

ORDINANCE NO. 17-21

BY: *Allen M. City Johnson, Lloyd*

AN ORDINANCE AMENDING CHAPTER 1054, SECTION 1054.16 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO REGARDING THE STORMWATER MANAGEMENT CODE.

WHEREAS, the City of Newark, Ohio, previously enacted a Stormwater Management Code by Ordinance 07-46, as part of the implementation of the Stormwater Utility; and,

WHEREAS, recent changes to the state and federal regulations regarding the requirements of the National Pollutant Discharge Elimination System (NPDES) process have caused a review and update of the current Stormwater Management Code; and,

WHEREAS, it is necessary to make significant modifications to the existing City of Newark Stormwater Management Code to comply with the mandate of state and federal law; and,

WHEREAS, this matter was considered by the Service Committee of Council who referred this legislation to the full Council for consideration.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF NEWARK, COUNTY OF LICKING, STATE OF OHIO, THAT:

SECTION ONE: Chapter 1054, Section 1054.16 is hereby amended by the repeal of the existing Section 1054.16 and the enactment of the new **Chapter 1054.16 Stormwater Management Code** as attached hereto and marked Exhibit "A" and incorporated herein by reference.

SECTION TWO: This Ordinance shall take effect at the earliest date permitted by Article 4.07 of the Charter of the City of Newark, Ohio.

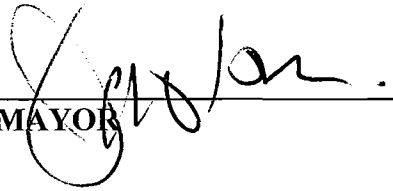
Passed this 5th day of June, 2017

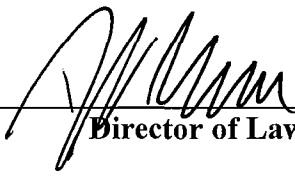
[Signature]
PRESIDENT OF COUNCIL

ATTEST *[Signature]*
Clerk of Council

DATE FILED WITH MAYOR: 6/5/17

DATE APPROVED BY MAYOR: 6-5-17


MAYOR

FORM APPROVED: 
Director of Law

Chapter 1054.16
Stormwater Management Code
Exhibit "A"
Final – Changes indicated in Blue Text
May 2, 2017

- SECTION 01 PURPOSE
- SECTION 02 DEFINITIONS
- SECTION 03 APPLICABILITY
- SECTION 04 RESPONSIBILITY FOR ADMINISTRATION
- SECTION 05 SEWER MAP; RESTRICTION ON TAP PERMIT ISSUANCE
- SECTION 06 SEWER TAP PERMIT AND FEE
- SECTION 07 SEWER CONSTRUCTION OR CONNECTION SPECIFICATIONS
- SECTION 08 OBSTRUCTING SEWERS AND UNLAWFUL TAPS PROHIBITED
- SECTION 09 TAPPING STORMWATER SEWERS
- SECTION 10 SEVERABILITY
- SECTION 11 ULTIMATE RESPONSIBILITY
- SECTION 12 DISCHARGE PROHIBITIONS
- SECTION 13 PROHIBITION OF DISCHARGES TO THE PUBLIC RIGHT-OF-WAY
- SECTION 14 SUSPENSION OF MS4 ACCESS
- SECTION 15 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES
- SECTION 16 CONSTRUCTION SITES
- SECTION 17 POST CONSTRUCTION
- SECTION 18 CLEAN UP AND NOTIFICATION
- SECTION 19 MONITORING OF DISCHARGES
- SECTION 20 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES
- SECTION 21 WATERCOURSE PROTECTION
- SECTION 22 SURFACE WATER PROTECTION
- SECTION 23 NOTIFICATION OF SPILLS
- SECTION 24 ENFORCEMENT
- SECTION 25 APPEAL OF NOTICE OF VIOLATION
- SECTION 26 ENFORCEMENT MEASURES AFTER APPEAL
- SECTION 27 COST OF ABATEMENT OF THE VIOLATION
- SECTION 28 INJUNCTIVE RELIEF
- SECTION 29 COMPENSATORY ACTION
- SECTION 30 VIOLATIONS DEEMED A PUBLIC NUISANCE
- SECTION 31 CRIMINAL PROSECUTION
- SECTION 32 REMEDIES NOT EXCLUSIVE

SECTION 01 - PURPOSE

The purpose of this ordinance sets forth the requirements for the methods for controlling the introduction of pollutants that are or may be discharged to municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- a. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
- b. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- c. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

SECTION 02 - DEFINITIONS

For the purposes of this ordinance, the following shall mean:

- a. Authorized Enforcement Agency: employees or designees of the Public Service Director (Service Director) designated to enforce this ordinance.
- b. Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- c. Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- d. Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- e. 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, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- f. Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in SECTION 13.d.(l) of this ordinance.
- g. Illicit Connections: An illicit connection is defined as either of the following:
 - i.) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm

drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

ii.) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by a Service Director or his authorized designee.

h. Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 40 CFR, SECTION 122.26 (b)(14).

i. 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 USC § 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.

j. Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

k. Person: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

l. Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind. 40 C.F.R. § 122.34.

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

n. Storm Drainage System: Publicly or privately -owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

o. Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

p. Stormwater Pollution Prevention Plan (SWPPP): 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 stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

q. Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

r. Notice of Intent (NOI): A form submitted to OEPA notifying of person's intent to be covered under a separate storm water permit, as required by federal and state law.

SECTION 03 - APPLICABILITY

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City of Newark Service Director or his authorized designee.

SECTION 04 - RESPONSIBILITY FOR ADMINISTRATION

The Service Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Service Director may be delegated in writing by the Service Director to persons or entities acting in the beneficial interest of or in the employ of the agency.

SECTION 05 - SEWER MAP; RESTRICTION ON TAP PERMIT ISSUANCE

A map of all sewers and openings numbered shall be provided and kept in the office of the City Engineer. Permits may be issued to tap the sewers at openings most convenient, but no permit shall be given to break any hole in any sewer pipe unless approved by the City Engineer.

SECTION 06 - SEWER TAP PERMIT AND FEE

The sewers shall be in the charge of the Service Director. No person shall tap any sewer without the consent and by the direction of the Director, and without written permit from the City Engineer, who shall keep a record of the same. The applicant shall, before receiving a permit, pay to the City the applicable tap and inspection fee, to be credited to the Stormwater Utility fund.

SECTION 07 - SEWER CONSTRUCTION OR CONNECTION SPECIFICATIONS

The written permit to construct a house sewer or to make a connection to a public sewer shall specify the permissible use of such house sewer and connection, and such specifications shall be governed by the requirements of this chapter.

SECTION 08 - OBSTRUCTING SEWERS AND UNLAWFUL TAPS PROHIBITED

No person shall throw any debris in any catch basin or tap any of the City sewers by breaking holes in the sewer pipes.

SECTION 09 - TAPPING STORMWATER SEWERS

An inspection shall be performed upon seventy-two (72) hour notification by the contractor and a record of the location and material used for each location shall be kept on file by the City Engineer's office.

SECTION 10 - SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 11 - ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

SECTION 12 - DISCHARGE PROHIBITIONS

- a. Prohibition of Illegal Discharges to Sanitary Sewer - Surface water, rainwater from roofs, subsoil drainage, building foundations drainage, cistern overflow, clean water from condensers, waste water from water motors and elevators, and any other clean and unobjectionable waste water shall be discharged into street gutters or into a stormwater sewer or combined sewer, but in no case into a sanitary sewer.
- b. Prohibition of Downspouts or Drains Emptying on Sidewalks - No person owning property which abuts or bounds upon a sidewalk shall cause, allow, or permit downspouts, drains or sewers to empty or discharge water or drainage upon any of the sidewalks of the City.
- c. Prohibition of Sump Pump Connections to Gutter - If a direct connection to the storm sewer is available, provide for the connection of all sump discharge lines directly to the nearest approved outlet. Alternative sump discharges must be approved by the City Engineer.
- d. Prohibition of Illegal Discharges to Stormwater System - No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
- e. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.
- f. Discharges specified in writing by the Service Director or his authorized designee as being necessary to protect public health.
- g. Dye testing is an allowable discharge, but requires a notification to the Stormwater Coordinator prior to the time of the test.
- h. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the

authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

- i. Prohibition of Illicit Connections-The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

SECTION 13 - PROHIBITION OF DISCHARGES TO THE PUBLIC RIGHT-OF-WAY

No owner of real property in the City shall be permitted to discharge storm water or rain water or other types of clear water discharges upon or adjacent to the public right-of-way in such a manner that the discharge creates or tends to create a hazard for pedestrians and vehicular traffic on the public right-of-way whether such hazard is created in the area immediately bound by the owner property or at a distance from the owner's property.

- a. The Service Director is herewith charged with the responsibility of periodically surveying the city to determine those areas in which rain and other water discharges upon the public right-of-way have in the past and are likely to in the future create ice hazards during the winter season upon the public right-of-way in the City.
- b. The Service Director is also herewith charged with the responsibility of investigating complaints of discharge upon the public right-of-way causing a hazard to pedestrian or vehicular traffic on the public right-of-way and where, in their judgment, such discharge creates a hazard, to order the owner of the property causing such discharge, whether that property owner be the one immediately adjacent to the hazard or at a distance there from, to eliminate the water causing such hazard in conformity with the following provisions.
- c. The Service Director, in conjunction with the City Engineer, shall determine the source of such water creating such ice hazard and determine the most efficient and economical means of elimination of such hazard and issue such orders as are necessary to achievement of such elimination.
- d. Such orders shall be served upon the property owner and shall provide for the remedial action to be taken within a definite period of time and shall identify with reasonable specificity the means by which such remedial action shall be taken.

SECTION 14 - SUSPENSION OF MS4 ACCESS

- a. Suspension due to Illicit Discharges in Emergency Situations-The Service Director or his authorized designee 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 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, 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 ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
- c. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this SECTION, without the prior approval of the authorized enforcement agency.

SECTION 15 - INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City Engineer prior to the allowing of discharges to the MS4.

SECTION 16 - CONSTRUCTION SITES

Any person performing construction shall not cause or contribute to a violation of the OEPA storm water permit issued to the City. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge. Any person performing construction shall undertake Best Management Practices to minimize pollutants (including sediments) from leaving the construction site, shall provide protection from accidental discharge of pollutants to the public storm drain system, and shall comply with the cleanup and notification requirements of this article.

A. Approvals issued in accordance with this ordinance do not relieve the responsible party/applicant of responsibility for obtaining all necessary permits or approvals from Ohio EPA, US Army Corps of Engineers and other federal, state and/or local agencies. These permits may include, but are not limited to, those listed below. All submittals are required to show proof of compliance with these state and federal regulations and shall be submitted as part of the Storm Water Pollution Prevention Plans:

1. Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, and if applicable to the specific project, a copy of the Ohio EPA Director's Authorization To Proceed (ATP) Letter shall be forwarded to the City of Newark's Stormwater Department prior to commencement of any project related construction activities. Should the applicant begin construction activities, the applicant is doing so at risk and is operating without an approved NPDES permit. Upon project completion the applicant will work with

the City to complete and file a project Notice of Termination (NOT) with Ohio EPA. All NPDES construction general permit project compliance information shall be retained for a minimum of 3 years by the applicant and the City of Newark. Should Ohio EPA issue the next generation construction general permit and applicants have active projects will be actively working between permit transition, Ohio EPA allows 90 days to modify the current/existing SWPPP and address any existing NOI requirements after issuance of a new permit.

2. Section 303 (d) of the Clean Water Act: Applicant shall review and incorporate appropriate recommendations associated with Total Maximum Daily Load (TMDL) studies completed for project receiving waters. These can include best management practices, waste load allocations, development of additional regulations in order to meet the beneficial and designated use of receiving water.
3. Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
4. Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - a. A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.
 - b. A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
5. Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

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

B. Non-numeric Effluent Limitations- Applicants shall comply with the following non-numeric limitations for discharges from the project site and from construction support activities.

1. Erosion and sediment controls – Applicant shall design, install and maintain effective erosion and sediment controls to minimize the discharge of pollutants. At a minimum the controls in table 16-1 shall be designed, installed and maintained to:

16-1 Erosion and sediment controls to minimize pollutant discharge		
Control storm water volume and velocity.	Minimize steep slope disturbances.	Direct storm water to vegetated areas and maximize storm water infiltration.
Control peak flowrates and total storm water volume discharges.	Minimize sediment discharges from site.	As feasible, minimize soil compaction.
Minimize amount of soil exposed during construction.	As feasible maintain a 50' undisturbed natural buffer around waters of the state.	

2. Soil stabilization – Stabilization of disturbed areas shall at a minimum be initiated as specified in tables 16-2 and 16-3.

16-2 Permanent Stabilization	
Area requiring permanent stabilization	Time frame to apply erosion controls
Any areas that will lie dormant for one year or more.	Within seven days of the most recent disturbance.
Any areas within 50 feet of a surface water of the state and at final grade.	Within two days of reaching final grade.
Any other areas at final grade.	Within seven days of reaching final grade within that area.

16-3-Temporary Stabilization	
Area requiring temporary stabilization	Time frame to apply erosion controls
Any disturbed areas within 50 feet of a surface water of the state and not at final grade.	Within two days of the most recent disturbance if the area will remain idle for more than 14 days.
For all construction activities, any disturbed areas that will be dormant for more than 14 days but less than one year, and not within 50 feet of a surface water of the state.	<p>Within seven days of the most recent disturbance within the area.</p> <p>For residential subdivisions, disturbed areas must be stabilized at least seven days prior to transfer of permit coverage for the individual lot(s).</p>
Disturbed areas that will be idle over Winter.	Prior to the onset of winter weather.

3. Dewatering – Discharges from dewatering activities, including discharges from dewatering of trenches and excavations are prohibited unless managed by appropriate controls.
 4. Pollution Prevention Measures – Applicant shall design, install, implement and maintain effective pollution prevention measures to minimize discharge of pollutants that include:
 - a.) Minimizing discharging of pollutant from equipment and vehicle washing;
 - b.) Minimizing building materials, building products, construction wastes, trash, landscape materials, fertilizer, detergents and sanitary waste on site that may cause adverse impacts to water quality;
 - c.) Minimizing discharge of pollutants from spills and leaks; and
 - d.) Implement chemical spill and leak prevention response procedures.
- C. If a Best Management Practice is required by the Director to prevent a pollutant from entering the public storm drain system, the person receiving the notice of such a requirement may petition the Service Director to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten (10) working days setting forth any reasons and proposed alternatives. The Director will act within thirty (30) days of receipt of the petition.
- D. Storm Water Pollution Prevention Plan (SWPPP) - In order to control sediment pollution of water resources and wetlands, the applicant shall submit a SWPPP in accordance with the requirements of this regulation for construction activities disturbing one or more acres of total land, or will disturb less than one acre of land but are part of a larger common plan of development or sale that will ultimately disturb one or more acres of land, will be eligible for coverage under this permit.
- E. The requirements for developing a Storm Water Pollution Prevention Plan to submit to the City for review and approval are the following:

1. The SWPPP shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.
2. The SWPPP shall incorporate measures as recommended by the most current edition of Rainwater and Land Development as published by the Ohio Department of Natural Resources and shall include the following information:
3. Site description: The SWPPP shall provide:
 - a. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).
 - b. Total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavation, filling or grading, including off-site borrow areas).
 - c. An estimate of the impervious area and percent of imperviousness created by the soil-disturbing activity.
 - d. Existing data describing the soil and, if available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.
 - e. A description of prior land uses at the site.
 - f. An implementation schedule which describes the sequence of major soil disturbing operations (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation of the sequence.
 - g. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s).
 - h. The aerial (plan view) extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project.
 - i. For subdivided developments where the SWPPP does not call for a centralized sediment control capable of controlling multiple individual lots, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices.
 - j. Location and description of any storm water discharges associated with dedicated asphalt and dedicated concrete plants associated with the development area and the best management practices to address pollutants in these storm water discharges.
 - k. Site map showing:
 - i. Limits of soil-disturbing activity of the site, including off site spoil and borrow areas.

- ii. Soils types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.
- iii. Existing and proposed one-foot (1') contours. This must include a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed in acres.
- iv. Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.
- v. Existing and planned locations of buildings, roads, parking facilities, and utilities.
- vi. The location of all erosion and sediment control practices, including the location of areas likely to require temporary stabilization during the course of site development.
- vii. Sediment ponds, including their sediment settling volume and contributing drainage area.
- viii. Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including dumpster areas, areas designated for cement truck washout, and vehicle fueling.
- ix. The location of designated stone construction entrances where the vehicles will ingress and egress the construction site.
- x. The location of any in-stream activities including stream crossings.

F. Inspection - All controls on the site shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. The inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized or runoff is unlikely due to weather conditions (e.g., site is covered with snow, ice, or the ground is frozen). A waiver of inspection requirements is available until one month before thawing conditions are expected to result in a discharge, if prior written approval has been attained from the City Engineer and all of the following conditions are met:

- 1. The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e. more than one (1) month).
- 2. Land disturbance activities have been suspended, and temporary stabilization is achieved.
- 3. The beginning date and ending dates of the waiver period are documented in the SWPPP.

The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWPPP is adequate, or whether additional control measures are required. Qualified inspection personnel are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls. These inspections shall meet the following requirements:

- a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for, pollutants entering the drainage system.
- b. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. The applicant shall utilize an inspection form provided by the City Engineer or an alternate form acceptable to the City Engineer. The inspection form shall include:
 - i. The inspection date.
 - ii. Names, titles and qualifications of personnel making the inspection.
 - iii. Weather information for the period since the last inspection, including a best estimate of the beginning of each storm event, duration of each storm event and approximate amount of rainfall for each storm event in inches, and whether any discharges occurred.
 - iv. Weather information and a description of any discharges occurring at the time of inspection.
 - v. Locations of:
 1. Discharges of sediment or other pollutants from site.
 2. BMPs that need to be maintained.
 3. BMPs that failed to operate as designed or proved inadequate for a particular location.
 4. Where additional BMPs are needed that did not exist at the time of inspection.
 - vi. Corrective action required including any necessary changes to the SWPPP and implementation dates.

SECTION 17 - POST-CONSTRUCTION

To ensure the protection of a receiving stream's physical, chemical and biological characteristics are protected and stream functions are maintained, post-construction storm water practices shall provide perpetual management of storm water runoff quality and quantity. Property owners or operators shall ensure long-term operation and maintenance of post-construction storm water runoff control mechanisms, such as retention basins, dry wells and other measures described in 40 C.F.R. 122.34(B)(5)(III).

Ohio EPA-NPDES Permits authorizing storm water discharges associated with construction activity, or the most current version thereof: In order to meet the post-construction requirements of this permit, the Storm Water Pollution Prevention Plan (SWPPP) shall contain a description of the post-construction BMPs that will be installed and maintained and the rationale for selection. The rationale for selection shall address anticipated channel impacts, floodplain issues, hydrology and water quality. Detailed drawings and maintenance plans shall be provided for all post-construction BMPs. The maintenance plans shall ensure proper disposal of pollutants collected during maintenance and that these plans are stand alone and include: a.) Designated entity for storm water inspection and maintenance responsibilities; b.) Routine and non-routine maintenance tasks; c.) Schedule for inspection and maintenance; d.) Proper and legal access and/or maintenance easement documents; e.) Map showing BMP location and ingress/egress features.

SECTION 18 - CLEANUP AND NOTIFICATION REQUIREMENTS

- a. As soon as any owner or operator has actual or constructive knowledge of any discharge which may result in pollutants entering the public storm drain system, such person shall promptly take all necessary steps to ensure the discovery of the source and the extent and proceed with containment and cleanup of such discharge.
- b. The owner or operator shall notify the Service Director of the discharge in BOTH of the following manners:
- c. By telephone as soon as practical to the Stormwater Utility at 740-670-7762 or by calling 9-1-1 if hazardous materials are involved; and
- d. By written report identifying the discharge source, extent, pollutant, measures taken to mitigate the discharge, and preventative measures put in place to prevent a subsequent discharge to CITY OF NEWARK, STORMWATER UTILITY, 40 WEST MAIN STREET, NEWARK, OHIO 43055.

SECTION 19 - MONITORING OF DISCHARGES

- a. Applicability-This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.
- b. Access to Facilities-The Service Director or his authorized designee shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- c. Facility operators shall allow the Service Director or his authorized designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

- d. The Service Director or his authorized designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Service Director or his authorized designee to conduct monitoring and/or sampling of the facility's storm water discharge.
- e. The Service Director or his authorized designee has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- f. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Service Director or his authorized designee and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- g. Unreasonable delays in allowing the Service Director or his authorized designee access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- h. If the Service Director or his authorized designee has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health and welfare of the community, then the Service Director or his authorized designee may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 20 - REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The City Engineer and Stormwater Coordinator will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this SECTION. These BMPs and other controls such as non-sediment pollution control, off-site traffic control, trench/groundwater controls and contaminated sediment control shall be part of

the project's Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 21 - WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION 22 - SURFACE WATER PROTECTION

If the project site contains any streams, rivers, lakes, wetland or other surface waters, certain construction activities at the project site may be regulated under the Clean Water Act and/or Ohio EPA Isolated Wetland Permit requirements. Sections 404 and 401 of the Act regulate the discharge of dredged or fill material into surface waters and the impacts of such activities on water quality, respectively. Construction activities in surface waters which may be subject to Clean Water Act regulation and/or Isolated Wetland Permit requirements include, but are not limited to: sewer line crossings, grading, backfilling or culverting streams, filling wetlands, road and utility line construction, bridge installation and installation of flow control structures. If the project contains streams, rivers, lakes or wetlands or possible wetlands, the permittee shall contact the appropriate U.S. Army Corps of Engineers District Office:

U.S. Army Corps of Engineers (Section 404 regulation):

- Huntington, WV District (304) 399-5210 (Muskingum River, Hocking River, Scioto River, Little Miami River, and Great Miami River Basins)
- Buffalo, NY District (716) 879-4330 (Lake Erie Basin)
- Pittsburgh, PA District (412) 395-7155 (Mahoning River Basin)
- Louisville, KY District (502) 315-6686 (Ohio River)

Ohio EPA 401/404 and non-jurisdictional stream/wetland coordinator can be contacted at (614) 644-2001 (all of Ohio).

(CAUTION: Any area of seasonally wet hydric soil is a potential wetland - please consult the Soil Survey and list of hydric soils for your County, available at your county's Soil and Water Conservation District. If you have any questions about Section 401 water quality certification, please contact the Ohio Environmental Protection Agency, Section 401 Coordinator.)

Concentrated storm water runoff from BMPs to natural wetlands shall be converted to diffused flow before the runoff enters the wetlands. The flow should be released such that no erosion occurs downslope. Level spreaders may need to be placed in series, particularly on steep sloped sites, to ensure non-erosive velocities. Other structural BMPs may be used between storm water features and natural wetlands, in order to protect the natural hydrology, hydro-period, and wetland flora. If the applicant proposes to discharge to natural wetlands, a hydrologic analysis shall be performed. The applicant shall attempt to match the pre-development hydro-periods and hydrodynamics that support the wetland. The applicant shall assess whether their construction activity will adversely impact the hydrologic flora and fauna of the wetland. Practices such as vegetative buffers, infiltration basins, conservation of forest cover, and the preservation of intermittent streams, depressions, and drainage corridors may be used to maintain wetland hydrology.

SECTION 23 - NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Service Director or his authorized designee in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Service Director or his authorized designee within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 24 - ENFORCEMENT

Notice of Violation.

Whenever the Service Director or his authorized designee finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Service Director or his authorized designee may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- a. Failure to Notify – Operators who fail to notify the Service Director or Ohio EPA Director of their intent to be covered and to discharge pollutants to surface waters of the state without an NPDES permit are in violation of ORC 6111.
- b. The performance of monitoring, analyses, and reporting;
- c. The elimination of illicit connections or discharges;
- d. That violating discharges, practices, or operations shall cease and desist;
- e. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- f. Payment of a fine to cover administrative and remediation costs; and
- g. The implementation of source control or treatment BMPs.
- h. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the Stormwater Utility or a contractor and the expense thereof shall be charged to the violator.

i. Failure to pay fees, fines, or remediation cost in the required time frame will result in the Service Director or his authorized designee doing the following:

1. Certify together with any penalties, to the County Auditor, who shall place the certified amount on the real property tax list and duplicate against the property served from the date placed on the list and duplicate shall be collected in the same manner as other taxes, except that, notwithstanding SECTION 323.15 of the Ohio Revised Code, the County Treasurer shall accept partial payment for the full amount of such unpaid water rents or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount. The County Treasurer shall place any amounts collected pursuant to certification under this division in the distinct fund established by SECTION 743.06 of the Ohio Revised Code. Unless the Director or designate determines that a transfer of the property is about to occur, the Director, or designate may only make a certification under this rule if the rents or charges have been due and unpaid for at least sixty days and the Director or designate has provided the owner of the property with written notice of the impending certification. However, no certification may be made directly with the owner of the property served.
2. Collect by action at law, in the name of the City from an owner, tenant, or other person who is liable to pay the rents or charges.

SECTION 25 - APPEAL OF NOTICE OF VIOLATION

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within ten (10) working days from the date of the Notice of Violation. Hearing on the appeal before the Service Director or his authorized designee shall take place within ten (10) working days from the date of receipt of the notice of appeal. The decision of the Service Director or his authorized designee shall be final.

SECTION 26 - ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) working days of the decision of the Service Director or his authorized designee upholding the decision of the authorized enforcement agency, then representatives of the Stormwater Utility shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Stormwater Utility or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 27 - COST OF ABATEMENT OF THE VIOLATION

Within forty-five (45) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within seven (7) days. If the amount due is not paid following any extensions granted or within a timely manner as determined by the decision of the Service Director or his authorized designee or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

SECTION 28 - INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Service Director or his authorized designee may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

SECTION 29 - COMPENSATORY ACTION

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the Service Director or his authorized designee may impose upon a violator alternative compensatory actions, such as storm drain stenciling/marketing, attendance at compliance workshops, river or waterway cleanup, etc.

SECTION 30 - VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense as set forth herein, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 31 - CRIMINAL PROSECUTION

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the Ohio Revised Code.

SECTION 32 - REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Service Director or his authorized designee to seek cumulative remedies.