

CHAPTER 960
Storm Water Management

960.01	Definitions.		
960.02	Purpose and intent.	960.24	Storm water pollution prevention plan (SWP3).
960.03	Applicability.		
960.04	Administration.	960.25	Control practice maintenance.
960.05	Disclaimer of liability.	960.26	Self-inspection of control practices during construction.
960.06	Environmental laws.		
960.07	Severability.	960.27	City inspection of control practices during construction.
960.08	Conflicting information.		
960.09	Property rights.	960.28	Post-construction operation and maintenance agreements.
960.10	Responsibility.		
960.11	Duty to mitigate.	960.29	Deed or final plat requirements.
960.12	Information.	960.30	Permanent easements.
960.13	Watercourse protection.	960.31	Review and permitting fees.
960.14	Prohibition of illicit discharges.	960.32	Access and inspection.
960.15	Prohibition of illegal connections.	960.33	Enforcement.
		960.34	Appeal of notice of violation.
		960.35	Enforcement measures after appeal.
960.16	Control of material and debris.		
960.17	Notification of spills.	960.36	Stop work orders.
960.18	Storm water permits.	960.37	Injunctive relief.
960.19	Signatory requirements.	960.38	Violations deemed a public nuisance.
960.20	Storm water permit coverage.		
960.21	Storm water permit transfer.	960.39	Minor misdemeanor.
960.22	Storm water permit modification.	960.40	Fee recovery.
		960.41	Remedies not exclusive.
960.23	Storm water permit termination.		

CROSS REFERENCES

Use of public and private sewers and drains - see S. & P.S. Ch. 932

Sewer connections - see S. & P.S. Ch. 933

960.01 DEFINITIONS.

- (a) For the purpose of this Chapter, certain rules or word usage apply to the text as follows:
- (1) Words used in the present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.
 - (2) The term “shall” is always mandatory and not discretionary. The word “may” is permissive. The term “should” is permissive but indicates strong suggestion.
 - (3) The word or term not interpreted or defined by this Chapter shall be construed according to the rules of grammar and common usage so as to give these rules their most reasonable application.
- (b) As used in this chapter, unless the context specifically indicates otherwise:
- (1) “Best Management Practice” or “BMP” means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures and other management practices, control practices and techniques (both structural and non-structural) to lessen the environmental impacts of land use and to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water drainage 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.
 - (2) “Channel” means a natural bed that conveys water; a ditch excavated for the flow of water.
 - (3) “City” means the City of Elyria.
 - (4) “City Engineer” means the City of Elyria City Engineer.
 - (5) “Clean Water Act” or “CWA” means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
 - (6) “Clearing” means any activity which removes the vegetative surface cover.
 - (7) “Code of Federal Regulations” or “CFR” means the codification of the final rules published daily in the Federal Register. Title 40 of the CFR contains the environmental regulations.
 - (8) “Commencement of earth-disturbing activity” means the initial disturbance of soils associated with clearing, grubbing, grading, placement of fill or excavating activities or other construction activities.
 - (9) “Construction activity” means activities subject to NPDES Construction Permits.
 - (10) “Contaminated” means containing the amount of any substance that will cause pollution of the MS4 or Waters of the State, or that will cause lethal or sub-lethal adverse effects on representative, sensitive aquatic monitoring organisms belonging to the City upon their exposure to samples of any discharge into the MS4 or Waters of the State.
 - (11) “Contamination” means the presence of or entry into a public water supply system, storm water drainage system, the MS4 or Waters of the State of any substance which may be deleterious to the public health and/or the quality of water.
 - (12) “Control practice” means any measure, either structural or nonstructural, that is determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to storm water runoff and watercourses.
 - (13) “Developer” means any person, firm, corporation, sole proprietorship, partnership, state agency or political subdivision thereof engaged in an earth-disturbing activity.
 - (14) “Discharge” means any substance introduced to the Waters of the State or to surface runoff which is collected or channeled by the Municipal Separate Storm Sewer System (MS4) which do not lead to treatment works and/or the addition of any pollutant to the waters of the State from a point source.
 - (15) “Discharger” means any person who causes, allows, permits, or is otherwise responsible for a discharge, including but not limited to, any owner or operator of a construction site or industrial facility.

- (16) “Disturbed” means subject to erosion due to the removal of vegetative cover and/or earth-moving or land-moving activities.
- (17) “Ditch” means an open channel, either dug or natural, for the purpose of drainage or irrigation with intermittent flow.
- (18) “Duly authorized representative” means: a delegation of authority that is
- A. Made in writing;
 - B. Specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - C. Submitted to the City Engineer.
- (19) “Earth-disturbing activity” means any clearing, grubbing, grading, excavating, filling or other alteration of the earth’s surface where natural or man-made ground cover is destroyed, which may result in or contribute to erosion and sediment pollution or changes in runoff.
- (20) “Environmental Protection Agency” or “EPA” means the United States Environmental Protection Agency or, where appropriate, a designation for the Administrator or other duly authorized official of such Agency.
- (21) “Engineer” means a Professional Engineer registered in the State of Ohio according to Chapter 4733 of the Ohio Revised Code.
- (22) “Erosion” means the wearing away of the ground surface as a result of the movement of wind, water, ice and/or earth-disturbing activities.
- (23) “Erosion control” means measures that prevent erosion.
- (24) “Facility” means any operation, including but not limited to construction sites, required by the Federal Clean Water Act to have a permit to discharge storm water associated with activities subject to NPDES permits.
- (25) “Final stabilization” means either of the following:
- A. All earth-disturbing activities at the site are complete and a uniform perennial vegetative cover has been established. All temporary erosion and sediment control practices are removed and disposed of and all trapped sediment is permanently stabilized to prevent further erosion;
 - B. For individual lots in residential construction by either:
 1. The homebuilder completing final stabilization as specified in A. above, or
 2. The homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for and benefits of final stabilization;or
 - C. For construction projects on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its pre-construction agricultural use. Areas disturbed that were previously used for agricultural activities shall meet the final stabilization criteria in A. or B. above.
- (26) “Flood” means an overflow of surface water onto lands not normally covered by water.
- (27) “Grading” means excavation or fill of material, including the resulting conditions thereof.
- (28) “Hazardous material” means 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.
- (29) “Illegal connection” means either of the following:
- A. Any drain or drainage system, whether on the surface or subsurface, which allows or has the potential to allow an illicit discharge to enter the municipal

separate storm sewer system (MS4) without a permit, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an City Engineer or;

- B. Any drain or drainage system connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the City Engineer.

(30) “Illicit discharge” means any direct or indirect non-storm water discharge to the MS4, except as exempted in this Chapter.

(31) “Larger common plan of development or sale” means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

(32) “Lot” means a part of a subdivision plat recorded in the City or a parcel recorded by Lorain County.

(33) “Material” means soil, sand, gravel, clay, or any other organic or inorganic material.

(34) “Municipal Separate Storm Sewer System” or “MS4” means the storm water drainage system owned and operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage and is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

(35) “National Pollutant Discharge Elimination System” or “NPDES” means a national program under Section 402 of the Clean Water Act for regulation of discharges of pollutants from point sources to waters of the United States.

(36) “NPDES Permit” means 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.

(37) “Non-storm water discharge” means any discharge to the MS4 that is not composed entirely of storm water.

(38) “Ohio EPA” means the Ohio Environmental Protection Agency.

(39) “Operate” means drive, conduct, work, run, manage, or control.

(40) “Operator” means the party or parties that either individually or taken together meet the following two criteria:

- A. Having operational control over the site specifications; and
- B. Having the day-to-day operational control of those activities at the site necessary to ensure compliance with the Storm Water Permit.

(41) “Owner” means any person with a legal or equitable interest in the land.

(42) “Permanent easement” means property titled to the city for the operation and maintenance of storm water drainage systems.

(43) “Permit” means the Storm Water Permit issued by the City for the construction or alteration of ground improvements and structures for the control of erosion, storm water runoff and grading.

(44) “Permittee” means the applicant in whose name a valid permit is duly issued.

(45) “Person” means any individual, owner, operator, association, organization, partnership, firm, corporation, municipal corporation, joint venture, agency, County or State agency, unincorporated associate, party, the federal government, any combination thereof or other entity recognized by law.

(46) “Point source” means any discernible, confined and discrete conveyance, including but not limited to, any pipe ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or the floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

(47) “Pollutant” means anything which causes or contributes to pollution

- (48) “Pollution” means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any Waters of the State, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
- (49) “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved, including but not limited to adjacent sidewalks and parking strips.
- (50) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into groundwater, subsurface soils, surface soils, the municipal separate storm sewer system or the Waters of the State.
- (51) “Runoff” means the portion of rainfall, snowmelt, or irrigation water flowing over the ground surface that is eventually returned to streams.
- (52) “Sediment” means soils or other surface materials, including but not limited to, rock, sand, gravel, and organic material or residue associated with or attached to the solid that can be transported or deposited by the action of wind, water, ice or gravity as a product of erosion.
- (53) “Sediment control” means measures that prevent eroded sediment from leaving the site.
- (54) “Sedimentation” means the process or action of deposition sediment that is determined to have been caused by erosion.
- (55) “Site” means the entire area of land surrounding a discharge or land-disturbing activity.
- (56) “Soil erosion” means the movement of soils that occurs as a result of human activities and development.
- (57) “Stabilization” means the use of vegetative and/or structural practices that prevent exposed soil from eroding.
- (58) “State” means the State of Ohio.
- (59) “Stop Work Order” means a notice issued by the City Engineer, or authorized representative, to the permittee to require the permittee to cease earth-disturbing activities.
- (60) “Storm water drainage system” means all facilities, channels, and areas which serve to convey, filter, collect and/or receive storm water.
- (61) “Storm water” means any surface flow, runoff, and drainage according to 40 Code of Federal Regulation 122.26(b)(13).
- (62) “Storm Water Pollution Prevention Plan” or “SWP3” means a set of plans and specifications prepared by or under the direction of an Engineer indicating the specific measures and sequencing to be used to manage storm water on a development site before, during and after construction and shows the details of any earth-disturbing activity on the site.
- (63) “Storm water runoff” means surface water runoff which converges and flows primarily through storm water drainage system features such as swales, gullies, watercourses, channels or storm sewers.
- (64) “Stream” means any naturally occurring perennial or intermittent stream, river, or creek flowing within a defined bed and banks, whether or not flow may be seasonally intermittent.
- (65) “Structure” means anything manufactured, constructed or erected which is normally attached to or positioned on land, including but not limited to buildings, portable structures, earthen structures, roads, parking lots, and paved storage areas.
- (66) “Temporary stabilization” means the establishment of temporary vegetation, mulching, geotextiles, sod, preservation of existing vegetation and other techniques capable of establishing cover over disturbed areas to provide erosion control between construction operations.
- (67) “Uncontaminated” means not containing a harmful quantity of any substance.
- (68) “Watercourse” means any natural or improved body of water in which water resides or flows either continuously or intermittently, including but not limited to, lakes, ponds, streams, rivers, creeks, ditches, channels, canals, conduits, gutters, culverts, drains, gullies, swales, or washes.
- (69) “Waters of the State” means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, wetlands, marshes, inlets, canals inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, navigable or

non-navigable, and including the bed and banks of all watercourses and bodies of surface water that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

(70) “Watershed” means a region draining to a specific river, river stream or body of water.

(71) “Wetland” means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

960.02 PURPOSE AND INTENT.

(a) The purpose of this chapter is to protect and provide for the health, safety, and general welfare of the citizens of the City of Elyria through the regulation of non-storm water discharges and storm water runoff to the MS4 to the maximum extent practicable as required by federal and state law. This Chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the NPDES permit process and protect the Black River watershed.

(b) The objectives of this Chapter are:

- (1) To protect stream channels from degradation;
- (2) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user;
- (3) To prohibit illicit connections and discharges to the MS4;
- (4) To establish legal authority to ensure compliance with this Chapter;
- (5) To control the release of materials and debris from construction sites and construction access routes from entering the MS4 and Waters of the State;
- (6) To secure future access to flood control and storm water facilities;
- (7) To assure that property owners control runoff volume and rate or eliminate soil erosion and sedimentation;
- (8) To establish standards and specifications for conservation practices and planning activities that minimize soil erosion and sedimentation;
- (9) To minimize increases in storm water runoff and non-point source pollution from development;
- (10) To minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable; and
- (11) To reduce storm water runoff rates and volumes, soil erosion and non-point source pollution through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

960.03 APPLICABILITY.

Chapter 960 (hereinafter referred as “this Chapter”) shall apply to all water entering the MS4 generated on any developed and undeveloped lands and all earth-disturbing activity on any developed and undeveloped lands, except for those discharges generated by the activities detailed in Section 960.14 (b)(1) to (b)(5) of this Chapter, or explicitly exempted by the City Engineer.

960.04 ADMINISTRATION.

The City Engineer is authorized to administer, implement, and enforce the provisions of this Chapter. Staff of the City Engineer may determine compliance with this Chapter and issue notices and orders, through the City Engineer, as may be necessary.

960.05 DISCLAIMER OF LIABILITY.

Compliance with provisions of this Chapter shall not relieve any person from responsibility for damage to any person or property otherwise imposed by law; nor shall it create a duty by the City of Elyria to those damaged by storm water management.

960.06 ENVIRONMENTAL LAWS.

No conditions of this Chapter shall release a person from any responsibility or requirements under other environmental statutes or regulations.

960.07 SEVERABILITY.

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

960.08 CONFLICTING INFORMATION.

(a) Where conflicting information exists between Federal, State and local regulation, Federal regulation shall govern over State and local regulation and State regulation shall govern over local regulation.

(b) Where conflicting information exists between other City of Elyria regulations and this Chapter, this Chapter shall govern.

960.09 PROPERTY RIGHTS.

This Chapter does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property, nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

960.10 RESPONSIBILITY.

Failure of the City of Elyria to observe or recognize hazardous or unacceptable conditions or to recommend corrective measures shall not relieve a person from the responsibility for the condition or damage resulting there from and shall not result in the City of Elyria, or its employees or agents, being responsible for any conditions or damage resulting there from.

960.11 DUTY TO MITIGATE.

All reasonable steps shall be taken by a person to minimize or prevent any discharge in violation of this Chapter which has a reasonable likelihood of adversely affecting human health or the environment.

960.12 INFORMATION.

When any person becomes aware that any relevant facts or information associated with the provisions of this Chapter were incorrectly submitted, the City Engineer shall promptly be notified of such facts or information.

960.13 WATERCOURSE PROTECTION.

(a) 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 such a way as to cause or potentially cause flooding upstream. 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.

(b) Any such trash, debris, excessive vegetation or other obstacle or structure that violates or would violate this Chapter is hereby declared to be a nuisance.

(c) Vehicles should avoid water resources. A written approval is required by the City Engineer if vehicles must enter and/or cross these areas repeatedly.

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

- (1) Such dumping or placing is allowable only if authorized by the City Engineer and, when applicable, the US Army Corps of Engineers and Ohio EPA, for such purposes as, but not limited to, constructing bridges, culverts and erosion control structures.
- (2) Rock may be used for stream bank stabilization when approved by the City Engineer.

960.14 PROHIBITION OF ILLICIT DISCHARGES.

(a) No person shall discharge or cause to be discharged into the MS4 or watercourses any materials other than storm water, including but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards.

(b) The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this Chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, fire fighting activities, and any other water source not containing pollutants;
- (2) Discharges specified in writing by the City Engineer as being necessary to protect public health and safety;
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the City Engineer twenty-four (24) hours prior to the time of the test;
- (4) Discharges from off-lot discharging home sewage treatment systems permitted by the City of Elyria Health Department.
- (5) 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 Ohio 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 MS4.

(c) An actual or threatened discharge to the MS4 that violates or would violate this Chapter is hereby declared to be a nuisance.

960.15 PROHIBITION OF ILLEGAL CONNECTIONS.

(a) The construction, use, maintenance or continued existence of illegal connections to the MS4 is prohibited.

(b) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A line conveying sewage or designed to convey sewage that is connected to the MS4 is hereby declared to be a nuisance.

960.16 CONTROL OF MATERIALS AND DEBRIS.

(a) Practices shall be implemented by any and all persons at all times to prevent toxic materials, hazardous materials, or other debris from entering the MS4 and Waters of the State. These practices shall include, but are not limited to, the following:

- (1) At construction sites, an appropriately sized covered dumpster shall be made available for the proper disposal of construction site waste materials, garbage,

- plaster, drywall, grout, gypsum and etc. A separate appropriate container shall be provided for the proper disposal of toxic and hazardous materials.
- (2) The washing of concrete material into a street, catch basin, or other public entity or watercourse is prohibited.
 - (3) All fuel tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area according to all local, State, and Federal regulations. All components of such containers shall be maintained within the dike. All additional requirements of The Elyria Fire Department must be followed.
 - (4) Any toxic or hazardous material and contaminated soils shall be properly disposed of in accordance with applicable State and Federal regulations.
 - (5) Surface water from contaminated sites shall not be allowed to leave the site.
 - (6) Proper permits shall be obtained for development projects on solid waste landfill sites.

(b) Measures shall be taken to minimize soil transport onto public roads, or surfaces where runoff is not checked by sediment controls. Engineered construction entrance(s) shall be implemented as required by the City Engineer.

(c) At construction sites, where soil is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day, or more frequently, in order to ensure public safety. Soil shall be removed from paved surfaces by shoveling and/or sweeping. Street washing shall be allowed only after shoveling or sweeping has removed most of the sediment.

(d) Any such materials, debris and/or sediment that violates or would violate this Chapter is hereby declared to be a nuisance.

960.17 NOTIFICATION OF SPILLS.

(a) 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 MS4, or Waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and clean-up of such release.

(b) 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 accordance with local, State and Federal regulations.

(c) In the event of a release of non-hazardous materials, said person shall notify the City Engineer no later than the next business day.

(d) Notifications in person or by phone shall be confirmed by written notice to the City Engineer within three (3) business days of the verbal notice.

(e) 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 (3) years from the date of the discharge or, if applicable, from the conclusion of all litigation and decisions. This provision does not relieve the owner of record of any other requirements by law.

960.18 STORM WATER PERMITS.

- (a) A Permit is required for any earth-disturbing activity that will
- (1) Disturb of one (1) or more acres of land;
 - (2) Disturb less than one (1) acre, but is part of a larger common plan of development or sale which will disturb one (1) or more acres of land; or
 - (3) Move five hundred (500) cubic yards or more of earth.

(b) No earth-disturbing activities requiring a Permit shall commence prior to the issuance of a Permit by the City Engineer.

(c) If earth-disturbing activity is not initiated within one (1) year of the date that the Permit was issued, such Permit shall be considered void by the City.

(d) Any runoff or water generated from any earth-disturbing and/or post-construction activity shall be considered illicit discharge unless permitted by the provisions of this Chapter.

(e) No application for a Permit will be approved unless a SWP3 is reviewed and approved by the City Engineer.

(f) No Permit is required for the following activities:

- (1) Any emergency activity which is immediately necessary for the protection of life, property or natural resources. The authorized agency shall notify the City Engineer of any earth-disturbing activity which is more extensive than normal maintenance;
- (2) Existing nursery and agricultural operations conducted as a permitted main or accessory use;
- (3) Cemetery graves; and
- (4) Any activity that is consistent with the promotion of public health, safety and welfare in light of the public's paramount concern for protection of its natural resources.

(g) Each application shall bear the name(s) and address(es) of the owner, operator and/or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a permitting fee.

(h) The permittee will be required to file with the City of Elyria a faithful performance bond or bonds, letter of credit or other improvement security in an amount deemed sufficient by the City Engineer for earth-disturbing activities to cover all costs of improvements, landscaping and maintenance of improvements for such period as specified the City Engineer and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site by the permittee. Bonds filed for earth-disturbing activities are in addition to any other bonding required by the City of Elyria.

(i) The City Engineer will review each application for a Permit. Within thirty (30) calendar days after receiving an application, the City Engineer shall, in writing:

- (1) Approve the Permit application and issue the Permit;
- (2) Approve the Permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Chapter and issue the Permit subject to these conditions; or
- (3) Disapprove the Permit application, indicating deficiencies and the procedure for submitting a revised application and/or submission. Pending preparation and approval of a revised plan, development activities may be allowed to proceed in accordance with conditions established by City Engineer.

(j) Failure of the City Engineer to act on original or revised applications within thirty (30) calendar days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and City Engineer.

(k) Permit availability.

- (1) The permittee shall furnish to the City Engineer, or authorized representative, any information which the City Engineer may request to determine compliance with the Permit and copies of records required to be kept by the Permit within five (5) business days of the request.
- (2) All Permits, Permit approval letters and SWP3s are considered reports that shall be available to the public in accordance with the Ohio Public Records law.

960.19 SIGNATORY REQUIREMENTS.

(a) All reports, certifications or information either submitted to the City Engineer or that this Chapter requires to be maintained by the permittee shall be signed as follows:

- (1) For a corporation: By a responsible corporate officer or duly authorized representative. For the purpose of this section, a responsible corporate officer means
 - (A) A president, secretary, treasurer or vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision making functions for the corporation; or
 - (B) The manager of one or more manufacturing, production or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) For a partnership or sole proprietorship: By a general partner, the proprietor or duly authorized representative; or
- (3) For all other cases: By either a principal executive officer, ranking elected official or duly authorized representative.

(b) If an authorization under this section of these regulations is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the signatory requirements of these regulations shall be submitted to the City Engineer prior to or together with any reports, information or applications to be signed by an authorized representative.

960.20 STORM WATER PERMIT COVERAGE.

(a) The Permit covers all requirements for new and existing discharges, composed entirely of storm water and associated with earth-disturbing activity that enter Waters of the State or a storm drain leading to Waters of the State. The Permit controls earth-disturbing activity, soil storage, and erosion and sedimentation resulting from earth-disturbing activities and establishes procedures for issuance, approval, administration, and enforcement of the Permit.

(b) Support Activities. The Permit authorizes storm water discharges from support activities, including but not limited to, equipment staging yards, material storage areas and excavated material areas provided:

- (1) The support activity is directly related to a construction site that is required to have coverage by the Permit for discharges of storm water associated with construction activity;
- (2) The support activity is not a commercial operation serving multiple unrelated construction projects and does not operate beyond the completion of the earth-disturbing activity at the site it supports;
- (3) Appropriate controls and measures are identified in the SWP3, if applicable, covering the discharges from the support activity; and
- (4) The support activity is on or contiguous with the property defined in the application and the SWP3, if applicable.

(c) Limitations on coverage. The following storm water discharges associated with construction activity are not covered by the Permit:

- (1) Storm water discharges that originate from the site after earth-disturbing activities have been completed, including any temporary support activity, and the site has achieved final stabilization;
 - (2) Storm water discharges associated with construction activity that the City Engineer has shown to be or may reasonably expect to be contributing to a violation of a water quality standard; and
 - (3) Spills and releases in excess of reportable quantities.
 - (A) In the event of a spill or other unintended release, hazardous substances in the storm water discharge from a construction site must be minimized in accordance with the applicable SWP3 for the construction activity; and
 - (B) In no case may the discharge(s) contain a hazardous substance equal to or in excess of reportable quantities.
- (d) The permittee shall inform all contractors and subcontractors who will be involved in the implementation of any or all parts of the Permit of the terms and conditions of the Permit and the associated SWP3.
- (1) The permittee shall maintain a written document containing the signatures of all the contractors and subcontractors-as proof acknowledging that they reviewed and understand the conditions and responsibilities of the Permit and, if applicable, the associated SWP3.
 - (2) The written document shall be created and signatures shall be obtained prior to commencement of earth-disturbing activity on the construction site.
- (e) It is the duty of the permittee to notify the City Engineer forty-eight (48) hours prior to commencement of earth-disturbing activities and upon project completion for all development with an approved Permit.

960.21 STORM WATER PERMIT TRANSFER.

- (a) The City Engineer shall be notified in writing prior to any proposed transfer of coverage a minimum of thirty (30) days prior to the date of transfer. The notice shall be signed by the Permit holder and by the person or party to whom the Permit is to be transferred.
- (b) New Permit holders are subject to the requirements of the original Permit. Variation from the original Permit requires submittal and approval of a Permit modification and appropriate modification fees.

960.22 STORM WATER PERMIT MODIFICATION.

- (a) The permittee shall notify the City Engineer in writing whenever there is a change in design, construction, operation or maintenance of an earth-disturbing activity. The permittee shall include a copy of the modified plans and/or specifications.
- (b) The permittee will be notified in writing by the City Engineer upon completion of the modification review. The permittee shall not implement any modifications until approval is granted.

960.23 STORM WATER PERMIT TERMINATION.

- (a) Written notification requesting Permit termination shall be submitted to the City Engineer upon final stabilization of the site. Notification shall be accompanied by a copy of the legally binding post-construction maintenance covenant between the permittee and the post-construction owner or operator of the site, including deed and final plat requirements and as-built data, in accordance with the provisions of this Chapter.
- (b) The Permit terminates upon acceptance, in writing, of the Permit termination request, by the City Engineer.

960.24 STORM WATER POLLUTION PREVENTION PLAN (SWP3).

(a) SWP3 plans shall be prepared in accordance with sound engineering and/or conservation practices and stamped by an Engineer. The following shall be included as part of the SWP3:

- (1) A signed statement noting that the permittee will inspect and approve the control measures completed in accordance with the SWP3.
 - (2) A signed statement by the permittee that any clearing, grading, construction, or development, or all of these, will be done pursuant to the SWP3.
 - (3) Permanent easements, in accordance with the provisions of this Chapter.
 - (4) Procedures in the SWP3 shall provide that all controls on the site are inspected at least once every seven (7) calendar days and within twenty-four (24) hours after any storm event greater than one-half (1/2) inch of rain per twenty-four (24) hour period.
 - (5) Acceptable control practices for storm water management.
 - (A) Control practices shall meet or exceed the minimum standards established by the Ohio EPA.
 - (B) Where the City Engineer deems appropriate, more stringent control measures may be requested.
 - (C) Where runoff from a new development or redevelopment area is planned to discharge into an existing storm water drainage system, an analysis shall be prepared to verify that the existing storm water drainage system has the capacity to accommodate the additional peak flow runoff rates.
- (b) The City Engineer, or authorized representative, may require any additional information or data.
- (c) All SWP3s shall be maintained at the permitted site.

960.25 CONTROL PRACTICE MAINTENANCE.

(a) The permittee shall at all times properly operate and maintain all facilities and systems of storm water management and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of the Permit and this Chapter.

(b) Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee when necessary to achieve compliance with the conditions of the Permit and this Chapter.

(c) All temporary and permanent control practices shall be maintained to meet the design standards and repaired as needed to ensure continued performance of their intended function.

(d) The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices as part of the SWP3.

960.26 SELF-INSPECTION OF CONTROL PRACTICES DURING CONSTRUCTION.

(a) Inspections of all control measures shall be in accordance with the approved SWP3.

(b) The permittee shall assign qualified inspection personnel to conduct inspections.

(c) The purpose of such inspections will be to ensure that the control practices are functional, evaluate whether the SWP3 is adequate and properly implemented in accordance with the schedule proposed, determine the overall effectiveness of the plan and determine the need for additional control measures.

- (1) 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 storm water drainage system.

- (2) Discharge locations shall be inspected to ascertain whether erosion and sediment control measures are effective in preventing significant impacts to the receiving waters.
- (3) Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.
- (d) All inspections shall be documented in written form and submitted to the City Engineer at the time interval specified in the approved Permit. Submissions shall include the following information:
 - (1) Names and qualifications of personnel making the inspection;
 - (2) The date and location of the inspection;
 - (3) Whether construction is in compliance with the approved storm water management plan;
 - (4) Variations from the approved construction specifications;
 - (5) Any violations that exist; and
 - (6) Steps taken to correct such violations and the date these corrective actions were taken.
- (e) The permittee shall maintain for three (3) years following Permit termination approval, a record summarizing the results of the inspections.

960.27 CITY INSPECTION OF CONTROL PRACTICES DURING CONSTRUCTION.

- (a) The City Engineer, or authorized representative, may enter permitted sites at reasonable times as deemed necessary to make regular on-site inspections to ensure the validity of self-inspection reports. Such inspections may take place before, during and after any earth change activity for which a Permit has been issued.
- (b) If the inspection reveals that a control practice is in need of repair or maintenance, it must be repaired or maintained by the date specified by the City Engineer.
- (c) If the inspection reveals that a control practice fails to perform its intended function and that another, more appropriate control practice is required, the SWP3 must be modified in accordance with the provisions of this Chapter and the new control practice must be installed by the date specified by the City Engineer.
- (d) If the inspection reveals that a control practice has not been implemented in accordance with the schedule contained in the SWP3, the control practice must be implemented by the date specified by the City Engineer. If the inspection reveals that the planned control practice is not needed, the permittee must submit to the City Engineer a statement of explanation as to why the control practice is not needed within ten (10) days from the date of the inspection.

960.28 POST-CONSTRUCTION OPERATION AND MAINTENANCE AGREEMENTS

- (a) All post-construction storm water BMPs shall have an enforceable operation and maintenance (O&M) agreement to ensure the system continues to function as designed.
- (b) The City may, at any time in writing, require a time frame in which to address any maintenance needs of a storm water management control practice and/or an increase to inspection and maintenance requirements.
- (c) Parties responsible for the operation and maintenance of storm water management BMPs shall make records available to the City during inspection of the BMPs and at other reasonable times upon request.

960.29 DEED OR FINAL PLAT REQUIREMENTS.

(a) All storm water O&M agreements shall be recorded on the deed for the property and any subsequent split(s) of the property, and reference thereon shall be made to the person or entity which shall be responsible for long-term maintenance.

(b) The locations, dimensions and bearings of all storm water management facilities, drainage and any access or permanent easements, regardless of maintenance provisions, shall be recorded as a deed restriction, or when in an approved subdivision, with the final plat, or be included in covenants and restriction filed with the deed or plat.

(c) A note on the plat or restriction in the deed shall prohibit unauthorized alterations to any watercourse or improvement without the approval of the City Engineer and shall further provide access to the premises according to this Chapter.

960.30 PERMANENT EASEMENTS.

(a) Permanent easements shall be provided by the property owner for all storm water drainage systems outside dedicated public road rights of way. Such permanent easements shall be not less than twenty-five (25) feet in width, in addition to the width of the storm water drainage system, unless otherwise approved by the City Engineer.

(b) Those lots crossed by a permanent easement shall be restricted against the planting within said permanent easement of trees, shrubbery or plantings with woody growth characteristics, and against the construction therein of buildings, accessory buildings, fences, walls or any other obstructions to the free flow of storm water and the movement of inspectors and maintenance equipment and also restricted against the changing of final grade from that described by the grading plan.

(c) The permanent easements shall be recorded with the plat in the name of the City and will remain in effect even with transfer of title to the property.

960.31 PERMITTING FEES

(a) Permitting fees shall be assessed for the review, permitting and inspection of activities regulated under this Chapter.

(b) The current fee schedule is located under Chapter 109 General Fee Schedule and can be requested from the City of Elyria Engineering Department.

(c) Fees are due at the time the application is submitted or the Permit is modified.

960.32 ACCESS AND INSPECTION.

(a) The City Engineer, or authorized representative, shall be permitted to enter and inspect sites and/or facilities subject to this Chapter as often as may be necessary to determine compliance with this Chapter.

(b) The City Engineer, or authorized representative, shall have the right to set up at sites and/or facilities subject to this Chapter such devices as are necessary to conduct monitoring and/or sampling of a site and/or facility's storm water discharge.

(c) The City Engineer, or authorized representative, shall have the right to require the site and/or facility owner or operator to install monitoring equipment as necessary. This sampling and monitoring equipments shall be maintained at all times in safe and proper operating condition by the site and/or facility owner or operator at the owner or operator's expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the site and/or facility's owner or operator at the written or oral request of the City Engineer, or authorized representative. The costs of clearing such access shall be borne by the site and/or facility owner or operator.

960.33 ENFORCEMENT.

(a) Notice of violation. Whenever the City Engineer, or authorized representative, finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the City Engineer, or authorized representative, may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover any administrative and legal costs; and
- (6) The implementation of source control or treatment BMPs.

(b) If abatement of a violation and/or restoration of affected property are required, the Notice of Violation shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the facility owner or operator fail to remediate or restore within the established deadline, legal action for enforcement may be initiated.

(c) Any person receiving a Notice of Violation must meet compliance standards within the time established in the Notice of Violation.

(d) Administrative Hearing: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the City of Elyria shall schedule an administrative hearing with the author of the Notice of Violation, the City Engineer, a member of the Law Department and a member of the Safety Service Department to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent registered mail.

960.34 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the City Engineer. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority of his/her designee shall take place within 60 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

960.35 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 45 days of the decision of the municipal authority upholding the decision of the City Engineer, then representatives of the City Engineer may choose to 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 government agency or designated contractor to enter upon the premises for the purposes set forth above.

960.36 STOP WORK ORDERS.

(a) The City Engineer, or authorized representative, may, without prior notice, suspend all work as described in the Permit 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 State. If the violator fails to comply with a Stop Work Order, the City Engineer may take such steps as deemed necessary to stop or prevent the discharge.

(b) Stop Work Orders may be issued by the City Engineer, or authorized representative, verbally with written notification to follow.

960.37 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter pursuant to Ohio Revised Code Chapter 3709.211. If a person has violated or continues to violate the provisions of this Chapter, the City of Elyria 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.

960.38 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 Chapter is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, and is pursuant to Chapter 521.10.

960.39 MINOR MISDEMEANOR.

Any person that has violated or continues to violate this Chapter shall be subject to a minor misdemeanor, according to the law of the State of Ohio.

960.40 FEE RECOVERY.

The City of Elyria may seek to recover all attorneys' fees, court costs and other expenses associated with enforcement of these regulations, including but not limited to sampling and monitoring expenses.

960.41 REMEDIES NOT EXCLUSIVE.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City Engineer to seek cumulative remedies.