

## CHAPTER 158: CONTROL OF STORM WATER RUNOFF

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## GENERAL PROVISIONS

### § 158.01 STATUTORY AUTHORITY AND TITLE.

(A) This chapter is adopted in accordance with the Home Rule City Act, as amended, being M.C.L.117.1, et seq.; the Drain Code of 1956, as amended, being M.C.L. 280.1, et seq.; the Land Division Act, as amended, being M.C.L. 560.1, et seq.; the Revenue Bond Act, as amended, being M.C.L. 141.101, et seq.; and the Natural Resources and Environmental Protection Act, as amended, being M.C.L. 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 U.S.C 1342(p) and 40 C.F.R. Parts 9, 122, 123 and 124; and other applicable state and federal laws.

(B) This chapter shall be known and may be cited as the “Ferrysburg Control of Stormwater Runoff chapter.”

(Ord. 233, passed 9-5-06)

### § 158.02 FINDINGS.

The city finds that:

(A) Water bodies, roadways, structures, and other property within, and downstream of the city are potentially subject to flooding;

(B) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the city and the region;

(C) Land development alters the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;

(D) Storm water runoff produced by land development contributes to increased quantities of waterborne pollutants;

(E) Increases of storm water runoff, soil erosion, and non-point source pollution have occurred as a result of land development, and cause deterioration of the water resources of the city and downstream municipalities;

(F) Storm water runoff, soil erosion, and non-point source pollution due to land development within the city, have resulted in a deterioration of the water resources of the city and downstream municipalities;

(G) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future development projects within the city will, absent

reasonable regulation and control, adversely affect the city's water bodies and water resources, and those of downstream municipalities;

(H) Storm water runoff, soil erosion and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from development;

(I) Adopting the standards, criteria and procedures contained in this chapter and implementing the same will address many of the deleterious effects of storm water runoff; and therefore

(J) Adopting these standards is necessary for the preservation of the public health, safety and welfare.

(Ord. 233, passed 9-5-06)

#### § 158.03 PURPOSE.

It is the purpose of this chapter to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (A) To reduce artificially induced flood damage;
- (B) To minimize increased storm water runoff rates and volumes from identified new land development;
- (C) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures;
- (D) To encourage water recharge into the ground where geologically favorable conditions exist;
- (E) To prevent an increase in non-point source pollution;
- (F) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;
- (G) To minimize the impact of development upon stream bank and stream bed stability;
- (H) To reduce erosion from development or construction projects;
- (I) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution;
- (J) To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands that were developed without storm water management controls meeting the purposes and standards of this chapter;

(K) To reduce the adverse impact of changing land use on water bodies and, to that end, this chapter establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are insufficient storm water management controls; and

(L) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this chapter.

(Ord. 233, passed 9-5-06)

#### § 158.04 APPLICABILITY, EXEMPTIONS AND GENERAL PROVISIONS.

(A) This chapter shall apply to any development which requires approval of a site plan by the Planning Commission or the City Council pursuant to the Ferrysburg Zoning Ordinance.

(B) This chapter shall apply to all discharges entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted.

(Ord. 233, passed 9-5-06)

#### § 158.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AUTHORIZED ENFORCEMENT AGENCY.** The Building Inspector and the City Manager, or either of them.

**BASE FLOOD.** A flood having a 1% chance of being equaled or exceeded in any given year (using Bulletin 71).

**BASE FLOOD ELEVATION.** The high water elevation of the base flood, commonly referred to as the 100-YEAR FLOOD ELEVATION.

**BASE FLOOD PLAIN.** The area inundated by the base flood.

**BEST MANAGEMENT PRACTICES (BMPS).** A practice, or combination of practices and design criteria that comply with the Michigan Department of Environmental Quality's Guidebook of Best Management Practices for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this chapter (including, but not limited to minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the City Engineer, and, where appropriate, the standards of the Ottawa County Drain Commissioner.

**BUILDING OPENING.** Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.

**CITY.** The City of Ferrysburg.

CLEAN WATER ACT. The Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

CONSTRUCTION SITE STORM WATER RUNOFF. Storm water runoff from a development site following an earth change.

DESIGN ENGINEER. Registered and licensed professional engineer in the State of Michigan responsible for the design of a drainage plan.

DETENTION. A system which is designed to capture storm water and release it over a given period of time through an outlet structure at a controlled rate.

DEVELOPED or DEVELOPMENT. The installation or construction of impervious surfaces on a development site that requires the approval of a site plan by the Planning Commission or the City Council as provided by the Ferrysburg Zoning Ordinance.

DEVELOPER. Any person proposing or implementing the development of land.

DEVELOPMENT SITE. Any land that is being or has been developed, or that a developer proposes for development.

DISCHARGER. Any person or entity who directly or indirectly discharges storm water from any property. DISCHARGER also refers to any employee, officer, director, partner, contractor or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this chapter.

DRAIN. Any drain as defined in the Drain Code of 1956, as amended, being M.C.L. 280.1, et. seq., other than an established county or intercounty drain.

DRAINAGE. The collection, conveyance, or discharge of ground water and/or surface water.

DRAINAGEWAY. The area within which surface water or ground water is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.

EARTH CHANGE. A human-made change in the natural cover or topography of land, including cut-and-fill activities that require either approval of a site plan by the Planning Commission or the City Council as provided by the Zoning Ordinance or the granting of a soil erosion and sedimentation permit by the Ottawa County Drain Commissioner. EARTH CHANGE does not include the practice of plowing and tilling soil for the purpose of crop production.

EPA. The United States Environmental Protection Agency.

EROSION. The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

EXEMPTED DISCHARGES. Discharges other than storm water as specified in § 158.45.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The agency of the federal government charged with emergency management.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of water bodies or the unusual and rapid accumulation of surface water runoff from any source.

FLOODPLAIN. Any land area subject to periodic flooding.

FLOOD-PROOFING. Any structural and/or nonstructural additions, changes, or adjustments to structures or property that reduce or eliminate flood damage to land, improvements, utilities and structures.

FLOOD PROTECTION ELEVATION (FPE). The base flood elevation plus one foot at any given location.

FLOODWAY. The channel of any watercourse and the adjacent land areas that must be reserved to carry and discharge abase flood without cumulatively increasing the water surface elevation more than 1/10 of a foot due to the loss of flood conveyance or storage.

GRADING. Any stripping, clearing, stumping, excavating, filling, leveling and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.

HAZARDOUS MATERIALS. Any material, including any substance, waste or combination thereof, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLICIT CONNECTION. Any method or means for conveying an illicit discharge into water bodies or the city's storm water system.

ILLICIT DISCHARGE. Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit or exempted discharges as defined in this chapter.

IMPERVIOUS SURFACE. A surface, such as a paved or gravel driveway, roof, parking area or road that prevents the infiltration of water into the soil.

LIVESTOCK PRODUCTION FACILITIES. An agricultural activity in which 100 or more livestock are fed, bred and/or raised within a confined area, other than an open pasture, either inside or outside an enclosed building.

LOWEST FLOOR. The lowest floor or the lowest enclosed area (including a basement), but not including an unfinished or flood-resistant enclosure which is usable solely for parking of vehicles or building access.

MDEQ. Michigan Department of Environmental Quality.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A publicly owned conveyance system designed or used for collecting or conveying storm water.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by EPA (or by a state under authority delegated pursuant to 33 U.S.C. 1342 (b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NPDES. National Pollution Discharge Elimination System.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

OCDC. Ottawa County Drain Commissioner.

OVERLAND FLOW-WAY. Surface area that conveys a concentrated flow of storm water runoff.

PERSON. An individual, firm, partnership, association, public or private corporation, public agency, instrumentality or any other legal entity.

PLAN. Written narratives, specifications, drawings, sketches, written standards, operating procedures or any combination of these which contain information pursuant to this chapter.

POLLUTANT. A substance discharged which includes, but is not limited to the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a POLLUTANT under the Clean Water Act.

PREMISES. Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

PROPERTY OWNER. Any person having legal or equitable title to property or any person having or exercising care, custody or control over any property.

RETENTION. A system which is designed to capture storm water and contain it until it infiltrates the soil, or evaporates or drains.

SOIL EROSION. The stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, thereby enabling formation of new sedimentary deposits.

STATE OF MICHIGAN WATER QUALITY STANDARDS. All applicable state rules, regulations and laws pertaining to water quality, including the provisions of § 3106, Part 31, of 1994 P.A. 451, as amended.



**STORM DRAIN.** A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, ground water and drainage.

**STORM WATER PERMIT.** A permit issued by the city pursuant to this chapter.

**STORM WATER POLLUTION PREVENTION PLAN.** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems and/or Receiving Waters to the Maximum Extent Practicable.

**STORM WATER RUNOFF.** The runoff and drainage of precipitation resulting from rainfall or snowmelt or other natural event or process.

**STORM WATER MANAGEMENT FACILITY.** The method, structure, area, system or other equipment or measures which are designed to receive, control, store or convey storm water.

**STREAM.** A river, STREAM or creek which may or may not be serving as a drain, or any other water body that has definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.

**WASTEWATER.** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

**WATER BODY.** A river, lake, stream, creek or other watercourse or wetlands.

**WATERSHED.** A region draining into a water body.

**WETLANDS.** Land characterized by the presence of hydric soils and water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

(Ord. 233, passed 9-5-06)

#### § 158.06 INTERPRETATION.

Words and phrases in this chapter shall be construed according to their common and accepted meanings, except that words and phrases defined in § 158.05 shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this chapter but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

(Ord. 233, passed 9-5-06)

#### § 158.07 CATCH-LINE HEADINGS.

The catch-line headings of the subchapters and sections of this chapter are intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the subchapters or sections to which they may refer.

(Ord. 233, passed 9-5-06)

§ 158.08 OTHER ORDINANCES NOT AFFECTED.

This chapter shall be in addition to other ordinances of the city, and shall not be deemed to repeal or replace other ordinances or parts thereof except to the extent that such repeal is specifically provided for in this chapter.

(Ord. 233, passed 9-5-06)

STORM WATER PERMITS

§ 158.15 PERMIT REQUIRED.

(A) A developer shall not engage in any development without first receiving a storm water permit from the city pursuant to § 158.16.

(B) The granting of a storm water permit shall authorize only such development for which the permit is required, subject to the terms of the permit, and it shall not be deemed to approve other development or other land use activities.

(Ord. 233, passed 9-5-06)

§ 158.16 STORM WATER PERMIT REVIEW PROCEDURES.

The city shall grant a storm water permit, which may impose terms and conditions in accordance with § 158.23, and which shall be granted only upon compliance with each of the following requirements:

(A) The developer has submitted a drainage plan complying with § 158.17.

(B) The drainage plan contains a description of an adequate, temporary storm water retention system to prevent construction site storm water runoff, satisfying the requirements of § 158.19, and the developer has obtained a soil erosion permit, if necessary.

(C) The developer provides:

(1) A permanent on-site storm water management system complying with the OCDC Standards and Specifications; and

(2) Written construction plan approval from the OCDC.

(D) The developer has paid or deposited the storm water permit review fee pursuant to § 158.18.

(E) The developer has paid or posted the applicable financial guarantee pursuant to § 158.20.

(F) The developer provides all easements necessary to implement the approved drainage plan and to otherwise comply with this chapter. All easements shall be acceptable to the city in form and substance and shall be recorded with the Ottawa County Register of Deeds.

(G) The drainage plan is designed in conformity with city or OCDC design and performance standards for drains and storm water management systems, as set forth in this chapter.

(H) All storm water runoff facilities shall be designed in accordance with the then-current BMPs.

(I) The developer provides the required maintenance agreement for routine, emergency and long-term maintenance of all storm water management facilities. This agreement shall be in compliance with the approved drainage plan and this chapter including, but not limited to, § 158.82. The maintenance agreement shall be acceptable to the city in form and substance and shall be recorded with the Ottawa County Register of Deeds.

(Ord. 233, passed 9-5-06)

#### § 158.17 DRAINAGE PLAN.

The developer shall provide a drainage plan to the city that has been approved by the Ottawa County Drain Commissioner.

(Ord. 233, passed 9-5-06)

#### § 158.18 STORM WATER PERMIT REVIEW FEES.

(A) All expenses and costs incurred by the city directly associated with processing, reviewing and approving or denying a storm water permit application shall be paid (or reimbursed) to the city from the funds in a separate escrow account established by the developer, as provided in division (B) below. The city may draw funds from a developer's escrow account to reimburse the city for out-of-pocket expenses incurred by the city relating to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:

- (1) Services of the City Attorney directly related to the application;
- (2) Services of the City Engineer directly related to the application;
- (3) Services of other independent contractors working for the city which are directly related to the application; and
- (4) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.

(B) At the time a developer applies for a storm water permit, the developer shall deposit with the City Clerk, as an escrow deposit, an initial amount as determined by resolution of the City Council for such matters and shall provide additional amounts as requested by the city in such

increments as are specified in said resolution. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final city approval and acceptance of the development has occurred will be refunded to the developer with no interest to be paid on those funds. At no time prior to the city's final decision on an application shall the balance in the escrow account fall below the required initial amount. If the funds in the account are reduced to less than the required initial amount, the developer shall deposit into the account an additional amount as determined by resolution before the application review process will be continued. Additional amounts may be required to be placed in the escrow account by the developer, at the discretion of the city.

(Ord. 233, passed 9-5-06)

#### § 158.19 CONSTRUCTION SITE RUNOFF CONTROLS.

Prior to making any earth change on a development site regulated by this ordinance, the developer shall first obtain a soil erosion permit from the OCDC issued in accordance with Part 91, Act 451, of the Public Acts of 1994, as amended, if one is required. The developer shall install storm water management facilities and shall phase the development activities so as to prevent construction site storm water runoff and off-site sedimentation. During all construction activities on the development site, the City Engineer or other city representative may inspect the development site to ensure compliance with the approved construction site runoff controls.

(Ord. 233, passed 9-5-06)

#### § 158.20 FINANCIAL GUARANTEE.

(A) The City Engineer shall not approve a storm water permit until the developer submits to the city, in a form and amount satisfactory to the city, a letter of credit or other financial guarantee for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved drainage plan. Upon certification by a registered professional engineer that the storm water management facilities have been completed in accordance with the approved drainage plan including, but not limited to, the provisions contained in § 158.17, the city may release the letter of credit, or other financial guarantee.

(B) The amount of the financial guarantee shall be determined by the authorized enforcement agency based upon the estimated cost of completing the work plus 10%.

(C) The authorized enforcement agency may waive the financial guarantee for a development if the OCDC, as part of their review process, is requiring a letter of credit or other financial guarantee for the satisfactory construction of all storm water management facilities.

(D) The authorized enforcement agency may reduce or waive the amount of the financial guarantee for a development that will not increase the percentage of impervious surface of the development site by more than 10%.

(E) This chapter shall not be construed or interpreted as relieving a developer of its obligation to pay all costs associated with on-site private storm water runoff facilities as well as those costs arising from the need to make other drainage improvements in order to reduce a development's impact on a drain consistent with adopted design standards.

(Ord. 233, passed 9-5-06)

#### § 158.21 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy shall be issued until storm water management facilities have been completed in accordance with the approved drainage plan; provided, however, the city may issue a certificate of occupancy if an acceptable letter of credit or other financial guarantee has been submitted to the city or OCDC, for the timely and satisfactory construction of all storm water management facilities and site grading in accordance with the approved drainage plan.

(Ord. 233, passed 9-5-06)

#### § 158.22 NO CHANGE IN APPROVED FACILITIES.

Storm water management facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved drainage plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved drainage plan, or in accordance with approved amendments or revisions in the plan.

(Ord. 233, passed 9-5-06)

#### § 158.23 TERMS AND CONDITIONS OF PERMITS.

In granting a storm water permit, the city may impose such terms and conditions as are reasonably necessary to effectuate the purposes of this chapter. A developer shall comply with such terms and conditions.

(Ord. 233, passed 9-5-06)

#### STORM WATER SYSTEM; FLOODPLAIN AND OTHER STANDARDS; SOIL EROSION CONTROL

#### § 158.30 MANAGEMENT OF AND RESPONSIBILITY FOR STORM WATER SYSTEM.

The design and management of storm water systems, other than the city-operated storm water system, is within the jurisdiction of the Ottawa County Drain Commissioner and is not regulated by the city.

(Ord. 233, passed 9-5-06)

#### § 158.31 STORM WATER SYSTEM.

All storm water management facilities shall be constructed and maintained in accordance with all applicable federal, state and local ordinances, and rules and regulations.

(Ord. 233, passed 9-5-06)

#### § 158.32 STORM WATER DISCHARGE RATES AND VOLUMES.

The determination of storm water discharge rates and volume is within the jurisdiction of the Ottawa County Drain Commissioner and is not regulated by the city.

(Ord. 233, passed 9-5-06)

#### § 158.33 FLOODPLAIN STANDARDS.

Floodplain standards are within the jurisdiction of the Ottawa County Drain Commissioner and are not regulated by the city.

(Ord. 233, passed 9-5-06)

#### § 158.34 SOIL EROSION AND SEDIMENTATION CONTROL.

Soil erosion and sedimentation control are within the jurisdiction of the Ottawa County Drain Commissioner and are not regulated by the city.

(Ord. 233, passed 9-5-06)

#### § 158.35 BUILDING OPENINGS.

Building openings are within the jurisdiction of the Ottawa County Drain Commissioner and are not regulated by the city.

(Ord. 233, passed 9-5-06)

#### § 158.36 PUBLIC HEALTH, SAFETY AND WELFARE.

Protection of the public health, safety and welfare shall be a primary consideration in the design of all storm water runoff facilities.

(Ord. 233, passed 9-5-06)

#### PROHIBITIONS AND EXEMPTIONS

#### § 158.45 INTERFERENCE WITH CITY DRAINS.

(A) It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of, or otherwise interfere with any city-owned or operated stormwater drain.

(B) Shrubs, trees or other aboveground vegetation shall not be planted over the top of an underground storm sewer or over the top of the easement within which the storm sewer has been installed.

(Ord. 233, passed 9-5-06)

#### INSPECTION, MONITORING, REPORTING AND RECORDKEEPING

##### § 158.55 INSPECTION AND SAMPLING.

To assure compliance with the standards in this chapter, the city may inspect and/or obtain storm water samples from storm water management facilities of any discharger to determine compliance with the requirements of this chapter. Upon request, the discharger shall allow the city's or OCDC's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The city shall provide the discharger reasonable advance notice of such inspection and/or sampling. The city or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

(Ord. 233, passed 9-5-06)

##### § 158.56 STORM WATER MONITORING FACILITIES.

A discharger of storm water runoff shall provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water runoff facility, when directed in writing to do so by the city. The city may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances and regulations.

(Ord. 233, passed 9-5-06)

##### § 158.57 ACCIDENTAL DISCHARGES.

Any discharger who accidentally discharges into a water body any substance other than storm water or an exempted discharge shall immediately inform the city and the OCDC concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the city and OCDC within five days. The written report shall specify:

- (A) The composition of the discharge and the cause thereof;
- (B) The exact date, time, and estimated volume of the discharge;

(C) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence; and

(D) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.

(Ord. 233, passed 9-5-06)

#### § 158.58 RECORDKEEPING REQUIREMENT.

Any person subject to this chapter shall retain and preserve for not less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling and chemical analysis of any discharge or storm water runoff from any property.

(Ord. 233, passed 9-5-06)

#### ENFORCEMENT

#### § 158.65 SANCTIONS FOR VIOLATION.

(A) Violation; municipal civil infraction. Except as provided by § 158.70, a person who violates any provision of this chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this chapter) is responsible for a municipal civil infraction, subject to payment of a civil fine of not more than \$500 for each infraction, plus costs and restitution. Each day of a violation is a separate violation.

(B) Authorized local official. The following persons are designated as the authorized local officials to issue municipal civil infraction citations: the City Manager or his or her designee, and any police officer.

(C) Any person who (1) at the time of a violation knew that hazardous materials, pollutants, toxic materials, wastewater, or substance was discharged contrary to any provision of this chapter, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this chapter; or (2) intentionally makes a false statement, representation or certification in an application for, or form pertaining to a permit, or in a notice, report or record required by this chapter, or in any other correspondence or communication, written or oral, with the Authorized Enforcement Agency regarding matters regulated by this chapter; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this chapter; (4) fails to comply with a stop work order; or (5) commits any other act that is punishable under state law by imprisonment for 90 days or more shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

(Ord. 233, passed 9-5-06)



§ 158.66 STOP WORK ORDER.

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this chapter, the city is authorized to issue a Stop Work Order so as to prevent further or continuing violations or adverse effects. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply therewith. The city may also undertake or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this chapter or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work, and such cost shall be a lien upon the property.

(Ord. 233, passed 9-5-06)

§ 158.67 FAILURE TO COMPLY; COMPLETION.

In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the city may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the city for all costs of such work.

(Ord. 233, passed 9-5-06)

§ 158.68 EMERGENCY MEASURES.

When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, and/or to prevent loss of life, injury or damage to property, the city is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this chapter, and shall promptly reimburse the city for all of such costs.

(Ord. 233, passed 9-5-06)

§ 158.69 COST RECOVERY FOR DAMAGE TO STORM DRAIN SYSTEM.

A discharger shall be liable for all costs incurred by the city as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this chapter. Costs include, but are not limited to, those penalties levied by the EPA or MDEQ for violation of an NPDES permit, attorney fees, and other costs and expenses.

(Ord. 233, passed 9-5-06)

§ 158.70 COLLECTION OF COSTS; LIEN.

Costs incurred by the city and the Drain Commissioner pursuant to § 158.69 shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933 (M.C.L.

141.101), as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the City Treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the city or the Drain Commissioner shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

(Ord. 233, passed 9-5-06)

#### § 158.71 SUSPENSION OF MS4 ACCESS.

(A) Suspension due to illicit discharges in emergency situations. The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the MS4 or the environment, or to minimize danger to persons.

(B) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the city.

(Ord. 233, passed 9-5-06)

#### STORM WATER EASEMENTS AND MAINTENANCE AGREEMENTS

##### § 158.80 APPLICABILITY OF REQUIREMENTS.

The requirements of this subchapter concerning storm water easements and maintenance agreements shall apply to all persons required to submit a drainage plan to the city for review and approval.

(Ord. 233, passed 9-5-06)

##### § 158.81 STORM WATER MANAGEMENT EASEMENTS.

The developer shall provide all storm water management easements necessary to implement the approved drainage plan and to otherwise comply with this chapter in form and substance required by the city and shall record such easements as directed by the city. The easements shall assure access for proper inspection and maintenance of storm water runoff facilities and shall provide adequate emergency overland flow-ways.

(Ord. 233, passed 9-5-06)

§ 158.82 MAINTENANCE AGREEMENTS.

The developer shall provide all storm water maintenance agreements necessary to implement the approved drainage plan and to otherwise comply with this ordinance in form and substance as required by the city, and shall record such agreements as directed by the city. The maintenance agreements shall, among other matters, assure access for proper inspection and maintenance of storm water runoff facilities and adequate emergency overland flow-ways.

(Ord. 233, passed 9-5-06)

§ 158.83 ESTABLISHMENT OF COUNTY DRAINS.

Prior to final approval, all storm water management facilities for planned subdivisions and site condominium developments shall be established as county drains, as authorized in § 433, Chapter 18 of the Michigan Drain Code (P.A. 40 of 1956, as amended) for long-term maintenance.

(Ord. 233, passed 9-5-06)