plan.

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~~J. The permittee shall reference its Ohio EPA Facility Permit~~

(4) All submittals required by the SWM plan.

~~K. The SWP3 shall identify all subcontractors engaged in activities that could impact stormwater runoff. The SWP3 shall contain signatures from all City Engineer to show proof of the identified subcontractors indicating that they have been informed and understand their roles and responsibilities in complying compliance with the SWP3.~~

~~Determination of post~~ all other federal, state, or local environmental regulations as described in § 1331.08(b).

(e) Post development runoff control.

~~(e)~~ (1) Stormwater detention is required for all new construction, all building additions and/or parking lot expansions over ten thousand (10,000) square feet, and all re-development that create over ten thousand (10,000) square feet of new impervious area unless otherwise approved by the City Engineer. Stormwater detention requirements may apply for building additions and/or parking lot expansions equal to and less than ten thousand (10,000) square feet, and re-development that create equal to and less than ten thousand (10,000) square feet of impervious area if required by the City Engineer.

Stormwater detention is required for all residential subdivisions. Stormwater detention requirements do not apply to new single-family or two (2)-family residential construction on lots that are not part of a subdivision. Stormwater detention requirements shall apply to two (2) or more single-family or two (2)-family residential lots as required by the City Engineer. Stormwater detention requirements may apply for single-family or two (2)-family residential construction on lots that are not part of a subdivision but are larger than one (1) acre as required by the City Engineer.

(2) Stormwater quality control:

A. The site shall be designed to direct runoff to one or more Stormwater Control Measures that meet or exceed the criteria in the Ohio EPA Construction General Permit.

B. Where feasible, infiltration post-construction practices per Construction General Permit Part III.G.2.e.iv. Table 4b, and/or other green infrastructure/runoff reduction practices per Part III.G.2.e.ix., shall be utilized to meet the stormwater quality control criteria.

(+) (3) Each SWM plan shall include a comparison that quantifies the volume and rate of runoff from the site by subdrainage areas for pre-development conditions and proposed conditions.

This evaluation shall be prepared according to methods prescribed in the current edition of *Rainwater and Land Development* or other appropriate sources. The evaluation shall:

A. Show delineation and sequence of subdrainage units which comprise the area proposed for development.

B. Indicate the hydraulic length of slope per individual subdrainage unit and the length of the natural or manmade watercourse which accommodates the surface runoff from each subdrainage unit.

C. Indicate within the legend the average percent slope, erosion factor (K) and runoff curve number (CN) per the individual subdrainage areas.

~~D.~~ D. Include a hydrograph using the TR55, Type II Rainfall Distribution Pattern over a twenty-four (24)-hour period for the following return intervals: 1, 2, 5, 10, 25, 50, and 100-year storms. Hydrographs for each of the recurrence intervals shall be produced for both the pre-development and proposed conditions.

~~intervals shall be produced for both the existing and proposed conditions.~~

~~E.~~ E. The twenty-four (24)-hour rainfall depths in Table 1331.07(e)(~~4~~3)E. shall be utilized to quantify the stormwater runoff for the ~~existing~~pre-development and proposed conditions.

Table 1331.07(e)(~~4~~3)E.: **Sectional Mean Frequency Distributions for Storm Period of 24-Hours and Recurrence Intervals of 1 Year to 100 Years in Ohio**

Return Period (years)	Rainfall (inches) for given recurrence interval
1	2.00 in.
2	2.40 in.
5	2.98 in.
10	3.46 in.
25	4.16 in.
50	4.74 in.
100	5.36 in.

SOURCE: NOAA Atlas 14, Precipitation Frequency Estimates, Extracted ~~Feb. 2011~~ Sept. 2023

~~(2)~~ (4) Calculations for the design of stormwater management facilities shall demonstrate the following for each subdrainage unit:

~~A.~~ A. The peak rate of runoff from the critical storm and all more frequent storms occurring on the site does not exceed the peak rate of runoff from a one

~~(4)~~ (1) year frequency, twenty-four (24) hour storm occurring on the same site under pre-development conditions.

~~B.~~ B. Storms of less frequent occurrence (greater return periods) than the critical storm, shall have a proposed peak rate of runoff less than the existing pre-development peak rate of runoff.

~~(3)~~ (5) The overflow spillway elevation shall be set one (1) foot above the

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one hundred (100)-year storm elevation and the surrounding berm elevation shall be set minimally one (1) foot higher than the overflow spillway. The width of the top of berm shall be eight (8) feet minimum, ten (10) feet minimum if the berm height is fifteen (15) feet or more, and twelve (12) feet minimum if vehicle access is required to be provided.

(4) (6) Calculation of a critical storm for each subdrainage unit of the site shall be determined as follows:

A. Calculate by appropriate hydrologic methods, such as the NRCS Technical Release 55 (TR55), the total volume of runoff from a one (1)-year frequency, twenty-four (24)-hour storm occurring on the development area before and after development.

B. From the volumes determined in division (e)(46)A. above, determine the percentage increase in volume of runoff due to the proposed development, and using this percentage, select the twenty-four (24)-hour critical storm from Table 1331.07(e)(46)B.

Table 1331.07(e)(46)B.: <i>Twenty-Four (24) Hour Critical Storm Runoff Rate</i>		
<i>If the percentage of increase in runoff volume is:</i>		
<i>Equal to or greater than</i>	<i>And Less Than</i>	<i>The Critical Storm Runoff Rate will Be Limited To:</i>
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. C. The City Engineer shall approve or reject any calculation method based on its technical validity for the given situation. Downstream

capacity may further reduce maximum allowable discharge requirements.

~~(5)~~ (7) Stormwater management facility design criteria:

~~A.~~ A. Runoff from all drainage area tributary to the stormwater management facility must be conveyed to the facility for all design storms up to and including the one hundred (100)-year storm.

~~B.~~ B. A vehicular access drive and permanent easements must be provided from a public roadway to the outlet control device as approved by the City Engineer. The access drive width shall be twelve (12) feet minimum and shall incorporate an adequate turnaround for maintenance vehicles.

~~C.~~ C. Stormwater basins:

i. The stormwater basin, where possible or as determined by the City Engineer, shall be positioned in an open space block under common maintenance (for a residential subdivision), outside of the floodway and floodplain, outside of any water resource areas. When site constraints prohibit such, the location shall be as approved by the City Engineer and Planning Commission. When positioning stormwater basins on residential lots, the basin shall be positioned where the top-of-berm is minimally fifty (50) feet from a residential home.

ii. The outlet structure and/or riser shall be located in the embankment for maintenance purposes.

iii. An emergency spillway is to be provided on all stormwater basins. Emergency spillways must be designed to convey flood flows safely past the embankment, and shall be designed in accordance with NRCS standards and specifications. The emergency spillway shall have a one hundred (100)-year design storm capacity unless exempted in writing by the City Engineer.

iv. All embankments shall be designed in accordance with the specifications in the current edition of the Ohio *Rainwater and Land Development* manual, the NRCS Field Office technical Guide for Cuyahoga County, and the Ohio EPA standards.

v. All pond grading shall have a maximum slope of three to one (3:1) and shall incorporate safety features to ensure public safety, and as required by the applicant, by law, by the City Engineer, or by Planning Commission. The applicant shall consider public safety as a design factor and alternative designs must be implemented where site limitations would preclude a safe design.

vi. The primary spillway opening shall be constructed so as to not permit access to the public and other non-maintenance personnel.

~~(6)~~ (8) Off-site stormwater control facilities.

~~A.~~ A. Exceptions to requiring permanent on-site runoff control on the site may be considered by the City Engineer provided the applicant can prove that:

~~i.~~ i. The intent and standards of this chapter for runoff control can be best achieved by the utilization of off-site stormwater control facilities.

~~ii.~~ ii. Runoff from the site can be conveyed to off-site stormwater facilities in a manner and by means which satisfy or surpass the standards of this chapter.

~~iii.~~ iii. The applicant has ownership of or the right to use the off-site facility in question.

~~(f)~~ (f) *Stormwater management (SWM) plan submission, review and action.*

(1) The applicant is encouraged to have a pre-submission meeting with the City Engineer.

(2) Submission of two (2) sets of the SWM plan and other supporting data required by this regulation to the City Engineer complete the applicant's responsibilities and initiates the review process.

(3) The SWM plan shall be reviewed by the City Engineer to:

~~A.~~ A. Verify background information furnished by the applicant and evaluate the proposed development in relation to existing site conditions.

~~B.~~ B. Assess the SWM plan in relation to the performance standards and requirements of this chapter.

(4) Upon submission of the SWM plan the City Engineer shall complete a review and shall either:

~~A.~~ A. Approve the SWM plan as submitted by the applicant;

~~B.~~ B. Conditionally approve the SWM plan and require the submission of additional and/or revised information by the applicant, in order to fully meet the intent and standards of this chapter; or

~~C.~~ C. Disapprove the SWM plan based upon a written review noting the reasons.

(5) Action by the city approval authority and the authorized agent(s) approving or disapproving the SWM plan is a final order for purposes of judicial review.

~~(Ord. 4622, passed 4-5-11)~~

§ 1331.08 COMPLIANCE RESPONSIBILITY.

(a) *Performance liability.* No provision of this chapter shall limit, increase or otherwise affect the liabilities of the applicant nor impose any liability upon the city not otherwise imposed by law.

(b) *No release from other requirements.* No provision of this chapter shall release the applicant from any responsibility or requirements under other federal, state,

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or local environmental regulations. If requirements vary, the most restrictive_
requirements shall prevail.

~~requirements shall prevail.~~

(1) 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 U.S. Army Corps of Engineers, and other federal, state, and/or local agencies. These permits may include, but are not limited to, the Ohio EPA Construction General Permit, Ohio EPA Water Quality Certification under CWA Section 401, Ohio EPA Isolated Wetland or Ephemeral Stream Permit, U.S. Army Corps of Engineers Individual or Nationwide Permit, and ODNR Division of Water Dam Permit.

(2) If any of the permits and/or approvals are not applicable to the proposed project, the applicant shall submit a letter from a qualified professional stating that they have surveyed the site and determined that the permit and/or approval is not applicable, and explaining why it is not applicable. Such verification(s) of non-applicability shall be certified by the site owner and shall be submitted with the SWM plan.

(3) All submittals required to show proof of compliance with these regulations, as determined by the City Engineer, shall be submitted with the SWM plan. Final SWM plan approval will not be granted until copies of all applicable permits and/or approvals have been submitted to the City Engineer, and/or verifications of non-applicability provided as deemed necessary by the City Engineer.

(c) *Proceeding with activity.* Soil disturbing activities regulated under this chapter shall not begin until all necessary state and federal permits and appropriate approvals of site development plans or stormwater management plans have been granted to the site owner/applicant.

(d) *Performance responsibility.* The applicant is responsible for carrying out all provisions of the approved site development plan or SWM plan and for meeting all the standards and requirements of the provisions contained in this chapter.

(e) *Enforcement.*

(1) All development sites are subject to inspections by the city authorized agent(s) under the direction of a licensed professional engineer to ensure compliance with the approved site development plan or SWM plan.

(2) The status report prepared by the city and approved by the City Engineer shall be distributed to the permittee; the contractor, if applicable; and the professional engineer of record.

(3) If it is found that the operations are being conducted in violation of the approved site development plan and SWM plan, a stop-work order may be issued by the city until the identified violations cease.

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(4) After the issuance of a stop work order provided for in division (e)(3) of this section, but before the imposition of any fines, the applicant shall have two (2) business days to request a meeting with the Law Director and the City Engineer to show cause why work should not be stopped.

(5) Following the issuance of a stop-work order, the city shall determine if and when the development may proceed. Any determination by the city pursuant to this section is a final order for purpose of judicial review.

(f) *Violations.*

~~4.~~ (1) The city shall notify the stormwater permittee of any violations observed in writing. Said notice shall indicate the exact nature of the violations and other specific corrections which are required.

~~2.~~ (2) The permittee shall comply with the timeline for correction specified in Table 1331.08(f)(2). Timeline extension for adverse weather conditions may be granted upon approval of the City Engineer.

Table 1331.08(f)(2): Timeline for Corrective Action	
Nature of Violation	Number of Days from Inspection to Correct Functioning of Control Practice
Silt fence	Within three (3) days
Outlet control structure	Within three (3) days
Temporary or permanent stabilization within 50 feet of drainage channels.	Within three (3) <u>two (2)</u> days
Temporary or permanent stabilization for all other disturbed areas.	Within three (3) days
Stabilized construction entrance	Within three (3) days
Pumping sediment-laden discharge into drainage channel	Immediately upon notice
Sediment settling pond	Within ten (10) days
Any other control practice not addressed in this table	Within three (3) days

(g) *Penalties subsequent to issuance of stop-work order.*

(1) Subsequent to the issuance of a stop-work order, one (1) or more of the following penalties may be imposed.

A. If the earth disturbing activity involves a subdivision, the applicable penalties (including fines) provided for in the subdivision regulations of the city shall apply. Applicable penalties as described in division (o) of this section.

~~B.~~—The authorized agent(s) on behalf of the city may enter the site and make any modifications necessary to correct the situation(s) involving

B.

excessive erosion or sedimentation, and place the cost of such corrective actions on the tax duplicate of the developer/owner.

C. The authorized agent(s) may request the legal representative of the city to seek an injunction or other appropriate relief to abate excessive erosion or sedimentation and secure compliance with this chapter. In granting such relief, the court may order the construction of sediment control improvements and/or the implementation of other control measures and/or fines as identified in division ~~(a)(1)~~ of this section or any other relief the court determines.

(h) *Permittee self-inspections.*

(1) The permittee/site operator shall provide for inspection of all controls on the site at least once every seven (7) calendar days and within twenty-four (24) hours after any rainfall greater than one-half (1/2) inch of rain per twenty-four (24)-hour period. The inspection frequency may be reduced to at least once every month if the site is temporarily stabilized or runoff is unlikely due to weather conditions. A waiver of inspection requirements is available during frozen conditions until one (1) month before thawing is expected if: a) frozen conditions exist for an extended period of time (greater than one (1) month); b) disturbance activities have been suspended; and c) the beginning and ending dates of the waiver period have been documented in the SWP3. The site owner and/or applicant shall assign a professional engineer experienced in the installation and maintenance of erosion and runoff controls or an individual working under the responsible charge of a professional engineer to oversee these inspections to make certain that all stormwater control practices are functional; ensure all provisions of the SWM plan and the provisions contained in this chapter are being met; and determine whether additional control measures are required.

(2) The site owner shall maintain the records for three (3) years following the final stabilization of the site. The records shall include:

A. Name of site.

B. Name(s) and qualifications of personnel making the ~~inspections.~~ inspections.

C. The date(s) of inspections.

~~D.~~ Weather information for the period since the last inspection

D. including 1) best estimate of the beginning of each storm event; 2) duration of each storm event and approximate amount of rainfall for each storm event in inches; and 3) whether any discharges occurred. Weather information and a description of

any discharges occurring at the time of inspection. _____

E. _____ Major observations relating to the implementation of the

E. SWM plan and a certification as to whether the site is in compliance with the SWM plan, SWP3, and NPDES permit, if applicable. Locations of discharges of sediment or other pollutants from the site, locations of BMPs that need to be maintained, locations of BMPs that failed to operate as designed or proved inadequate, and locations that need additional BMPs shall be reported.

F. — This record shall also identify any incidents of

F. non-compliance, actions taken to correct any problems and the date(s) corrective action(s) was taken.

G. Any additional documentation required by the applicant's individual NPDES permit or Ohio EPA Construction General Permit ~~No. OHC000003~~.

(3) A copy of all of the inspection sheetsreports must be submitted to the City Engineer within five (5) business days of the date that the inspection was conducted. Inspections shall be documented in a format deemed acceptable by the City Engineer.

(i) *Ownership and maintenance of stormwater facilities.*

(1) In the case of proposed subdivisions, inspection and maintenance agreements shall be approved before the city accepts the final plat of the proposed subdivision. Said agreement shall be incorporated into the declaration of easements, covenants and restrictions for the land in question and into the developer's agreement when applicable. These declaration of easements, covenants and restrictions and the developer's agreement, when applicable, shall bind all current and subsequent owners of land served by the stormwater facilities.

(2) All inspection and maintenance agreements shall do the following:

A. Designate the party or parties responsible for the maintenance of all stormwater management facilities and practices including mowing, landscaping, debris pick-up, and to ensure all inlet and outlet structures are free of obstructions and in good repair.

i. For subdivisions, unless otherwise approved by the city, responsible party or parties this shall be an entity of common ownership (e.g., homeowners'/land owners' association) within the proposed subdivision.

B. Prohibit unauthorized alterations of all stormwater management facilities. All revisions shall be approved by the City Engineer and the Planning Commission where applicable.

C. Provide adequate access to all stormwater management facilities for inspection by the city authorized agent(s) and corrective actions by the owner.

~~OWNER.~~

(3) As applicable, all stormwater management facility easements shall be shown on the record plat, prior to approval by the city, and a reference shall be made to the entity or individual(s) responsible for their maintenance.

(4) The City Planning Commission may require the owner and/or the applicant to follow the maintenance procedure outlined in R.C. § 6131.63. The city authorized agent(s) may require of the owner and/or applicant any one (1) or more of the following items of the maintenance agreement.

- A. Benefit two (2) or more property owners.
- B. Are designed for cost-effective maintenance.
- C. Are determined by the City Planning Commission or authorized agent(s) to be appropriate additions to this jurisdiction's existing storm drainage system.
- D. Are not better suited for private maintenance by an individual or group of property owner(s), with ultimate responsibility for maintenance in the event of default on the part of the owner(s) remaining with jurisdiction.

(5) The following conditions shall apply to all drainage easements:

- A. Easements shall be approved by the City Engineer prior to approval of the final plat and shall be recorded with said plat.
- B. Unless otherwise required by the City Engineer drainage easements shall be not less than twenty (20) feet wide.
- C. Unless otherwise required and approved by the City Engineer, stormwater management facilities, including ~~basin~~basins, ponds or other retention/detention practices, shall be on separate lots held and maintained by an entity of common ownership such as a land owners or homeowners association.
- D. Those lots that contain and/or are crossed by a drainage easement shall have the following restriction: "Any lot area reserved for drainage purposes shall at all times be kept free of any obstructions to the flow of water. No improvements or modifications within the identified drainage easement area will be allowed without the approval of the City Engineer."

(6) The city shall also have the following authority concerning the maintenance, repair and replacement of stormwater management facilities:

~~A.~~ A. _____ The City Engineer or his or her designee shall have the

authority to inspect stormwater management facilities on a periodic basis, especially following severe rain events, to make certain that these stormwater management facilities and the appurtenances thereto are in proper condition and in working order.

B. In the event the City Engineer, or his or her designee, determine that any stormwater management facility or any appurtenances thereto, needs to be maintained, repaired or replaced, written notice to the responsible party shall be given detailing the correction needed to the stormwater management facility or any appurtenances thereto. A time limit for the making of the corrections shall be included with the written notice and shall be at least thirty (30) days unless, in the opinion of the City Engineer, that immediate corrective action is necessary in which event the City Engineer shall specify, in writing, the time limit for which the corrections must be made.

C. Failure by the responsible party to undertake the corrections as required by the City Engineer in a timely manner shall result in the city taking whatever action is provided or authorized in the declaration of easements, covenants and restrictions for the land in question and/or the developer's agreement and/or any other provisions contained in this chapter or elsewhere in the Codified Ordinances of the City of Brecksville.

D. In any event, all charges incurred by the city in undertaking any corrective action to the stormwater management facility or any appurtenances thereto on behalf or in lieu of the responsible parties, shall result in a lien being placed upon the affected property owners ~~er~~on a pro-rata basis upon the failure of the responsible party to timely pay these charges as incurred by the city.

(j) *Schedule of fees.* The city shall establish a schedule of deposits, fees, charges, expenses, and collection procedure for same and other matters pertaining to this chapter. The schedule of fees shall be posted at the applicable city offices. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

(k) *Complaints.* The city authorized agent(s) shall investigate any complaint related to discharge of stormwater pollutants covered by this chapter.

(l) *Variances.*

(1) Appeal to the Board of Zoning Appeals: The Board of Zoning Appeals may grant a variance to the regulations contained in this chapter as provided herein. In granting a variance under this chapter, the Board of Zoning Appeals, for good cause, may impose such conditions that it deems appropriate to maintain the purposes of this chapter.

(2) Procedures for variances and appeals: Any applicant seeking a variance to the conditions imposed under this chapter or an appeal to an administrative decision made under this chapter, other than a decision by the Board of Zoning Appeals, may apply to or appeal to the Board of Zoning Appeals. The following conditions shall apply:

A. When filing an application for an appeal to the Board of Zoning Appeals from any orders, decisions, and determinations by the Building Commissioner, City Engineer and any other city administrative officer, board or commission, with respect to the application or enforcement of the provisions contained in this chapter, the applicant shall file a notice of appeal specifying the grounds therefor with the Building Department within ten (10) days of the Building Commissioner's, City Engineer's or any other city administrative officer, board or commission's order, decision or determination. Upon determining that the application is complete and upon receipt of the required fee as provided by City Council for appeals to the Board of Zoning Appeals, the Building Department shall transmit to the Board of Zoning Appeals the application and a transcript constituting the record from which the order, decision or determination subject to appeal was based. This matter shall be placed before the Board of Zoning Appeals and heard in accordance with the provisions contained in Chapter 1197 of the Codified Ordinances of the City of Brecksville.

B. Applications for appeals or variances made under these regulations shall contain the following information:

- i. The name, address, and telephone number of the applicant;
- ii. Proof of ownership or authorization to represent the owner/lessee of the property;
- iii. The location of the property, including street address and permanent parcel number;
- iv. A description of the administrative order, decision or determination being appealed or the conditions of the regulation from which a variance is sought.

C. Applications for variances or appeals of administrative orders, decisions or determinations shall not be resubmitted to the Board of Zoning Appeals unless, prior to the decision being made by the Board of Zoning Appeals, the applicant shows the Board of Zoning Appeals newly discovered evidence that could not have been presented with the original submission. The Board of Zoning Appeals may, at its sole and complete discretion, re-hear an appeal only if it finds specific evidence of a substantial change in circumstances of the same property has occurred since the time

of the original submission.

~~of the original submission.~~

D. All other procedures for the hearing and deciding of applications for variances or appeals not covered by this section shall be in accordance with the provisions contained in Chapter 1197 of the Codified Ordinances of the City of Brecksville.

E. The city may grant a variance to these regulations where the owner or his appointed representative can show that a hardship exists under which compliance with these regulations is not appropriate, based upon the following:

i. That exceptional topographic or other physical conditions exist that are peculiar to the particular parcel of land.

ii. That the literal interpretation of the provisions contained in this chapter would deprive the owner of rights enjoyed by other property owners.

iii. Adverse economic conditions or hardship shall not be considered as a valid reason for a variance request to be granted. No variances will be granted where activities occur that will defeat the purposes of this chapter.

F. Any and all variances in and exceptions to the application of the provisions of this chapter that are allowed by the Board of Zoning Appeals shall be subject to the review and approval of Council before becoming effective. Any decision by the Board of Zoning Appeals in an appeal of an administrative order, decision or determination filed pursuant to this chapter shall be final.~~A decision by the Board of Zoning Appeals in response to an application for a variance request or an appeal of an administrative order, decision or determination filed pursuant to this chapter shall be final.~~

(m) *Appeals.* Any person aggrieved by any order, requirement, determination, or any other action or inaction by the city or its representatives in relation to this regulation may appeal to the Court of Common Pleas. Such appeal shall be made within thirty (30) days of the date of an order or decision and shall specify the grounds for appeal.

(n) *Violations and Enforcement.*

(1) No person shall violate or cause or knowingly permit to be violated any of the provisions of this chapter, or fail to comply with any of its provisions or with any lawful requirements of any public authority made pursuant to it, or knowingly use or cause or permit the use of any lands in violation of this chapter or in violation of any approval permit granted under this chapter. Violations of these regulations include, but are not limited to, the following conditions:

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permits.
~~federal permits.~~

A. Failure to install control practices specified in the state and federal

~~B.~~—Improper installation of control practices according to

B. the *Rainwater and Land Development*, current edition, and/or as recommended by the manufacturer.

~~Brecksville, Ohio Code of Ordinances~~

~~C. Inadequate design and/or unacceptable performance of the control practices as judged by the City Engineer.~~

D. Failure to properly maintain control practices put in place as determined by the City Engineer.

E. Failure to remove control practices after the site has reached final stabilization.

(2) A. The city or its representatives may proceed with enforcement actions for violation of any provision of this or any amendment or supplement thereto, or failure to comply with any of the requirements ~~violations~~ of these regulations.

B. Where clear and convincing evidence exists that violations of this section exist or are allowed to persist upon private property and the landowner has failed to abate the violation within a reasonable time, as determined by the City Engineer, the County Health Department or a designee of either, and after appropriate notification by certified mail or personal delivery to the owner of record, the city may cause the violation to be remedied and may subsequently assess the cost therefore as a lien against the property as provided by law.

(o) *Penalties.*

(1) Violation of any provision of this chapter or any amendment or supplement thereto, or failure to comply with any of the requirements herein for purposes of a fine shall constitute a fourth-degree misdemeanor. Each day such violation exists shall be considered a separate offense. Any person or persons violating any of the provisions herein shall upon conviction be fined up to \$250 per day the violation exists and, in addition, shall pay all costs and expenses involved in the case.

(2) Upon notice from the city and/or its authorized agent(s), that work is being done contrary to this chapter, such work shall immediately stop. Such notice shall be in writing and shall be given to the applicant, and shall state the conditions under which such work may resume; provided, however, in instances where immediate action is deemed necessary for the public safety or the public interest, the city's authorized agent may require that work be stopped upon verbal order pending issuance of the written order.

(3) The imposition of any other penalties provided herein shall not preclude the city, by or through its Law Director and/or any of its 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, chapters, rules, or regulations, or the orders of the authorized agents(s).

~~(Ord. 4622, passed 4-5-11)~~