

CHAPTER 62: STORM WATER MANAGEMENT

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ARTICLE I: STORM WATER

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§ 62.101 TITLE.

This chapter shall be known as the "City of Clio Storm Water Management" and may be so cited. (Ord. 475, passed 5-4-15)

§ 62.102 FINDINGS.

The City of Clio finds that:

(A) Water bodies, roadways, structures, and other property within, and downstream of the city are at times subjected to flooding.

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

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

(D) Storm water runoff produced by land development contributes to increased quantities of water-borne pollutants.

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

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

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(G) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future development projects within the city will, absent reasonable regulation and control, adversely affect the city's water bodies and water resources, and those of downstream municipalities.

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

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

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

(Ord. 475, passed 5-4-15)

§ 62.103 PURPOSE.

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

(A) To reduce artificially induced flood damage.

(B) To minimize increased storm water runoff rates and volumes from identified new land development.

(C) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures.

(D) To encourage water recharge into the ground where geologically favorable conditions exist.

(E) To prevent an increase in non-point source pollution.

(F) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes.

(G) To minimize the impact of development upon stream bank and streambed stability.

(H) To reduce erosion from development or construction projects.

(I) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution.

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(J) To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands that were developed without storm water management controls meeting the purposes and standards of this chapter.

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

(Ord. 475, passed 5-4-15)

§ 62.104 APPLICABILITY.

(A) To prevent an increase in non-point source pollution; this chapter shall apply to any earth-disturbing activities greater than or equal to one acre (\geq one acre) for new development or redevelopment projects or earth disturbing activities less than one acre on parcels with greater than or equal to 50% ($\geq 50\%$) impervious surface which will alter storm water drainage characteristics of the development site.

(B) Typically these developments require approval of a plat, a site development plan, building permit, and other permits to be obtained. However, this chapter shall not apply to the following:

(1) Development on one single-family lot, parcel, or condominium unit where the city determines that due to the size of the development site or other circumstances, the quantity, quality, and or rate of stormwater flow does not materially alter storm water flow from the property in terms of rate and/or volume.

(2) The installation or removal of individual mobile homes within a mobile home park. This exemption shall not be construed to apply to the construction, expansion, or modification of a mobile home park.

(3) Ongoing farm operations such as tilling or plowing. Earth disturbances that are not directly related to farming are not exempt from this chapter.

(4) Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of this chapter, where such approvals remain in effect.

(Ord. 475, passed 5-4-15)

§ 62.105 DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context in which they are used specifically indicates otherwise:

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BEST MANAGEMENT PRACTICES (BMPS). A practice, or combination of practices and design criteria that comply with the Michigan Department of Natural Resources and Environment's Guidebook of BMPs for Michigan Watersheds, the Low Impact Development Manual for Michigan, or equivalent practices and design criteria that accomplish the purposes of this chapter (including, but not limited to minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the City Engineer, and, where appropriate, the standards of the Genesee County Drain Commissioner.

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

CITY. City of Clio, Genesee County, Michigan.

CITY ATTORNEY. The attorney appointed by the City Commission.

CITY COMMISSION. The city's legislative body.

CITY ENGINEER. The engineer appointed by the City Commission.

CITY TREASURER. The treasurer appointed by the City Commission.

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

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

DEVELOPED or DEVELOPMENT. The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the city's approval of a site plan, plat, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures; provided, however, that for purposes of Article II only, **DEVELOPED** or **DEVELOPMENT** shall not include the actual construction of, or an addition, extension or modification to, an individual single-family or a two-family detached dwelling or appurtenances to the same, if the Zoning Administrator finds that such construction, addition, extension or modification will not result in adverse storm water runoff.

DEVELOPER. Any person proposing or implementing the development of land. **DEVELOPER** can also be interpreted to include their designated design representative (e.g. architects and engineers).

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

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

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

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

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

EARTH CHANGE. Any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. **EARTH CHANGE** includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.

EPA. The United States Environmental Protection Agency.

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

EXEMPTED DISCHARGES. Discharges other than storm water as specified in § 62.104 and § 62.402 of this chapter.

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

FLOODPLAIN. Any land area subject to periodic flooding (\geq two square miles).

FLOOD PROTECTION ELEVATION (FPE). The Base Flood Elevation plus one foot at any given location.

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

HAZARDOUS or **TOXIC MATERIAL.** OSHA defines hazardous and toxic substances as those chemicals which are capable of causing harm. In this definition, the term chemical includes dusts, mixtures, and common materials such as paints, fuels, and solvents. OSHA currently regulates exposure to approximately 400 substances and the OSHA Chemical Sampling Information file contains listings for approximately 1,500 substances. Some industrial libraries maintain files of material safety data sheets (MSDS) for more than 100,000 substances.

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

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

IMPERVIOUS SURFACE. Surface that does not allow storm water runoff to slowly percolate into the ground.

IMPROVEMENTS. Those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

MS4. Municipal Separate Storm Water Sewer System.

MDNRE. Michigan Department of Natural Resources and Environment.

NPDES. National Pollution Discharge Elimination System

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

PLANNING COMMISSION. A commission created under the Michigan Zoning Enabling Act, 2006 PA 110, M.C.L.A. § 125.3101 et seq.

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

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

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

RUNOFF. The water flow that occurs when soil is infiltrated to full capacity and excess water from rain, snowmelt, or other sources flows over the land.

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SENSITIVE AREAS. Inland lakes, watercourses and wetlands (\geq five acres as specified by MDNRE unless a stricter local requirement is specified).

SITE PLAN. A plat, a site development plan, construction drawings, a building permit, and any other permits that need to be obtained before development can occur. These documents and drawings, required by the zoning ordinance, are to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

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

STATE OF MICHIGAN WATER QUALITY STANDARDS. All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

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

STORM WATER PERMIT. A permit issued pursuant to this chapter.

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

STORM WATER RUNOFF FACILITY. The method, structure, area, system, or other equipment or measures which are designed to receive, control, store, or convey storm water as well as treat it for pollutants.

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

SURFACE WATERS OF THE STATE. Defined consistent with the Part 4 Rules (Rules 323.1041 through 323.1117 of the Michigan Administrative Code) to mean all of the following, but not including drainage ways and ponds (detention and retention ponds or lagoons) used solely for wastewater conveyance, treatment, or control:

- (1) The Great Lakes and their connecting waters;
- (2) All inland lakes;
- (3) Rivers;
- (4) Streams;

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- (5) Impoundments;
- (6) Open drains; and
- (7) Other surface bodies of water within the confines of the state.

WATERBODY. A river, lake, stream, creek or other watercourse or wetlands.

WATERCOURSE. One that has not been altered artificially.

WETLANDS (REGULATED). Land characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

ZONING ADMINISTRATOR. The Zoning Administrator appointed by the City Commission.
(Ord. 475, passed 5-4-15)

ARTICLE II: STORM WATER PERMITS

Section

- 62.201 Storm water standards
- 62.202 Storm water permit review procedures
- 62.203 Storm water plan
- 62.204 Storm water permit review fees
- 62.205 Financial guarantee
- 62.206 Certificate of occupancy
- 62.207 No change in approved facilities
- 62.208 Terms and conditions of permits

§ 62.201 STORM WATER STANDARDS.

Developments subject to this chapter shall require a storm water permit and a storm water plan, and shall be designed, constructed, and maintained to prevent flooding, minimize stream channel impacts, protect water quality, and achieve the purposes of this chapter, as stated above. The city has adopted the *Genesee County Storm Water and Flood Control Design Standard Requirements* to meet the objectives of managing the quantity and quality of storm water runoff from a site as its city engineering standards. (Ord. 475, passed 5-4-15)

§ 62.202 STORM WATER PERMIT REVIEW PROCEDURES.

(A) The city shall grant a storm water permit, which may impose terms and conditions in accordance with § 62.208, and which shall be granted only upon compliance with each of the following requirements:

(B) The developer will engage in the following sequence of events:

(1) *Pre-development information gathering.* For all applicable projects, developers will contact representatives from each of the following: the County Road Commission, Health Department, city officials, and Drain Commissioner's Office (Water and Waste Services and Surface Water). The purpose will be to gather information on design standards, development guidelines, and to identify the type of information developers and their representatives must furnish to comply with this chapter. In some instances it may be expedient to hold one conference with all the involved parties.

(2) *Development and review of conceptual site plan.* Review of the conceptual site plan for approval at the county level by the appropriate personnel in Water and Waste Services, soil erosion,

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surface water, the Road Commission and the Health Department. Comments are returned to the owner/client and designer. At this time the design engineer will submit a statement that this site has been reviewed and determined sufficient to accommodate soil erosion and soil conservation measures.

(3) *Coordinated review and approval.* Review of the Storm Water Plan and the proposed BMPs will occur at the same time as the review of the site plan by representatives from the appropriate agencies.

(4) *Municipal review and approval.* Developers shall provide a storm water plan for post-construction management of storm water to the city for review and approval. Guidance will be provided to the Zoning Administrator and Planning Commission on the ordinance and design standards by the City Engineer. The Zoning Administrator and Planning Commission will be provided with a checklist for reference during site plan review. At this stage all necessary permits should have been obtained from federal, state, and county agencies. Once all of the above documents have been obtained a building permit will be issued by the city.

(C) The developer has submitted a storm water plan complying with § 62.203.

(D) The storm water plans contain adequate storm water BMPs to address the requirements laid out in the Genesee County Storm Water Standards and Requirements (GCSWS&R). At a minimum the developer will have to satisfy one of the following conditions:

(1) A permanent on-site storm water system that includes on-site detention of storm water runoff (see *Genesee County Storm Water and Flood Control Design Standard Requirements* for requirements); and

(2) A direct connection for all storm water runoff that will be discharged from and through the development site (see GCSWS&R/BMP Requirement Manual for requirements); or

(3) The developer provides a permanent on-site storm water system with a restricted outlet designed to result in no net increase in storm water runoff volume or rate onto any adjacent property. (See GCSWS&R/BMP Requirement Manual for requirements).

(E) The developer has paid or deposited the storm water permit review fee pursuant to § 62.204.

(F) The developer has paid or posted the applicable financial guarantee pursuant to § 62.205.

(G) The developer provides all easements necessary to implement the approved storm water plan and to otherwise comply with this chapter including, but not limited to, § 62.702. All easements shall be acceptable to the city in form and substance and shall be recorded with the Genesee County Register of Deeds.

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(H) The storm water plan is designed in conformity with the city's design and performance standards for drains and storm water management systems, as set forth in Article VIII.

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

(J) The developer provides the required maintenance agreement for routine, emergency, and long-term maintenance of all storm water runoff facilities and in compliance with the approved storm water plan and this chapter. The maintenance agreement shall be acceptable to the city in form and substance and at minimum contain the requirements outlined in Article VII.

(Ord. 475, passed 5-4-15; amended by Ord. 498, passed 5-21-18)

§ 62.203 STORM WATER PLAN.

(A) The Storm Water Management Plan must be designed to meet the Genesee County Storm Water Standards as set out in the companion document to the Low Impact Development Manual for Michigan.

(B) The county is authorized to establish minimum design standards for storm water discharge release rates and to require dischargers to implement on-site retention, detention or other methods necessary to control the quality, rate and volume of surface water runoff discharged into the storm water drainage system and surface waters of the state. The county water quality and quantity standards are to be achieved through the techniques and methodologies outlined in the Low Impact Development Manual for Michigan (Chapters 6, 7 and 9). The storm water plan shall identify and contain all of the following:

(1) The location of the development site and water bodies that will receive storm water runoff (National Wetland database). Information to consider and include where appropriate should be the drainage district ID, zoning, aerial imagery, soils and floodplain maps, traffic and utility information.

(2) The existing and proposed natural feature of the development site, including the vegetation, topography, and alignment and boundary of the natural drainage courses, with contours having a maximum interval of two feet (using USGS datum). The information shall be superimposed on the pertinent Genesee County soil map.

(3) The development drainage area to each point of discharge from the development.

(4) Calculations for the existing and final peak discharge rates (based on design criteria).

(5) Calculations for any facility or structure size and configuration.

(6) A drawing showing all proposed storm water runoff facilities with existing and final grades, as well as storm water easements.

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(7) The sizes and locations of upstream and downstream culverts serving the major drainage routes flowing into and out of the development site. Any significant off-site and on-site drainage outlet restrictions other than culverts should be noted on the drainage map.

(8) An implementation plan for construction and inspection of all storm water runoff facilities necessary to the overall storm water plan, including a schedule of the estimated dates of completing construction of the storm water runoff facilities shown on the plan and an identification of the proposed inspection procedures to ensure that the storm water runoff facilities are constructed in accordance with the approved storm water plan.

(9) Drawings, profiles, and specifications for the construction of the storm water runoff facilities (BMP) reasonably necessary to ensure that storm water runoff will be drained, stored, or otherwise controlled in accordance with this chapter.

(10) A maintenance agreement, in form and substance acceptable to the city, for ensuring maintenance of any privately-owned storm water runoff facilities. The maintenance agreement shall include the Developer's written commitment to provide routine, emergency, and long-term maintenance of the facilities and, in the event that the facilities are not maintained in accordance with the approved storm water plan, the agreement shall authorize the city to maintain any on-site storm water runoff facility as reasonably necessary, at the Developer's expense (see Article VII).

(11) The name of the engineering firm and the registered professional engineer that designed the storm water plan and that will inspect final construction of the storm water runoff facilities.

(12) All design information must be compatible for conversion to standard GIS shape files.

(13) Any other information necessary for the city to verify that the storm water plan complies with the city's design and performance standards for drains and storm water management systems. (Ord. 475, passed 5-4-15)

§ 62.204 STORM WATER PERMIT REVIEW FEES.

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

(1) Services of the City Attorney directly related to the application.

(2) Services of the City Engineer directly related to the application including inspections fees.

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(3) Services of other independent contractors working for the city which are directly related to the application.

(4) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.

(B) At the time a Developer applies for a storm water permit, the Developer shall deposit with the City Treasurer, as an escrow deposit, an initial amount as determined by resolution of the City Commission for such matters and shall provide additional amounts as requested by the city in such increments as are specified in said resolution. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final city denial or approval and acceptance of the development has occurred will be refunded to the Developer with no interest to be paid on those funds. At no time prior to the city's final decision on an application shall the balance in the escrow account fall below the required initial amount. If the funds in the account are reduced to less than the required initial amount, the Developer shall deposit into the account the additional amount needed to restore the account to the required amount before the application review process will be continued. Additional amounts may be required to be placed in the escrow account by the Developer, at the discretion of the city.

(Ord. 475, passed 5-4-15)

§ 62.205 FINANCIAL GUARANTEE.

(A) The City Engineer shall not approve a storm water permit until the Developer submits to the city, in a form and amount satisfactory to the city, a letter of credit or other financial guarantee for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved storm water plan. Upon certification by a registered professional engineer that the storm water runoff facilities have been completed in accordance with the approved storm water plan including, but not limited to, the provisions contained in § 62.203(B)(8), the city may release the letter of credit, or other financial guarantee subject to final city acceptance and approval.

(B) The letter of credit or other financial guarantee may be accessed when:

- (1) Violation of this chapter has occurred as determined by the city;
- (2) Three notifications to the developer detailing the infraction have been issued; and
- (3) No corrective action has being taken by the developer within 30 days of final notification.

(C) Except as provided in division (E), the amount of the financial guarantee shall be as determined by the City Commission in a Resolution of Fees for city services, unless the city determines that a greater amount is appropriate, in which case the basis for such determination shall be provided to the Developer in writing. In determining whether an amount greater than the amount established by

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Resolution of the City Commission is appropriate, the city shall consider the size and type of the development, the size and type of the on-site storm water system, and the nature of the off-site storm water runoff facilities the development will utilize.

(D) The letter of credit or other financial guarantee will not be permitted to expire until any necessary maintenance agreements for storm water facilities established by the developer has been signed.

(E) A maintenance bond shall be provided to the appropriate agency. The maintenance bond shall be provided for a period of two years commencing from the date of the final approval of the storm water plan.

(F) The Zoning Administrator, based on the recommendation of the City Engineer, may reduce or waive the amount of the financial guarantee for a development that will not increase the percentage of impervious surface of the development site by more than 10%.

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

(Ord. 475, passed 5-4-15)

§ 62.206 CERTIFICATE OF OCCUPANCY.

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

(Ord. 475, passed 5-4-15)

§ 62.207 NO CHANGE IN APPROVED FACILITIES.

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

(B) The city has the right to take corrective action if alterations to approved storm water facilities occur and to seek compensation from the responsible party for all costs associated with the corrective action.

(Ord. 475, passed 5-4-15)

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§ 62.208 TERMS AND CONDITIONS OF PERMITS.

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

(Ord. 475, passed 5-4-15)

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ARTICLE III: STORM WATER SYSTEM

Section

- 62.301 Management of and responsibility for storm water system
- 62.302 Storm water system
- 62.303 Floodplain and sensitive area standards
- 62.304 Building openings
- 62.305 Public health, safety or welfare

§ 62.301 MANAGEMENT OF AND RESPONSIBILITY FOR STORM WATER SYSTEM.

The city is not responsible for providing drainage facilities on private property for the management of storm water on said property. It shall be the responsibility of the property owner to provide for, and maintain, private storm water runoff facilities serving the property and to prevent or correct the accumulation of debris that interferes with the drainage function of a water body.

(Ord. 475, passed 5-4-15)

§ 62.302 STORM WATER SYSTEM.

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

(Ord. 475, passed 5-4-15)

§ 62.303 FLOODPLAIN AND SENSITIVE AREAS STANDARDS.

(A) All new buildings and substantial improvements to existing buildings shall be protected from flood damage up to the Flood Protection Elevation (FPE) and shall be in accordance with all applicable federal, state and local ordinances, and rules and regulations. Floodway alteration shall be permitted only upon review and approval by the city, in accordance with an approved storm water plan.

(B) A storm water plan providing for the filling or alteration of a floodway may include provisions for maintaining stability of the banks of streams or other water bodies, by means of the establishing of buffer zones and other means of providing protection of the slopes and banks of water bodies.

(C) Within any required buffer zone, no earth change shall take place except in accordance with the approved storm water plan. Such a plan may also include provisions for the replacement of flood plain storage volume, where such storage volume is lost or diminished as a result of approved development.

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(D) Where appropriate, permanent setbacks based on site slopes and soils will be established in accordance with the specifications outlined in the Genesee County Requirement Manual.
(Ord. 475, passed 5-4-15)

§ 62.304 BUILDING OPENINGS.

(A) No building openings, including basement walkouts, shall be constructed below the following elevations:

- (1) One foot above the 100-year floodplain.
- (2) The building opening established at the time of plat or development approval and on file in the city's property files.
- (3) Three feet above the top of any downstream culvert.
- (4) Four feet above the bottom of any permanent and defined drain.
- (5) One foot above an adjacent detention basin design high water.

(B) A waiver from elevations stated in § 3.06(1a) may be granted by the City Engineer following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation does not pose a risk of flooding.

(C) Upon completion of construction of the structure's foundation and or slab on grade, a registered land surveyor shall certify any minimum building opening elevation specified by this chapter. This certificate shall attest that the building opening elevation complies with the standards of this chapter. The permittee for the building permit shall submit the certificate to the city's building inspector prior to the commencement of framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified in § 79.276(a)(2) or (3), that opening must be raised using a method that meets with the approval of the city. After reconstruction, a registered land surveyor or engineer shall re-certify that the minimum building opening elevation complies with the standards of this chapter prior to the commencement of framing and or structural steel placement.

(Ord. 475, passed 5-4-15)

§ 62.305 PUBLIC HEALTH, SAFETY OR WELFARE.

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

(Ord. 475, passed 5-4-15)

ARTICLE IV: PROHIBITIONS AND EXEMPTIONS

Section

- 62.401 Illicit discharges
- 62.402 Exempted discharges
- 62.403 Interference with natural or artificial drainageway
- 62.404 Storage of hazardous or toxic materials in drainageway

§ 62.401 ILLICIT DISCHARGES.

(A) No person shall discharge to a water body, directly or indirectly (i.e. via an illicit connection), any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with best management practices.

(B) The city is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the city's storm water drainage system or surface waters of the state. Discharges to storm drains and waters of the state other than storm water and the exempted discharges listed in § 62.402 is strictly prohibited.
(Ord. 475, passed 5-4-15)

§ 62.402 EXEMPTED DISCHARGES.

The following non-storm water discharges shall be permissible, provided that they do not result in a violation of State of Michigan water quality standards:

- (A) Water supply line flushing.
- (B) Landscape irrigation.
- (C) Diverted stream flows.
- (D) Rising ground water.
- (E) Uncontaminated ground water infiltration to storm drains.

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(F) Uncontaminated pumped ground water.

(G) Discharges from potable water sources.

(H) Foundation drains.

(I) Air conditioning condensate.

(J) Individual residential car washing.

(K) Dechlorinated swimming pool waters from single, two, or three family residences.

(L) Residual street wash water.

(M) Discharges or flows from emergency fire fighting activities.

(N) Discharges for which a specific federal or state permit has been issued.

(Ord. 475, passed 5-4-15)

§ 62.403 INTERFERENCE WITH NATURAL OR ARTIFICIAL DRAINAGEWAY.

It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of, or otherwise interfere with any natural or constructed drain, or drainage way without first submitting a storm water plan to the city and all appropriate agencies (state, Genesee County Drain Commissioner's office) and receiving approval of that plan. Any deviation from the approved plan is a violation of this chapter. This section shall not prohibit, however, necessary emergency action so as to prevent or mitigate drainage that would be injurious to the environment, the public health, safety, or welfare.

(Ord. 475, passed 5-4-15)

§ 62.404 STORAGE OF HAZARDOUS OR TOXIC MATERIALS IN DRAINAGEWAY.

Except as permitted by law, it shall be unlawful for any person to store or stockpile within a drainageway any hazardous or toxic materials unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a waterway.

(Ord. 475, passed 5-4-15)

ARTICLE V: INSPECTION, MONITORING, REPORTING AND RECORD KEEPING

Section

- 62.501 Investigate, inspect and monitor suspected illicit discharges
- 62.502 Storm water monitoring facilities
- 62.503 Accidental discharges
- 62.504 Record keeping requirement

§ 62.501 INVESTIGATE, INSPECT AND MONITOR SUSPECTED ILLICIT DISCHARGES.

To investigate potential illicit discharges or connections and to assure compliance with the standards set forth in this chapter, the city may investigate, inspect and/or obtain monitor any discharge. Upon request, the discharger shall allow the city's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The city shall provide the discharger reasonable advance notice of such inspection and/or sampling. The city or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling, monitoring or inspection.

(Ord. 475, passed 5-4-15)

§ 62.502 STORM WATER MONITORING FACILITIES.

The city may require, in writing, that a discharger of storm water runoff provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water runoff facility. The city may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances and regulations. All monitoring results will be made available and reported to the city at an agreed upon time.

(Ord. 475, passed 5-4-15)

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§ 62.503 ACCIDENTAL DISCHARGES.

(A) Any discharger who accidentally discharges into a MS4 or water of the state any substance other than storm water or an exempted discharge shall inform the city within 24 hours of knowledge of the incident. If such information is given orally, a written report concerning the discharge shall be filed with the city within five days. The written report shall specify:

- (1) The composition of the discharge and the cause thereof.
- (2) The exact date, time, and estimated volume of the discharge.
- (3) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.
- (4) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.

(B) A properly-reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of § 5.03(a).

(Ord. 475, passed 5-4-15)

§ 62.504 RECORD KEEPING REQUIREMENT.

Any person subject to this chapter shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling and chemical analysis of any discharge or storm water runoff from any property.

(Ord. 475, passed 5-4-15)

ARTICLE VI: ENFORCEMENT

Section

- 62.601 Sanctions for violation
- 62.602 Stop work order
- 62.603 Failure to comply; completion
- 62.604 Emergency measures
- 62.605 Cost recovery for damage to storm drain system
- 62.606 Collection of costs; lien
- 62.607 Appeals

§ 62.601 SANCTIONS FOR VIOLATION.

(A) Any person violating any provision of this chapter shall be responsible for a municipal civil infraction and subject to a fine to cover costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961 and other applicable laws, including, without limitation, equitable relief; provided, however, that the violation stated in § 6.01(b) shall be a misdemeanor. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.

(B) For purposes of this section, *SUBSEQUENT OFFENSE* means a violation of the provisions of this chapter committed by the same person within 12 months of a previous violation of the same provision of this chapter for which said person admitted responsibility or was adjudicated to be responsible.

(C) Police officers of the city are authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this chapter.

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(D) Any person who neglects or fails to comply with a stop work order issued under § 62.602 shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$500 per violation per day or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.

(E) Any person who aids or abets a person in a violation of this chapter shall be subject to the sanctions provided in this section.

(Ord. 475, passed 5-4-15)

§ 62.602 STOP WORK ORDER.

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

(Ord. 475, passed 5-4-15)

§ 62.603 FAILURE TO COMPLY; COMPLETION.

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

(Ord. 475, passed 5-4-15)

§ 62.604 EMERGENCY MEASURES.

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

(Ord. 475, passed 5-4-15)

Enforcement

§ 62.605 COST RECOVERY FOR DAMAGE TO STORM DRAIN SYSTEM.

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

(Ord. 475, passed 5-4-15)

§ 62.606 COLLECTION OF COSTS; LIEN.

Costs incurred by the city pursuant to §§ 62.602 through 62.605 shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the City Treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the city shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended, and any other remedies available under applicable law.

(Ord. 475, passed 5-4-15)

§ 62.607 APPEALS.

(A) Any person as to whom any provision of this chapter has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the city Commission the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal.

(B) The City Commission shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the City Commission may consider the recommendations of the City Engineer and the comments of other persons having knowledge of the matter. In considering any such appeal, the City Commission may grant a variance from the terms of this chapter so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

(1) The application of the ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the ordinance; and

(2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this chapter, nor result in less effective management of storm water runoff.

(Ord. 475, passed 5-4-15)

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ARTICLE VII: STORM WATER EASEMENTS AND MAINTENANCE AGREEMENTS

Section

- 62.701 Applicability of requirements
- 62.702 Storm water management easements
- 62.703 Maintenance agreements
- 62.704 Establishment of county drains

§ 62.701 APPLICABILITY OF REQUIREMENTS.

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

(Ord. 475, passed 5-4-15)

§ 62.702 STORM WATER MANAGEMENT EASEMENTS.

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

(Ord. 475, passed 5-4-15)

§ 62.703 MAINTENANCE AGREEMENTS.

(A) *Purpose of maintenance agreement.* The purpose of the maintenance agreement is to provide the means and assurance that maintenance of stormwater BMPs shall be undertaken.

(B) *Maintenance agreement required.*

(1) A maintenance agreement shall be submitted to the city, for review by the Zoning Administrator and his/her designee and the City Attorney, for all development, and shall be subject to approval in accordance with Stormwater Plan. A formal maintenance plan shall be included in the maintenance agreement.

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(2) Maintenance agreements shall be approved by the City Commission prior to final subdivision plat or condominium approval, as applicable, and prior to construction approval in other cases.

(3) A maintenance agreement is not required to be submitted to the city for “Chapter 18: Drains” that will be maintained by the Genesee County Drain Commission.

(C) Maintenance agreement provisions.

(1) The maintenance agreement shall include a plan for routine, emergency, and long-term maintenance of all stormwater BMPs, with a detailed annual estimated budget for the initial three years, and a clear statement that only future maintenance activities in accordance with the maintenance agreement plan shall be permitted without the necessity of securing new permits. Written notice of the intent to proceed with maintenance shall be provided by the party responsible for maintenance to the city at least 14 days in advance of commencing work.

(2) The maintenance agreement shall be binding on all subsequent owners of land served by the stormwater BMPs and shall be recorded in the office of the Genesee County Register of Deeds prior to the effectiveness of the approval of the City Commission.

(3) If it has been found by the City Commission, following notice and an opportunity to be heard by the property owner, that there has been a material failure or refusal to undertake maintenance as required under this chapter and/or as required in the approved maintenance agreement as required hereunder, the city shall then be authorized, but not required, to hire an entity with qualifications and experience in the subject matter to undertake the monitoring and maintenance as so required, in which event the property owner shall be obligated to advance or reimburse payment (as determined by the city) for all costs and expenses associated with such monitoring and maintenance, together with a reasonable administrative fee. The maintenance agreement required under this chapter shall contain a provision spelling out this requirement and, if the applicant objects in any respect to such provision or the underlying rights and obligations, such objection shall be resolved prior to the commencement of construction of the proposed development on the property.

(Ord. 475, passed 5-4-15)

§ 62.704 ESTABLISHMENT OF COUNTY DRAINS.

Prior to final approval, all storm water management facilities for platted subdivisions shall be established as county drains, as authorized in Section 433, Chapter 18 of the Michigan Drain Code (PA 40 of 1956, as amended) for long-term maintenance.

(Ord. 475, passed 5-4-15)

ARTICLE VIII: PERFORMANCE AND DESIGN STANDARDS

Section

- 62.801 Reference to Requirement Manual
- 62.802 Requirement Manual
- 62.803 Changes to standards and specifications
- 62.804 Amendments to Requirement Manual
- 62.805 Conflict of laws
- 62.806 Private agreements
- 62.807 Violations continue

§ 62.801 REFERENCE TO REQUIREMENT MANUAL.

(A) The city or its designate shall use the policy, criteria, and information, including technical specifications and standards, in the Genesee County Requirement Manual as the basis for decisions about storm water permits and about the design, implementation and performance of structural and non-structural storm water BMPs.

(B) The State LID Manual includes a list of storm water treatment practices, including the specific design criteria for each them. Storm water treatment practices that are designed and constructed in accordance with these design and sizing criteria should meet the minimum water quality and channel protection performance standards outlined in the Genesee County Storm Water and Flood Control Design Standard Requirements and the federal Phase II Storm Water Rules. Calculations to demonstrate that BMP designs will perform to meet required water quality, channel protection and flood control standards are to be submitted to the appropriate reviewing agency. Failure to construct storm water treatment practices in accordance with these standards may subject the violator to a civil penalty as described in Article VI of this chapter.

(Ord. 475, passed 5-4-15)

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§ 62.802 REQUIREMENT MANUAL.

If the specifications or guidelines of the Genesee County Storm Water and Flood Control Design Standard Requirements are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Requirement Manual. (Ord. 475, passed 5-4-15)

§ 62.803 CHANGES TO STANDARDS AND SPECIFICATIONS.

Standards, specifications, guidelines, policies, criteria, or other information in the Requirement Manual in affect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing this chapter with regard to the application. (Ord. 475, passed 5-4-15)

§ 62.804 AMENDMENTS TO REQUIREMENT MANUAL.

The Requirement Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience. Prior to amending or updating the Requirement Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided. (Ord. 475, passed 5-4-15)

§ 62.805 CONFLICT OF LAWS.

This chapter is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control. (Ord. 475, passed 5-4-15)

§ 62.806 PRIVATE AGREEMENTS.

This chapter is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this chapter shall govern. Nothing in this chapter shall modify or repeal any private covenant or deed

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restriction, but such covenant or restriction shall not legitimize any failure to comply with this chapter. In no case shall the county or city be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

(Ord. 475, passed 5-4-15)

§ 62.807 VIOLATIONS CONTINUE.

Any violation of the provisions of this chapter existing as of the effective date of this chapter shall continue to be a violation under this chapter and be subject to penalties and enforcement unless the use, development, construction, or other activity complies with the provisions of this chapter.

(Ord. 475, passed 5-4-15)

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ARTICLE IX: OTHER MATTERS

Section

62.901 Interpretation

§ 62.901 INTERPRETATION.

Words and phrases in this chapter shall be construed according to their common and accepted meanings, except that words and phrases defined in § 62.105 shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this chapter but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

(Ord. 475, passed 5-4-15)

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