

CHAPTER 921
Storm Water Use

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921.01 STORM WATER UTILITY, PURPOSE AND INTENT.

(a) It is hereby declared necessary for the protection of the public health, safety, welfare and convenience of the City and its inhabitants to codify the storm drainage utility and equitable rates or charges to be paid to the City for the use of such services which shall be used for the payment of the cost of the management, maintenance,

operation, repair, construction, reconstruction, enlargement, replacement and related costs of the storm drainage system.

(b) The further purpose of this ordinance is to provide for the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the most current National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user
 - (2) To prohibit Illicit Connections and Illicit Discharges to the MS4
 - (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance
- (Ord. No. 2012-89. Passed 08/15/2012)

921.02 FINDINGS, DETERMINATIONS AND POWER.

(a) It is hereby found, determined, and declared that those elements of the system which provide for the collection, treatment and disposal of storm water and regulation of ground water are of benefit and provide services to all property within the incorporated City limits, including property not presently served by the storm elements of the system. The beneficiaries of the system include all real properties within the City of Kent which benefit by the provision, operation and improvement of the system. Such benefits may include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, treatment and release of storm water, the reduction of hazard to property and life resulting from storm water runoff, improvement in general health and welfare through reduction of undesirable storm water conditions, and improvement to the water quality in the storm and surface water system and its receiving waters.

(b) The storm water utility, under the direction of the Director of Public Service shall, and does, have the power to:

- (1) Prepare rules and regulations as needed to implement this Chapter and forward the same to City Council for consideration and adoption, and adopt such policies and procedures as are required to implement said regulations or carry out other responsibilities of the utility.
- (2) Administer the acquisition, design, construction, maintenance and operation of the utility system, including capital improvements.
- (3) Administer and enforce this Chapter and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility system including, but not limited to, the quantity, quality and/or velocity of the storm water conveyed thereby.

(4) Inspect private systems as necessary to determine the compliance of such systems with this Chapter and any regulations adopted pursuant to this Chapter.

(5) Advise City Council, the City Manager and City departments on matters relating to the utility.

(6) Prepare and revise a comprehensive drainage plan for adoption by City Council periodically.

(7) Review plans, approve or deny, inspect and accept extensions to the system.

(8) Establish and enforce regulations to protect and maintain water quality within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended.

(9) Analyze the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the utility annually.

(Ord. No. 2012-89. Passed 08/15/2012)

921.03 DEFINITIONS.

(a) For the purpose of this Chapter, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) **Authorized Enforcement Agency** means employees or designees of the Director of Public Service of the City of Kent designated to enforce this ordinance.

(2) **Best Management Practices (BMPs) Also Storm Water Control Measures (SCMs):** ~~S~~chedules of activities, prohibitions of practices, ~~general good house keeping practices, pollution prevention and educational practices,~~ operation and maintenance procedures, treatment requirements and other management practices (both structural and non-structural) to prevent or reduce the pollution discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems of water resources and to control storm water volume and rate. ~~BMPs also~~ This includes ~~treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.~~

(3) **Billing Period** means the period identified from the first day of the month to the last day of the month. All bills rendered during a month are for the period beginning on the first day of the same month and are valid for that entire month unless otherwise identified. When City water service is discontinued during a month, the drainage fee due for that account shall be the pro rata portion of the month for which water services were active. When a developed property that does not receive City water service changes ownership during a billing period, the account existing on the first day of the billing period shall be liable for the prorated portion of the drainage fee

for that billing period from the first day of the billing period until the day the property transaction is recorded with the Portage County Recorder.

(4) **Bonds** mean revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

(5) **Calendar Year** means a twelve month period commencing on the first day of January of any year.

(6) **Clean Water Act** means ~~the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.),~~ Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117 and Pub. L. 100-4, 33 U.S.C. 1251 et. seq. Referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, and any subsequent amendments thereto.

(7) **Comprehensive Storm Water Management Plan (SWMP)** The written document and plans meeting the requirements of this regulation that sets forth the plans and practices to minimize storm water runoff from a development area, to safely convey or temporarily store and release post-development runoff at an allowable rate to minimize flooding and stream bank erosion, and to protect or improve storm water quality and stream channels,

(78) **Construction Activity** means activities subject to the most current NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(89) **Costs of Construction** means costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including, but not limited to, the costs of:

- A. Acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor,
- B. Physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith,
- C. Architectural, engineering, legal and other professional services,
- D. Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation,
- E. Any taxes or other charges which become due during construction,
- F. Expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against contractor or sub-contractor in respect of any default under a contract relating to construction,
- G. Principal of interest of any bonds, and
- H. Miscellaneous expenses incidental thereto.

(910) **Debt Service** means, with respect to any particular calendar year and any particular series of bonds, an amount equal to the sum of all interest payable on such bonds during such calendar year, plus any principal installments of such bonds during such calendar year.

(101) **Deputy Service Director/Superintendent of Engineering** means the Deputy Service Director/Superintendent of Engineering for the City of Kent, Ohio or his/her designee.

(142) **Developed Property** means that which has been altered from its natural state by the removal of vegetation and/or topsoil or by the addition of any improvements such as a building, structure, impervious surface, change of grade, or landscaping. For new construction, a property shall be considered developed pursuant to this ordinance:

A. Upon issuance of a Certificate of Occupancy, or upon completion of construction of final inspection if no such certificate is issued; or

B. Where construction is at least 50 percent complete and construction is halted for a period of three months.

C. Where vegetation and/or topsoil have been removed leaving exposed soil surfaces for a period of three months.

(123) **Director** means the Director of Public Service for the City of Kent, Ohio, or his/her designee.

(134) **Dwelling Unit** means any residential space for habitation as classified by the City building Code.

(145) **Equivalent Residential Unit or ERU** means the statistical average horizontal impervious area of "residential units" (single family, mobile homes, multifamily, condominiums, etc., within the City of Kent). The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extensions patios, porches, driveways, and sidewalks.

(156) **Equivalent Residential Unit Rate** means a drainage fee charged on each ERU as established by City Council.

(167) **Exempt Property** means public rights of way, public streets, public alleys and public sidewalks.

(178) **Extension and Replacement** means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or

purchasing and installing new equipment for, the system, or land acquisitions for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

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

(1920) **Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 921.11 of this ordinance.

(201) **Illicit Connections.** An illicit connection is defined as either of the following:

A. Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(212) **Impervious Area and Impervious Surface** means a horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, semipervious surfaces such as compacted clay or gravel, unvegetated and under vegetated solid surfaces, as well as streets, roofs, sidewalks, patios, porches, parking lots, athletic courts and other similar surfaces.

(223) **Industrial Activity** means activities subject to most current NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).

(234) **Municipal Separate Storm Sewer System (MS4)** ~~means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Kent and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.~~

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that are:

(A) Owned or operated by the federal government, state, municipality, township, county, district, or other public body (created by or pursuant to state or federal law) including special district under state law such as a sewer district, flood control district or drainage districts or similar entity or a designated and approved management agency under Section 208 of the Clean Water Act that discharges into water resources; and

(B) Designed or used for collecting or conveying solely storm water,

(C) Which is not a combined sewer, and

(D) Which is not a part of a publicly owned treatment works.

(245) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. ~~means a permit issued by Ohio EPA that authorizes the discharge of pollutants to waters of the United States or the State of Ohio, whether the permit is applicable on an individual, group, or general area wide basis.~~ A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

(256) Non-Residential Developed Property means any lot or parcel not exclusively residential as defined herein, including transient rentals such as hotels and motels.

(267) Non-Storm Water Discharge means any discharge to the storm drain system that is not composed entirely of storm water.

(278) Operating Budget means the annual operating budget adopted by the City Council for the succeeding calendar year.

(289) Operations and Maintenance means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

(2930) Person means any individual, partnership, society, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, institution or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

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

(312) **Premises** means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(323) **Residential Property** means any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, manufactured homes, multifamily, apartment buildings, and condominiums.

(334) **Revenues** mean all rates, fees, assessments, rental or other charges or other income received by the Storm ~~W~~water Drainage Fund, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.

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

(356) **Storm Water** ~~means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.~~ Defined at 40 CFR 122.26(b)(13) and means storm water runoff, snow melt runoff and surface runoff and drainage

(367) **Storm Water Control Measures (SCMs): Also Best Management Practice (BMP):** Schedules of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and to control storm water volume and rate. This includes practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(389) **Storm Water Management System or System** means the existing storm water management of the City and all improvements thereto which by this Chapter are

constituted as the property and responsibility of the City, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

(3940) **Storm Water Fee** means a fee authorized by Ordinance(s) established to pay operations and maintenance, extension and replacement and debt service.

(401) **Storm Water Drainage Fund (Fund 208)** means the enterprise fund created by City Council to operate, maintain and improve the system and for such other purposes as stated in this Chapter.

(412) **Storm Water Pollution Prevention Plan (SWPPP or SWP3)** means a document which describes the Best Management Practices/**Storm Water Control Measures** and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm water, Storm Wwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

(423) **Undisturbed Property** means real property which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.

(434) **User Fee District** means the area or property within the corporate limits of the City of Kent.

(445) **Vacant Improved Property** means vacant property which is, or could reasonably be, served by any subdivision improvements that allow egress.

(456) **Wastewater**. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(Ord. No. 2012-89. Passed 08/15/2012)

921.04 APPLICABILITY.

This ordinance shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by the Director.
(Ord. No. 2012-89. Passed 08/15/2012).

921.05 RESPONSIBILITY FOR ADMINISTRATION.

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

(Ord. No. 2012-89. Passed 08/15/2012).

921.06 DIRECTOR'S RULES AND REGULATIONS.

The Director shall make and enforce such rules and regulations as he/she may deem necessary for the enforcement of the provisions of this chapter for the safe, efficient and economical management of the City's Storm Drainage System. Such rules and regulations, when not repugnant to existing ordinances of the City or laws of the State, shall have the same force and effect as ordinances of Council.

(Ord. No. 2012-89. Passed 08/15/2012).

921.07 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants .

(Ord. No. 2012-89. Passed 08/15/2012).

921.08 STORM SEWERS.

(a) Permit for New Storm Sewer Connection.

(1) Any person desiring to make a new connection into the City storm sewer system, whether such connection is direct or indirect, shall first secure a permit to do so.

(2) The permit shall be issued only when the contemplated connection to the City storm sewer system is made in conformity with accepted practices for making such connections and is approved by the Director.

(3) The Director shall charge a new connection fee of one hundred dollars (\$100.00) for each permit so issued. This fee shall not apply to permits issued for reconnection of an existing sewer connection which is being reconstructed without increase in its size or the drainage area thereby served.

(b) **Storm Sewer System Fund.** The fee paid to the Director for issuing permits to tie into the storm sewer system shall be deposited in a fund called the Storm Sewer System Fund to be used for the maintenance, repair, construction and extension of the storm sewer system of the City.

(Ord. No. 2012-89. Passed 08/15/2012)

921.09 USE OF PUBLIC STORM SEWER REQUIRED.

(a) **Deposits Prohibited.** No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area

within the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

(b) **Discharge to Natural Outlet Prohibited.** No person shall discharge to any natural outlet within the City, or within any area under the jurisdiction of the City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with Federal, State and City regulations.

(c) **Connection Required; Costs.**

(1) Every building within the City shall be separately and individually connected by a separate building storm sewer lateral to a public storm sewer where there is such storm sewer adjoining the lot or parcel of land on which such building stands. Any and all costs for the initial installation and replacement where replacement is necessary due to an increase in storm sewer demand resulting from a change in the nature of the use of the structure within the boundaries of the private premises of individual property owners in the City shall be paid for by the owner of the property being served by the storm sewer laterals. The owner of the property shall maintain, repair and replace where necessary due to poor condition of the lateral that portion of the storm sewer lateral located within the public right of way and on private property from the City main to the building being served by the lateral. Where storm sewer laterals are a part of a street reconstruction project, the City shall repair and/or replace where necessary that portion of the storm sewer laterals located within the public right of way.

(2) Every building in existence prior to the construction of a public storm sewer adjacent to the lot or parcel of land on which the building stands shall, upon the construction of such adjacent storm sewer, be connected to such storm sewer within six months of the time such storm sewer is so constructed and made available for use.

(3) The Service Director shall cause written notice to be given to the owner of each lot or parcel of land to which such connections required herein are to be made. The notice shall state the number and character of connections required. The notice under this section shall be by certified mail addressed to such owner at his last known address or to the address to which tax bills are sent. The returned receipt for notice given by certified mail accepted by the addressee or anyone purporting to act for him shall be prima facie evidence of the service of notice required under this section. If it appears by the return of the certified mail notice that the owner cannot be found, such owner shall be served by publication of the notice once in a newspaper of general circulation within the City.

(4) When such connections to the public storm sewer are not installed by the owner of the property within thirty days from the date of service of such notice, the work may be done by the City and the cost thereof together with a forfeiture of twenty five percent (25%) of the cost thereof, assessed against the lots and lands for which such storm sewer connections are made.

(5) This section shall be supplemental to and not in derogation of existing ordinances relative to storm sewer connections required for any building within the City.

(d) Buildings shall be connected to the public sewers only through a service from the main in the street or dedicated utility right-of-way on which the lot has frontage, except that when there is no main in the street or dedicated utility right-of-way and a proper connection can be made elsewhere on adjoining property, the owner of the lot may, after obtaining a recorded easement from the owner of a lot on an adjoining street or dedicated utility right-of-way, obtain a connection to the public sewer through said easement from the adjoining street or dedicated utility right-of-way. The owner of the lot to be served through the easement shall furnish a copy of the recorded easement to the Department of Public Service. When the main is laid in the street or dedicated right-of-way on which the lot has frontage, the owner shall install a standard service from the new main or dedicated utility right-of-way and disconnect the service from the main in the adjoining street or dedicated utility right-of-way.

(e) **Storm Sewers Under Control of City.** All storm sewers of any kind within the lines of any street or other public ground, or any storm sewer constructed by the City shall be under the control of the City.

(Ord. No. 2012-89. Passed 08/15/2012)

921.10 BUILDING STORM SEWER LATERALS AND CONNECTIONS.

(a) **Storm Sewer Connection Permits.** Storm sewer connection permits shall be taken out in each special case in the name of the owner, agent or person in whose interest the work is to be done as provided in subsection (c) hereof, before any work is commenced, and in no case shall such work be commenced or prosecuted unless such permit is on the grounds and in the possession of the person doing the work. Each permit shall designate the street and number of the house and subplot and shall include such a definite description of the premises as to clearly define the location and elevation of the connection and shall include the name of the contractor who will install the sewer.

Industrial users shall furnish information concerning the layout and design of storm water facilities located on the property of the applicant. Included but not limited to a submittal to the Director shall be:

Proposed new sources or significant industrial users and other industrial users shall apply at least ninety days prior to connecting to or contributing to the City's Storm Drainage System and shall have obtained such permit before such connection or contribution is made. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address and location, if different from the address;

(2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972 as amended;

(3) Site plans, floor plans, mechanical and plumbing plans and details to show all storm drainage system sewers, sewer connections and appurtenances by the size, location and elevation;

(4) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

No new connection with any storm sewer shall be made until an application with the plan of the same attached, is filed with and approved by the Deputy Service Director/Superintendent of Engineering, and accompanied with a permit fee of twenty five dollars (\$25.00) for each dwelling unit and a fee of seventy five dollars (\$75.00) for each commercial or industrial unit, plus all appropriate tap in fees, assessments, etc.

All openings made within the street lines for the purpose of laying any storm sewer shall be done in open trench and a street excavation permit shall be obtained for such work, unless approved otherwise by the Director.

(b) Natural Outlet Discharge Permits. All persons shall obtain a permit to discharge any storm water to any natural outlet in the City. Under no circumstances does a permit from the Ohio EPA excuse any person from obtaining a permit.

To obtain a permit to discharge storm water to any natural outlet of the City, the following conditions shall be met:

(1) Proof of permit from the Ohio EPA to discharge into waters of the State, or a statement from Ohio EPA that such permit is not required; and

(2) Information as described in subsection (a) hereof, if requested by the Director.

(c) Inspection and Costs. Prior to the completion of the connection to a storm sewer, the contractor shall notify the Director for the purpose of arranging an inspection. The connection shall not be made unless inspection of the work site is made by the Director and permission is granted for connection. All excavations shall remain open and barricaded until inspected.

Whenever practicable, a separate and independent building storm sewer lateral shall be provided for each building.

Existing building storm sewer laterals may not be used to connect new buildings to a storm sewer unless approved by the Director after the owner demonstrates that the existing building storm sewer meets all requirements of this chapter. The Director may consider information provided by the owner such as video tape of the pipe, flow calculations and as built drawings in consideration of approval of reuse.

The connection and construction of all sewers shall be made in conformance with subsection (d) hereof. Such information as the City possesses relative to the location of wye branches, depth of sewer and so forth shall be kept in the office of the Director and shall be furnished upon request.

All reasonable care shall be taken to ensure the correctness of such information but neither the Director nor the City shall be held liable for errors or mistakes arising there from.

All costs and expenses incident to the installation and connection of the building storm sewer shall be borne by the owner. The owner shall indemnify the City for any loss or damage that may directly or indirectly be occasioned by the installation of the building storm sewer.

As specified in Section 915.07 (b) (11), no connections of pipes carrying unpolluted water such as groundwater, storm water, roof runoff, subsurface drainage or uncontaminated cooling or industrial process water shall be made to the sanitary sewer. Conversely, polluted water shall not be discharged into the Storm Drainage System.

(d) **Materials. Specifications. Bonding and Guarantees.** The construction and connection of all storm sewers, building storm laterals, storm sewer joints, special connections, catch basins, inlets, yard drains, manholes and other facilities shall be composed of such materials and be installed in accordance with such specifications and procedures as the Director shall prescribe by regulation, which also shall include provisions for minimum financial performance bonding requirements and construction and maintenance guarantees for such construction and connections.

(Ord. No. 2012-89. Passed 08/15/2012)

921.11 DISCHARGE PROHIBITIONS.

(a) **Prohibition of Illegal Discharges.**

(1) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water. Prohibited discharges include, but are not limited to: wastewater from concrete washout, unless managed by an appropriate control; wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials; fuels, oils or other pollutants used in vehicle and equipment operations and maintenance; and soaps or solvents used in vehicle and equipment washing.

(2) The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as described as follows:

A. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, routine external building washdown which does not use detergents, pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents haven't been used, uncontaminated groundwater from trench or well point dewatering, diverted stream flows, rising ground waters, uncontaminated ground water infiltration. Infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and footer drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from

inflow, uncontaminated pumped ground water, discharges from potable water sources, foundation or footer drains where flows are not contaminated with process materials such as solvents, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.

B. Discharges or flow from firefighting, and other discharges specified in writing by the Director as being necessary to protect public health and safety.

C. Discharges associated with dye testing, however this activity requires a verbal notification to the Director prior to the time of the test.

D. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA) or Ohio EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge.

~~to the storm drainage system.~~

~~Agency (EPA) or Ohio EPA, 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.~~

(3) The local government may evaluate and remove any of the above exemptions if it is determined that they are causing an adverse impact.

(b) Prohibition of Illicit Connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.

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

(3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(4) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Director.

(5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Director requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm drainage

system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Director.

(Ord. No. 2012-89. Passed 08/15/2012)

921.12 SUSPENSION OF MS4 ACCESS.

(a) Emergency Cease and Desist Orders

(1) When the Director finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Director may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

A. Immediately comply with all ordinance requirements; and

B. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(2) Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Director may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Director may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Director within three (3) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(b) Suspension due to Illicit Discharges in Emergency Situations.

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

(c) Suspension due to the Detection of Illicit Discharge.

(1) Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Director will notify a violator of the proposed termination of its MS4 access. The violator may petition the Director for a reconsideration and hearing.

(2) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior written approval of the Director.

(Ord. No. 2012-89. Passed 08/15/2012)

921.13 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

(a) Submission of NOI to Director.

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

(2) The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the Director at the same time the operator submits the original Notice of Intent to the Ohio EPA as applicable.

(3) The copy of the Notice of Intent may be delivered to the Director either in person or by mailing it to:

Notice of Intent to Discharge Storm Water
Director of Public Service
930 Overholt Road
Kent, Ohio 44240

(4) A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the Director.

(Ord. No. 2012-89. Passed 08/15/2012)

921.14 COMPLIANCE MONITORING.

(a) Right of Entry: Inspection and Sampling.

(1) The Director shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

A. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Director.

B. Facility operators shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by State and Federal law.

C. The Director shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Director to conduct monitoring and/or sampling of the facility's storm water discharge.

D. The Director has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to the satisfaction of the Director to ensure their accuracy.

E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the operator.

F. Unreasonable delays in allowing the Director access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial activity or construction activity commits an offense if the person denies the Director reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(b) Search Warrants.

(1) If the Director has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 2012-89. Passed 08/15/2012)

921.15 BEST MANAGEMENT PRACTICES/STORM WATER CONTROL MEASURE REQUIREMENTS.

Director will adopt requirements identifying BMPs/SCMs for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs/SCMs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs/SCMs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the

provisions of this section. These BMPs/SCMs shall be part of a Comprehensive Storm Water Management Plan SWMP as necessary for compliance with requirements of the NPDES permit. Also see Chapter 1193 and 1199.
(Ord. No. 2012-89 Passed 08/15/2012).

921.16 WATERCOURSE PROTECTION.

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

(Ord. No. 2012-89. Passed 08/15/2012).

921.17 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 storm drain system, or waters of the State of Ohio or United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Director in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director within five (5) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(b) Failure to provide notification of a release as provided above is a violation of this ordinance.

(Ord. No. 2012-89. Passed 08/15/2012)

921.18 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

(a) Violations.

(1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement

actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(2) In the event the violation constitutes an immediate danger to public health or public safety, the Director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Director is authorized to seek costs of the abatement as outlined in Section 921.21.

(b) Warning Notice.

(1) When the Director finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Director may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Director to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

(c) Notice of Violation.

(1) Whenever the Director finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Director may order compliance by written notice of violation to the responsible person.

(2) The Notice of Violation shall contain:

- A. The name and address of the alleged violator;
- B. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- C. A statement specifying the nature of the violation;
- D. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- E. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- F. A statement that the determination of violation may be appealed to the Director by filing a written notice of appeal within thirty (30) days of service of notice of violation; and

(3) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. Such notice may require without limitation:

- A. The performance of monitoring, analyses, and reporting;
- B. The elimination of illicit connections or discharges;
- C. That violating discharges, practices, or operations shall cease and desist;

D. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property

E. Payment of a fine to cover administrative and remediation costs; and

F. The implementation of source control or treatment BMPs/SCMs.

(d) **Compensatory Action.** In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Director may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(e) **Civil Penalties.** In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within five (5) days, or such greater period as the Director shall deem appropriate, after the Director has taken one or more of the actions described above, the Director may impose a penalty not to exceed one thousand dollars (\$1,000) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(f) **Criminal Prosecution.** Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of one thousand dollars (\$1,000) per violation per day and/or imprisonment for a period of time not to exceed 180 days. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. 2012-89. Passed 08/15/2012)

921.19 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the Director. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the Director or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the Director or their designee shall be final. In the event that the cause of the Notice of Violation has been corrected, the time periods may be extended as determined to be appropriate by the Director.

(Ord. No. 2012-89. Passed 08/15/2012).

921.20 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 fifteen (15) days of the decision of the Director or their designee, then the Director shall enter upon the subject private property and is 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.
(Ord. No. 2012-89. Passed 08/15/2012).

921.21 COST OF ABATEMENT OF THE VIOLATION.

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within thirty (30) days. If the amount due is not paid within a timely manner as determined by the decision of the Director or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Kent by reason of such violation. Interest at the rate of one percent (1%) per month shall be assessed on the balance beginning on the first day following discovery of the violation.
(Ord. No. 2012-89. Passed 08/15/2012)

921.22 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
(Ord. No. 2012-89. Passed 08/15/2012)

921.23 STORM WATER FEE.

Subject to the provisions of this Chapter, each and every residential developed property, nonresidential developed property and vacant improved property, other than exempt property, within the corporate limits of the City, and the owners and non-owner users thereof, have imposed upon them a storm water fee. In the event the owner and non-owner users of a particular property are not the same, the liability for each the owner and non-owner user for the fee attributable to that property shall be joint and several. The storm water fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this Chapter and the ERU and ERU Rate which shall be established and changed from time to time by City Council. The rate hereby adopted by the City Council is \$4.30 per Equivalent Residential Unit (ERU) per month beginning April 1, 2016. (Ord. 2016-23. Passed 3-16-16.)

921.24 STORM WATER FEE COLLECTION.

(a) The fee provided in Section 921.23 shall be billed to the person or entity currently receiving the City's utility bill for water, sewer and recycling services. The owner of the parcel of property in question shall always be responsible for said bills.
(Ord. 2012-89. Passed 8-15-12.)

(b) Such fee shall appear on the utility bill rendered by the City for water, sewer and recycling services as a separate item and shall be considered an integral part of such bill. Failure to remit the entire amount of the charges for all services shall constitute a delinquency, with termination of all services to take place in accordance with the provisions of the Codified Ordinances and the Service Director's Rules and Regulations. This shall include the right of city council to certify delinquent storm water use charges to the county auditor and have the delinquencies charged to the real estate tax bill as a lien on the real property that generated the delinquent charges. However, upon proof satisfactory to the Director of Budget and Finance that service for the collection of recyclable material is not required at any billing unit, due to vacancy or other reasons, such fee shall be waived by the Director. (Ord. 2012-110. Passed 10-17-12.)

(c) For those properties within the corporate limits of the City that do not utilize the City's water, sewer, or recycling services, the property owner, or their designee shall be billed separately for the storm water fee. (Ord. 2012-89. Passed 08/15/2012)

921.25 STORM WATER FEE DETERMINATION.

There is hereby established the following uniform schedule of rates for the services and use of facilities of the Storm Water Management System by the owner, tenant, or occupant of the premises using the services and facilities of said system:

(a) The City Council, upon recommendation of the City Manager, shall, by ordinance establish reasonable rates for Storm Water Management Systems for each single family residence; each single family residence shall be billed at a flat fee established by the City Council for an Equivalent Residential Unit. An Equivalent Residential Unit is hereby defined as the statistical average horizontal impervious area of all residential units in the City of Kent.

(b) For all residential and nonresidential properties, that is enterprise, business establishment, building, or other occupancy not covered by subsections (a) and (b) of this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of an Equivalent Residential Unit times the rate established for an equivalent residential unit. The billing amount shall be updated by the Deputy Service Director/Superintendent of Engineering based on any additions to the impervious areas as approved through the building permit process.

(Ord. No. 2012-89. Passed 08/15/2012)

921.26 STORM WATER DRAINAGE FUND.

The revenues received pursuant to this Chapter 921 shall be deposited with the Budget & Finance Director and shall be kept in a separate and distinct fund known as the Storm Water Drainage Fund (Fund 208). The Storm Water Drainage Fund shall be used for the payment of the cost of the management, maintenance, operation and repair of the storm water utility system. Any surplus in the Storm Water Drainage

Fund may be used for the enlargement or replacement of the storm water utility system, for the construction and reconstruction of said system, for the payment of interest on any indebtedness incurred for the construction thereof, and for the creation of a sinking fund for the payment of such indebtedness, but shall not be used for any other purpose. (Ord. No. 2012-89. Passed 08/15/2012).

921.27 STORM WATER DISTRICT REVIEW AND APPEALS BOARD.

(a) The City of Kent Storm Water District Review and Appeals Board is hereby established. Said Board shall consist of five (5) members. The City Finance Director, the Deputy Service Director/Superintendent of Engineering and the Public Service Director shall be members. The other two (2) members shall consist of electors of the City appointed by Council. Appointed members may be removed by the City Manager with the approval of a vote of two-thirds (2/3) of the members of Council. The term of office for appointed members of said Board shall be two (2) years. Should a vacancy occur on the Board, the remaining portion of the unexpired term shall be filled by Council.

(b) The Board is authorized to hear appeals regarding disputes and complaints brought by owners and nonowners concerning application of this chapter regarding storm water fees charged, including the authority to make adjustments as appropriate to provide relief from a strict application of the provisions of this chapter due to unique circumstances which reduce the burden of operating, constructing, repairing and maintaining the storm water utility system and the structures and devices related thereto, while accomplishing the intent of this chapter, as follows:

(1) Calculation of the total number of building units assigned to a property that are claimed to be inaccurate due to alleged inaccuracies in data utilized by the billing staff.

(2) Adjustment to or credit against billing units assigned to a property which wholly or partially drains directly outside the City limits.

(3) Adjustments to or credits against billing units assigned to properties containing storm water detention or retention facilities providing on-site management of storm water prior to discharge to the public storm water system.

(4) Adjustments arising from a break in billing units due to change in property ownership, account responsibility or similar matters.

(5) Any other adjustments or credits against billing services assigned to properties which diminish the quantity of storm water handled by the storm water utility system or reduce the cost to the City of constructing, operating and maintaining said system, such as a property owner's agreement to install oversize storm sewer pipes at its own cost, which provides storm water drainage for other properties, obligations assumed by an owner to maintain and repair storm sewer lines which are a part of the City's storm water utility system, providing storm water retention of detention facilities designed and installed to detain or retain storm water originating from other properties.

(c) Any appeal must be filed in writing, must describe the specific error alleged, and contain the resolution of said dispute which the appealing party feels is correct. Said Board may request additional information from either the appealing party or the City. The decision of said Board shall be final.
(Ord. No. 2012-89. Passed 08/15/2012)

921.28 COMPATIBILITY WITH OTHER REGULATIONS.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance 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 health or the environment shall control.

(Ord. No. 2012-89. Passed 08/15/2012).

921.29 SEVERABILITY.

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

(Ord. No. 2012-89. Passed 08/15/2012).

921.30 REMEDIES NOT EXCLUSIVE.

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

The Director may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

(Ord. No. 2012-89. Passed 08/15/2012)

921.31 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency 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.

(Ord. No. 2012-89. Passed 08/15/2012).

921.32 ADOPTION OF ORDINANCE.

This ordinance shall be in full force and effect after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

(Ord. No. 2012-89. Passed 08/15/2012).

Proposed

CHAPTER 1193
Resource Management Plans

1193.01 General.

1193.02 Definitions.

1193.03 Development permit required.

1193.04 Storm water management plans.

1193.05 Forest Management Plans.

1193.06 Compliance with State and Federal Regulations

1193.01 GENERAL.

All Developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:

(a) No Development may be constructed or maintained so that such Development unreasonably impedes the natural flow of water from higher adjacent properties across such Development, thereby unreasonably causing substantial damage to such higher adjacent properties; and

(b) No Development may be constructed or maintained so that surface waters from such Development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

(c) If there are any conflicts between provisions of Chapter 1193 and other sections of the Kent Codified Ordinances, then sections of Chapter 1193 shall control, or whichever is more restrictive.

(Ord. 2013-29. Passed 3-20-13.)

1193.02 DEFINITIONS.

These definitions shall incorporate any additions or revisions contained in the most current Ohio NPDES Statewide Construction Storm Water General Permit.

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

(b1) Best Management Practices (BMPs) Also Storm Water Control Measures (SCMs): The schedules of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and to control storm water volume and rate. This includes practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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

(e3) Commencement of Construction: The initial Disturbance of soils associated with clearing, grubbing, grading, and placement of fill or excavating activities or other construction activities.

(4) Comprehensive Storm Water Management Plan: The written document and plans meeting the requirements of this regulation that sets forth the plans and practices to minimize storm water runoff from a development area, to safely convey or temporarily store and release post-development runoff at an allowable rate or minimize flooding and stream bank erosion, and to protect or improve storm water quality and stream channels.

(d5) Concentrated Storm Water Runoff: Any Storm Water runoff which flows through a drainage pipe, ditch, diversion or other discrete conveyance channel.

(e6) Development: The carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(7) Development Area: A parcel of contiguous parcels owned by one person or persons, or operates as one development, unit and used or being developed for commercial, industrials, residential, institutional or other construction or alteration that changes runoff characteristics.

(8) Development Drainage Area: A combination of each hydraulically unique watershed with individual outlet points on the development area.

(f9) Development Engineer: A licensed professional engineer designated by the Community Development Director to be responsible for performance of the engineering and inspection services as may be assigned by the Community Development Director.

(g10) Director: The director of the Community Development Department for the City of Kent, Ohio or his/her designee.

(h11) Discharge: The addition of any pollutant to the Surface Waters of the State from a Point Source.

(i12) Disturbance: Any clearing, grading, excavating, filling, or other alteration of land surface where natural or man-made cover is destroyed in a manner that exposes the underlying soils.

(13) Disturbed Area: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

(14) Drainage: The removal of excess surface water or groundwater from land by surface of subsurface drains.

(j15) Drainage Watershed: For purposes of the **most current** Ohio NPDES Statewide Construction Storm Water General Permit the total contributing drainage area to a BMP/SCM, i.e., the "watershed" directed to the practice. This would also include any off-site drainage.

(16) Erosion: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of these forces.

(17) Extended Detention Facility: A storm water control measure that replaces and/or enhances traditional detention facilities by releasing the runoff collected during the storm water quality event over at least 24 to 48 hours, retarding flow and allowing pollutants to settle within the facility.

(k18) Final Stabilization: means that either:

(1A) All soil disturbing activities at the site are complete and a uniform perennial vegetative cover (e.g. evenly distributed, without large bare areas) with a density of at least 80 percent cover for the area has been established on all unpaved areas and areas not covered by permanent structures or equivalent stabilization measures (such as the use of landscape mulches, rip-rap, gabions, or geotextiles) have been employed. In addition, all temporary erosion and sediment control practices are removed and disposed of and all trapped sediment is permanently stabilized to prevent further erosion; or

(2B) For individual lots in residential construction by either:

Aa. The homebuilder completing Final Stabilization as specified above or

Bb. 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. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to Final Stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways); or

(3c) For construction projects on land used for agricultural purposes (e.g. pipelines across crop or range land), 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, such as buffer strips immediately adjacent to Surface Waters of the State and which are not being returned to their pre-construction agricultural use, must meet the Final Stabilization criteria in (1) or (2) above.

(19) Grading: The process in which topography of the land is altered to a new slope.

(20) Impervious Area: Any surface that cannot effectively absorb or infiltrate water. That may include roads, streets, parking lots, rooftops, sidewalks and other areas not covered by vegetation.

~~(219) Individual Lot NOI~~: A Notice of Intent for an individual lot to be covered by the most current Ohio NPDES Statewide Construction Storm Water General Permit ~~this permit (see parts I and II of this permit).~~

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~~(212) Infiltration Control Measure~~: A storm water control measure that does not discharge to a water resource during the storm water quality event, requiring collected runoff to either infiltrate in to the groundwater and/or be consumed by evapotranspiration, thereby retaining storm water pollutants in the facility.

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~~(232) Larger Common Plan of Development or Sale~~: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

(243) Low Impact Development (LID): A site design approach which seeks to integrate hydrologically functional design with pollution prevention measures to compensate for land development impacts on hydrology and water quality. LID's goal is to mimic natural hydrology and process by using small-scale, decentralized practices that infiltrate, evaporate, detain, and transpire storm water. LID storm water control measures (SCM's) are uniformly and strategically located throughout the site.

(245) Maximum Extent Practical (MEP): The level of pollutant reduction that operators of small municipal separate storm sewer systems regulated under C.F.R. Parts 9, 122, 123 and 124, or most current Ohio NPDES Statewide Construction Storm Water General Permit also referred to as the NPDES Storm Water Phase II, must meet.

(256) MS4: Municipal separate storm sewer system which means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that are:

(A) Owned or operated by the federal government, state, municipality, township, county, district, or other public body (created by or pursuant to state or federal law) including special district under state law such as a sewer district, flood control district or drainage districts or similar entity or a designated and approved

management agency under Section 208 of the Clean Water Act that discharges into water resources; and

- (2B) Designed or used for collecting or conveying solely Storm Water,
- (3C) Which is not a combined sewer, and
- (4D) Which is not a part of a publicly owned treatment works.

(267) National Pollutant Discharge Elimination System (NPDES) A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

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(p278) NOI: Notice of Intent to be covered by the most current Ohio NPDES Statewide Construction Storm Water General Permit ~~this permit.~~

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(289) Non-Structural Storm Water Control Measure (SCMs): Any technique that uses natural processes and features to prevent or reduce the discharge or pollutant to water resources and controls storm water volume and rate.

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(q2930) NOT: Notice of Termination to be covered by the most current Ohio NPDES Statewide Construction Storm Water General Permit.

(r301) Operator(s): Any party associated with a construction project that meets either of the following two criteria:

(1A) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

(2B) The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with an SWP3 for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWP or comply with other permit conditions).

– (C) There can be more than one Operator(s) at a site and under these circumstances, the Operator(s) shall be co-permittees.

(s312) Ordinary High Water Mark: That line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(t323) Owner(s): The ~~Owner~~ **Owner** of any "facility or activity" subject to regulation under the NPDES program.

(u343) Permanent Stabilization: The establishment of permanent vegetation, decorative landscape mulching, matting, sod, rip-rap and landscaping techniques to

provide permanent erosion control on areas where construction operations are complete or where no further Disturbance is expected for at least one year.

~~(v354)~~ Percent imperviousness: The impervious area created divided by the total area of the project site.

~~(w365)~~ Point Source: Any discernable, confined and discrete conveyance, including but not limited to, any pipe ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling rock, 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.

~~(376)~~ Post-Development: The condition that exists following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality or direction of storm water runoff.

~~(387)~~ Pre-Construction Meeting: Meeting prior to construction between all parties associated with the construction of the project including government agencies, contractors and owners to review agency requirements and plans as submitted and approved.

~~(398)~~ Pre-Development: The condition that exists prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use and the rate, volume, quality, or direction of storm water runoff.

~~(4039)~~ Professional Engineer: A Professional Engineer registered in the State of Ohio with specific education and experience in water resources engineering, acting in conformance with the Code of Ethics of the Ohio State Board of Registration for Engineers and Surveyors

~~(x410)~~ Qualified Inspection Personnel: A person knowledgeable in the principles and practice of erosion and sediment controls, who possesses the skills to assess all conditions at the construction site that could impact Storm Water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of Storm Water Discharges from the construction activity.

~~(y421)~~ Rainwater and Land Development: A manual describing construction and post-construction Best Management Practices and associated specifications. A copy of the manual may be obtained by contacting the Ohio Department of Natural Resources, Division of Soil & water Conservation.

(z432) Riparian Area: The transition area between flowing water and terrestrial (land) ecosystems composed of trees, shrubs and surrounding vegetation which serve to stabilize erodible soil, improve both surface and ground water quality, increase stream shading and enhance wildlife habitat, and as outlined in Chapter 1201.

(434) Runoff: The portion of rainfall, snow melt or irrigation water that flows across the grounds surface and is eventually returned to water resources.

(aa454) Runoff Coefficient: The fraction of total rainfall that will appear at the conveyance as runoff.

(465) Sediment: The soils or other surface materials that can be transported or deposited by the action of wind, water, ice or gravity as a product of erosion.

(bb467) Sediment Settling Pond: A sediment trap, sediment basin or permanent basin that has been temporarily modified for sediment control, as described in the latest edition of Rainwater and Land Development Manual.

(478) Sedimentation: The deposition of sediment in water resources.

(ee489) Special Flood Hazard Area (SFHA): The area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year.

(dd5049) State Isolated Wetland Permit Requirements: The requirements set forth in Section 6111.02 through 6111.029 of the ORC.

(ee510) Storm Water: Storm Water runoff, snow melt runoff and surface runoff and drainage.

(512) Storm Water Control Measure (SCM): Also Best Management Practice (BMP): Schedules of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and to control storm water volume and rate. This includes practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(532) Structural Storm Water Management Practice or Storm Water Control Measure (SCM): Any constructed facility structure or device that prevents or reduces the discharge of pollutants to water resources and controls storm water volume and rate.

(ff543) Surface Water of the State or Water Bodies: Also Water Resources. All streams, lakes, reservoirs, ponds, marshes, wetlands, or other waterways which are situated wholly or partially within the boundaries of the state, except those private waters which do not combine or affect a junction with natural surface or underground waters. Water defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the ORC are not included.

(gg554) SWPPP or SWP3: Storm Water Pollution Prevention Plan.

(hh565) Temporary Stabilization: The establishment of temporary vegetation, mulching, geotextiles, sod, preservation of existing vegetation and other techniques capable of quickly establishing cover over disturbed areas to provide erosion control between construction operations.

(576) Total Maximum Daily Load: The sum of the existing and/or projected point source, nonpoint source, and background loads for a pollutant to a specified watershed, water body, or water body segment. A TMDL sets and allocates the maximum amount of a pollutant that may be introduced into the water and still ensure attainment and maintenance of water quality standards.

(ii587) Water Quality Volume (WQv): The volume of Storm Water runoff which must be captured and treated prior to discharge from the developed site after construction is complete. WQv is based on the expected runoff generated by the mean storm precipitation volume from post-construction site conditions at which rapidly diminishing returns in the number of runoff events captured begins to occur.

(598) Water Resource: See Surface Water of the State or Water Bodies

(6059) Water Resource Crossing: Any bridge, box, arch, culvert, truss or other type of structure intended to convey people, animals, vehicles or material from one side of a watercourse to another. This does not include private, non-commercial footbridges or pole mounted aerial electric or telecommunication lines, nor does it include below grade utility lines.

(610) Watershed: The total drainage area contributing storm water runoff to a single point.

(624) Wetland: Those area that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances

do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas (40 CFR 232, as amended).

(Ord. 2013-29. Passed 3-20-13.)

1193.03 DEVELOPMENT PERMIT REQUIRED.

(a) A Development Permit shall be obtained before construction or Development begins. Application for a Development Permit shall be made pursuant to Chapters 1105, 1181 and 1339. In addition, Development within a Special Flood Hazard Area as established in Section 1337 (Floodplain Damage Control) shall comply with Chapter 1337 and 1201.

(b) Exemption from Filing a Development Permit. Any proposed action exempt from filing for a Development Permit as listed in Sections 907.04(b) and 1337.03(i) is also exempt from the standards of this chapter. (Ord. 2013-29. Passed 3-20-13.)

1193.04 COMPREHENSIVE STORM WATER MANAGEMENT PLANS.

In order to control Storm Water damage and sediment pollution of water resources, wetlands, Riparian Areas, other natural areas, and public and private lands, the developer shall be responsible for preparing a Comprehensive Storm Water Management Plan including a Storm Water Pollution Prevention Plan (SWP3). A. Comprehensive Storm Water Management Plan must be developed and implemented for all commercial and industrial site development. The City of Kent may require a comprehensive storm water management plan on sites disturbing less than one (1) acre. A SWP3 shall be prepared in accordance with sound engineering and/or conservation practices by a professional experienced in design and implementation of standard erosion and sediment controls and storm water management practices addressing all phases of construction. The SWP3 shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with construction activities. The SWP3 shall be a comprehensive, stand-alone document. Such plans must contain a description of controls appropriate for each construction operation covered by these regulations, and how the quantity and quality of storm water will be managed after construction is completed for every discharge from the site and/or into a water resource or small municipal separate storm sewer system (MS4). Such plans must contain a description of controls appropriate for each construction operation covered by these regulations, and the Operator(s) must implement such controls in a timely manner. The SWP3 shall describe and ensure the

implementation of plans and Best Management Practices (BMPs) or SCMs that reduce the pollutants in storm water discharges during construction and pollutants associated with post-construction activities. The SWP3 and BMPs/SCMs used to shall satisfy the conditions of these regulations shall meet the standards and specifications in the current edition of the State of Ohio's Rainwater and Land Development manual and the most current Ohio NPDES Statewide Construction Storm Water General Permit. The plans must make use of practices which preserve the existing natural condition to the Maximum Extent Practicable (MEP).

(a) **Small Development Sites:** Developments that have disturbed areas smaller than one (1) acre in total size may submit abbreviated Storm Water Management plans for Site Plan review, Development Plan review, or the requested permit(s). The abbreviated plan must cover the following items, in addition to any other items from this ordinance that are required by the Director:

(1) A description of the nature and type of the construction activity (e.g. low density residential, shopping mall, highway, etc.)

(2) A cover page or title ~~identifying~~ identifying the name and location of the site, the name and contact information of all construction site Operator(s), the name and contact information of the person responsible for authorizing and amending the SWP3, preparation date, and the estimated dates that construction will start and be complete.

(3) **Storm Water Issues:** A statement as to how the increased Storm Water runoff and decreased Storm Water quality that will be caused by the Development will be handled, and a statement of what Best Management Practices (BMPs)/**Storm Water Control Measures (SCMs)** the Development will include in order to address them. When a Development is proposed to demolish an older existing structure, the developer may request, in writing, that the Director exempt such Developments from the Storm Water regulations of this chapter, if it can be demonstrated that controls are infeasible at the project location and create an undue burden without commensurate benefits to the receiving stream. Undue burden shall be calculated by the Development Engineer.

(4) Site specific topographic plans drawn to scale showing the nature, location or dimensions and elevations of the area in question;

(5) The location of existing or proposed structures, fill, storage of materials, and drainage.

(6) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in Special Flood Hazard Areas where base flood elevation data are utilized;

(7) Type, size, location, grade and elevations (including their proposed invert at the building wall) for all site drainage including, but not limited to curbs and gutters, curb inlets and curb cuts, drainage grates, catch basins, trenches, manholes, pipes, drainage ditches, roof drain connections to the storm sewer together with Storm Water run-off calculations, pipe size calculations, pre- and post-Development runoff factors, and Storm Water retention or detention (where required) calculations and provisions.

(8) Approximate direction and gradient of ground slope including any embankments or retaining walls and the delineation of existing drainage patterns, waterways, and Water Bodies (including intermittent and ephemeral streams, rivers and their related river or stream bank, ponds, drainage ditches, lakes, and swamps) located within 200 feet of the site, including:

A. Boundaries and elevation of floodways and floodplains as delineated in the Flood Insurance Rate Map of the Flood Insurance Study by the Federal Emergency Management Agency, or any other existing watercourses or Water Bodies that appear on 1:24,000 U.S.G.S. maps other sources of flood information in accordance with Section 1337.01(f).

B. Location of wetlands (a wetlands delineation conducted by a certified wetlands biologist or approval by the Army Corps of Engineers);

C. All riparian and wetland setback areas pursuant to Chapter 1201 (Riparian and Wetland Buffers).

(9) All existing and planned, temporary and permanent, hydro-seeding, soil erosion and sediment control conservation practices for the site. Residential lots shall include BMPs/SCMs designs which meet the standards and specifications of the State of Ohio's Rainwater and Land Development manual, including but not limited to:

A. Construction entrance, and;

B. Temporary grass seeding with 2 tons per acre of straw mulch, and;

C. Storm drain inlet protection around every storm yard inlet on the site, and;

D. Silt fence, filter sock or other protection for any stream located on or close to the site and lacking an adequate vegetative buffer, and

E. Construction fence to protect any conservation easements from encroachment.

F. Concrete truck washout

G. Street Sweeping

H. Final Stabilization

(10) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 1337.04(e) (Nonresidential Structures) where base flood elevation data are utilized.

(11) Soil disturbing activities shall not begin and zoning permits shall not be issued without

A. Approved SWP3 or Abbreviated SWP3

B. Installation of erosion and sediment controls

(12) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the subplot is in compliance with this regulation.

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(14) A long term Inspection and Maintenance Plan and an Inspection and Maintenance Agreement per Section 1199.03

(b) **Large Development Sites:** All Developments or Larger Common Plan of Development or Sale with disturbed areas equal to or larger than one (1) acre in size shall submit a **Comprehensive** Storm Water Management Plan outlining the following controls to be established to prevent sediment pollution of the water resources, wetlands, riparian buffers, and public and private properties:

(1) ~~(1)~~ All elements required under 1193.04(a) for abbreviated Storm Water Management Plans;

(2) A general project description including the nature, type, total area expected to be disturbed, estimate of impervious area and percent impervious created, prior land uses at site, limits of soil-disturbing activity on the site spoil and borrow areas, and purpose of earth-disturbing activity and the Storm Water Management strategy proposed to meet this ordinance, including: the implementation schedule describing the sequence of major construction operations (i.e. clearing, grubbing, excavating, grading, utilities, and infrastructure installation) plus the implementation of erosion, sediment and Storm Water management practices or facilities to be employed during each operation of the sequence, location and design calculations for all permanent Storm Water conveyance, detention and retention structures, and other Storm Water control structures, and any other Storm Water management-related items as may be required by the Director.

(3) A vicinity sketch locating the Development and all pertinent surrounding features within 1000 feet, including ~~water resources~~ surface water locations, including springs, wetlands, streams, lakes water wells, riparian buffers, conservation easements, and other sensitive natural resources including items (~~FD.-HF.~~) under 1193.04(b)(46) of this Chapter. Including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the permittee intends to fill or relocate for which the permittee is seeking approval from the Army Corps of Engineers and/or Ohio EPA.

(4) Topographic maps showing the area to be drained with calculations prepared by a registered professional engineer in determining the proposed Storm Water collection system, including:

A. Existing and proposed watershed boundary lines, direction of flow and watershed acreage.

B. The name and/or location of the immediate receiving stream or surface water(s) and the first subsequent named receiving water and the extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive Discharges from disturbed areas of the project. The point of discharge to the MS4 and the location where the MS4 ultimately discharges to a stream

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or surface water of the state shall be indicated. If applicable, identify the point of discharge to a municipal separate storm sewer system and the location where that municipal separate storm sewer system ultimately discharges to a stream, lake, or wetland. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s) and the aerial extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from undisturbed areas of the project.

(5) List TMDLs applicable for the site and demonstrate that appropriate BMPs/SCMs have been selected to address these TMDLs

(6) For each BMP/SCM, identify the drainage area, percent impervious cover within the drainage area, runoff coefficient (both pre- and post-construction) for water quality volume, peak discharge, and time of concentration for each subwatershed per Appendix 1 of Ohio's storm water manual, *Rainwater and Land Development*. Pervious and impervious areas should be treated as separate subwatersheds unless allowed at the discretion of the Development Engineer. Identify the BMP/SCM surface area, discharge and dewatering time, outlet type and dimensions. Each BMP/SCM shall be designated with an individual identification number.

EA. The location of areas receiving runoff from the Development.

EB. The limits of clearing operations and earth-disturbing activity and any new contour lines resulting from earth movement (shown as solid lines) with no larger than two-foot contour intervals (existing should be shown as dotted lines) including associated off-site borrow or spoil areas that are not addressed by a separate NOI and associated SWP3.

EC. Existing and planned locations of buildings and areas with hard or impervious surfaces, as well as utilities that may affect soil erosion and sediment control.

ED. The types of soils within, or affected by, the Development area, and the location of all highly erodible or unstable soils as determined by the most current edition of the soil survey of Portage County, by the NRCS - USDA or an onsite, detailed Soils Engineering Report if required by the Director. Also include quality of any known pollutant discharge from the site such as that may result from previous contamination caused by prior land uses.

EE. Settling Sediment and storm water management ponds basins drawn to scale with basic dimensions, the calculations for size, contributing drainage area, sediment settling volume, and the expected disturbed area that will be directed to the sediment pond during construction

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F The plan should include a summary of the following: the required sediment storage and dewatering volumes, the provided sediment storage and dewatering volumes, the weir length or skimmer size, as applicable, the weir length or skimmer size provided, as applicable

H.G. Any other soil erosion and sediment control related BMPs/SCMs and items that are required by the Director.

(75) Investigation conducted to verify that the condition and capacity of any existing storm sewer to be utilized as a part of the Development or as a Discharge point for Storm Water from the Development is adequate and that its use will not adversely affect other properties shall be supplemented with surveys, field reports and calculations signed and sealed by a professional engineer registered in the State of Ohio.

(86) Description of the extent to which any watercourse will be altered or relocated as a result of proposed Development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished. A watercourse is also considered to be altered if any change occurs within its banks or within the floodway as designated in Section 1337.03(j). Where watercourses will be altered or relocated, copies of notices sent to adjacent communities and the Ohio Department of Natural Resources, Division of Water, and evidence of submission of such notification to the Federal Emergency Management Agency shall be included in the plan.

(97) All necessary permits from those Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the Department of the Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.

(108) The location, size, detailed drawings, maintenance requirements and design calculations of each BMP/SCM as well as the scheduling, phasing, and coordination of construction operations and long-term maintenance requirements of erosion and sediment control BMPs/SCMs during the construction and post-construction phases of each Development, including vegetative plantings and mulch, including:

A. The printed name and contact point of the person or entity responsible for long-term continued maintenance of all vegetative and/or mechanical BMPs/SCMs used.

B. The person or entity financially responsible for maintaining the permanent inspection and maintenance of permanent Storm Water conveyance and storage structures and other conservation practices.

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C. The method of ensuring that funding will be available to conduct the long-term maintenance and inspections of all permanent Storm Water, soil erosion and sediment control and water quality practices.

D. A description shall be provided of the BMPs/SCMs that will be installed to control construction pollutants in Storm Water Discharges occurring after construction operations have been completed (post construction). Such BMPs/SCMs may include, among others, infiltration of runoff, flow reduction by use of open vegetated swales, diversions, permanent grass plantings, tree and shrub plantings, stream bank protection practices, grade stabilization structures, etc.

E. The type and amount of plant seed, live plants, fertilizer, agricultural ground limestone and mulch to be used. (Soil testing for fertility and lime requirements is preferred. Only perennial grass seed will be used.)

F. A description of the water quality standards and projected treatment levels, if any, that will be addressed by the water quality BMPs/SCMs being installed.

(119) Location and description of any Storm Water Discharges associated with dedicated asphalt and dedicated concrete plants covered by this permit and the Best Management Practices/Storm Water Control Measures to address pollutants in these Storm Water Discharges.

(120) A copy of the permit requirements of the most current Ohio NPDES Statewide Construction Storm Water General Permit.

(134) For subdivided Developments where the SWP3 does not call for a centralized sediment control measure capable of controlling multiple individual lots, a detailed drawing of a typical individual lot showing standard individual lot erosion and sediment control practices. This does not remove the responsibility to designate specific erosion and sediment control practices in the SWP3 for areas such as steep slopes, stream banks, drainage ways, and riparian zones.

(142) The SWP3 shall identify all subcontractors engages in activities that would impact Storm Water runoff. The SWP3 shall contain signatures from all the identified subcontractors indicating that they have been informed and understand their roles and responsibilities in complying with the SWP3.

(Ord. 2013-29. Passed 3-20-13.)

(15) The SWP3 shall be retained on site during working hours

(16) The SWP3 shall be amended whenever there is a change in design, construction or operation or maintenance, which has a significant effect on the potential for discharge of pollutants to surface waters of the state or if the SWP3 proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity.

(17) A log documenting grading and stabilization activities as well as amendments to the SWP3, which occur after construction activities commence.

(18) Methods to minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. No detergents may be used to wash vehicles. Wash waters shall be treated in a sediment basin or alternative control that provides equivalent treatment prior to discharge.

(19) The SWP3 shall contain a description of the controls appropriate for each construction operation covered by the permit. The SWP3 shall clearly describe for each major construction activities identified:

A. Appropriate control measures and the general timing (or sequence) during the construction process that the measures will be implemented

B. Which contractor is responsible for implementation

1193.05 FOREST MANAGEMENT PLANS.

(a) Selective harvesting of timber may be allowed pursuant to Section 1201.01 (Riparian and Wetland Buffers).

(b) Such plans shall be prepared by a Certified Arborist and accepted by the Director.

(c) The Forest Management Plan must specify:

(1) The Development site will be adequately stocked after the approved selective harvest;

(2) That trees located less than 25 feet from the Ordinary High Water Mark will not be impacted by the proposed harvesting;

(3) The location of any skid and haul roads required for transporting harvested trees from riparian and wetland setbacks;

(4) The method to be used to transport harvested trees from riparian and wetland setbacks;

(5) The erosion control **BMPs/SCMs** that will be employed during and after the proposed harvest. These erosion control practices shall be in conformance with the Ohio Department of Natural Resources, Division of Forestry's **BMPs/SCMs** for Erosion Control on Logging Jobs in Ohio; and

(6) The US Army Corps of Engineers and the Ohio EPA Wetland and Stream protection permit numbers.

(Ord. 2013-29. Passed 3-20-13.)

1193.06 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other

federal, state and/or county agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to, those listed below. Applicants are required to show proof of compliance with these regulations before the City of Kent will issue any permits.

(a) Ohio Environmental Protection Agency (Ohio EPA) National Pollutant Discharge Elimination System (NPDES) Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliances with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.

(b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professionals has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the US Army Corps of Engineers at the time of application of this regulation.

(c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of the Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the US Army Corps of Engineers at the time of this regulation.

(d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the US Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the US Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

(1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that section 404 of the Clean Water Act is not applicable.

(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the US Army Corps of Engineers at the time of the application of this regulation.

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

DRAFT

CHAPTER 1197
Storm Water Drainage Systems

1197.01 General provisions.

1197.02 Required improvements.

1197.03 Required storm sewer.

1197.01 GENERAL PROVISIONS.

(a) To the maximum extent practicable, all Development shall conform to the natural contours of the land, and natural and preexisting man-made drainage ways shall remain undisturbed.

(b) Practices that preserve and/or improve the existing natural drainage shall be used to the maximum extent practicable. Such practices may include minimizing site grading and compaction; protecting and/or restoring water resources, riparian areas, and existing vegetation and vegetative buffer strips; phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing and grubbing practices; and maintaining unconcentrated storm water runoff to and through these areas. Post-construction storm water practices shall provide perpetual management of runoff quality and quantity so that a receiving stream's physical, chemical and biological characteristics are protected and ecological functions are maintained.
~~lot boundaries shall be made to coincide with natural and preexisting man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.~~

(c) For site Storm Water drainage systems, compacted earth, stone and gravel areas capable of supporting vehicles and or material handling equipment shall be considered impervious surfaces.

(d) No surface water may be channeled or directed into a sanitary sewer.

(e) Off-site improvements to the Storm Water collection system as may be required to accommodate the Development shall be constructed at the expense of the developer.

(f) Drainage Easements. Future access to runoff drainage ditches and channels, swales, runoff storage facilities, storm sewers and other drainage ways and structures, as may be required by the Director, shall be secured by means of easements.

(1) Such easements shall be not less than twenty-five (25) feet in width, in addition to the width of the ditch, channel, or other facility it is to serve. Further, an easement of this type shall be provided on at least one (1) side of the storm drainage ditch, channel, or similar-type facility.

(2) Access along the initial drainage system shall be by means of easements. Such easements shall be not less than twenty (20) feet in width, with a minimum ten (10) foot width on either side of the centerline.

(3) Access adjacent to storage facilities shall consist of a twenty-five (25) foot easement in the case of detention (dry) basins, and a twenty (20) foot easement with a twenty-five (25) foot level bench in the case of retention (wet) basins, measured from the top of the bank, and shall include the storage facility itself.

(4) Storm drainage easements containing underground facilities shall be an appropriate width to allow removal and replacement of the facility and shall have a minimum width of twenty (20) feet.

(5) Those lots crossed by an easement shall be restricted against the planting within said 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 Storm Water management

(g) Maintenance. Any portion of the Storm Water management systems, including on-site and off-site storage facilities that are constructed by the developer, will be continuously maintained into perpetuity. Identification of the landowner(s), organization, or municipality responsible for long-term inspection and maintenance, including repairs, of the BMPs/SCMs.

(1) Single-Family Residential Developments: A Homeowners' Association or property owner, created pursuant to Ohio Law, shall be created and placed in title of the affected lands and shall be continuously responsible for post-construction maintenance and inspections into perpetuity unless such maintenance and inspections become officially accepted by the City.

(2) Multifamily, Commercial and Industrial Developments: The plans will clearly state that the property Owner(s) shall be continuously responsible for post-construction maintenance and inspections into perpetuity.

(h) Maintenance Design: Designs that facilitate minimal maintenance are a priority in the design and construction of all facilities. Multi-use facilities incorporating assets such as aesthetics and recreation may be incorporated into the design of the drainage facilities. All Storm Water management systems and BMPs/SCMs, including on-site and off-site structures and vegetation that are constructed or planted, must be inspected and maintained into perpetuity by the responsible party designated in the Storm Water Management plan and by the requirements of this Chapter. ~~Inspections will be conducted by the City periodically throughout the year to ensure that the facilities are properly operational.~~

(i) A written and stamped report from a registered professional (engineer, architect, landscape architect, Certified Professional in Erosion and Sediment Control, etc.) on

the status of all Storm Water basins and surface drainage swales, and status of the related easements for each project, shall be submitted to the Community Development Department by May 1st into perpetuity with dry basins ~~systems~~ inspection reports being submitted every five years; and wet basins ~~systems~~ reports being submitted every two years unless directed otherwise by the Director or his designee.

~~(j) A written and stamped report from a professional engineer, landscape architect or Certified Professional Soil Erosion and Sediment Control Specialist (CPESC) on the status of installed Storm Water management systems and status of the related easements shall be submitted to the Community Development Department by May 1st of each year into perpetuity.~~

(k) If there are any conflicts between provisions of Chapter 1197 and other sections of the Kent Codified Ordinances, then the sections of Chapter 1197 shall control. (Ord. 2013-29. Passed 3-20-13.)

1197.02 REQUIRED IMPROVEMENTS.

(a) All Developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the Development site. Surface water shall not be regarded as unduly retained if:

(1) The retention results from a technique, practice or device deliberately installed as part of an approved Storm Water Management Plan; or

(2) The retention is not substantially different in location or degree than that experienced by the Development site in its predevelopment stage, unless such retention presents a danger to health, safety, or welfare of the community.

(b) Whenever practicable, the drainage system of a Development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

(c) Use of drainage swales rather than curb and gutter and storm sewers is provided for in Section 1339.05 and Chapter 1203. Private roads and access ways within unsubdivided Developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.

(d) Sufficient investigation shall be conducted to verify that the condition and capacity of any existing storm sewer to be utilized as a part of the Development or as a Discharge point for Storm Water from the Development is adequate and that its use will not adversely affect other properties. Such investigation shall be supplemented with surveys, field reports and calculations.

(e) Roof drains shall be connected to the storm sewer system, drainage course, or other approved location (i.e. rain garden). Roof drains shall not be permitted to discharge upon walks or pavement areas or through the street curb into the street gutter.

(f) Wherever possible and in all projects which encumber 40,000 square feet of ground surface area with building and/or impervious surfaces (pavements, walks, etc.), the Storm Water design shall incorporate storm-water detention and/or retention designed and constructed in accordance with approved engineering practices. (Ord. 2013-29. Passed 3-29-13.)

1197.03 REQUIRED STORM SEWER.

(a) Drainage. A drainage system shall be designed and constructed by the developer to provide for the proper drainage of the surface water of the Development and the drainage area of which it is a part. To this end, the following requirements and methods shall be followed:

(1) Drainage requirements (Grading). No final grading or sidewalk or pavement construction or installation of utilities shall be permitted in any proposed street until the final plat has been approved or conditionally approved. The developer shall grade each Development in order to establish street, block and lot grades in proper relation to each other and to topography, as follows:

A. Block and lot grading.

1. Block grading shall follow the approved Development Grading Plan.

2. Lot grading shall be as follows:

a. Lots shall be graded so that water drains away from each building at a minimum grade of two percent.

b. Surface drainage swales shall have a minimum grade of one-half percent and shall be designed so that surface water will drain into a driveway, street gutter, storm sewer, drain inlet or natural drainage way.

c. The minimum grades of driveways shall be four-tenths percent and a maximum of fifteen percent.

(2) Drainage system requirements. The design criteria for the drainage systems shall be based on the State of Ohio Department of Transportation, Manual of Location and Design. Runoff or design Discharge for sewer design where the contributing area generally consists of pavement and a narrow strip back of the pavement shall be obtained from the rational formula: $Q = CIA$. The following minimum design frequencies are to be used:

A.

Roadway ditches	2 years
Storm sewers	5 years or 10 years
Culvert under roadways	25 years
Watercourses	10 years

B. Runoff Coefficients and rainfall frequencies based on general character of tributary area are set forth in the following table:

Description of Area	Rainfall Frequency (Years)	Range of Runoff Coefficient	Coefficient Used Herein
Open Space-Conservation	5	0.25 - 0.40	0.30
Rural Residential	5	0.25 - 0.40	0.30
Low Density Urban Residential	5	0.30 - 0.50	0.40
Medium Density Urban Residential	5	0.30 - 0.50	0.50
High Density Urban Residential	5	0.30 - 0.50	0.50
Multifamily Urban Residential	5	0.40 - 0.60	0.60
High Density Multifamily Urban Residential	10	0.50 - 0.70	0.60
High Density Multifamily/ Commercial Urban Res.	10	0.50 - 0.70	0.60
Local Commercial	10	0.50 - 0.70	0.50
Description of Area	Rainfall Frequency (Years)	Range of Runoff Coefficient	Coefficient Used Herein
Office and Limited Business	10	0.50 - 0.70	0.50
Community Commercial	10	0.70 - 0.90	0.80
Central Retail - Office	10	0.70 - 0.90	0.90
Intensive and Automotive Oriented Commercial	10	0.70 - 0.90	0.90
Highway Interchange Commercial	10	0.70 - 0.90	0.80
Industrial Research and Office	10	0.50 - 0.70	0.60
Industrial	10	0.40 - 0.90	0.60
Manufacturing, Storage and Disposal	10	0.40 - 0.90	0.60
Railroad Yard Areas	10	0.20 - 0.40	0.30

(b) Post Development runoff shall not exceed pre-development runoff for the 2, 10, 25, and 100 year design storms.

(c) Road Drainage System. The road storm drainage system shall serve as the prime drainage system. It shall be designed to carry roadway, adjacent land and house Storm Water drainage.

(1) Road storm sewers (enclosed). The design Discharged used to determine pavement inlet spacing shall be based on the rational method mentioned in this subsection (e)(2). The gutter flow between inlets shall be calculated by the equation: $Q = .56Z/N S^{1/2} F^{8/3}$. (See Manual of Location and Design.)

(2) The inlet spacing shall be based on a ten year frequency, fifteen minutes duration design storm. The spread of water on the pavement shall be limited to two feet into the traveled lane. In addition, standard manholes or combination manhole inlets for cleaning purposes shall be placed no further than 300 feet apart.

(3) Storm sewer laterals. A storm sewer lateral shall be provided for each lot to accommodate footer drains and downspouts. Storm laterals (same material specification as sanitary laterals) should be a minimum of 4" in diameter with an absolute minimum slope of 0.5% and 18" of cover.

(d) Off-Road Drainage Systems. The design of the off-road drainage system shall include the watershed affecting the allotment and shall be extended to a watercourse or ditch adequate to receive the storm drainage.

(1) All watercourses or ditches with a design capacity not exceeding the capacity of a thirty-six inch concrete pipe shall be enclosed. Existing creeks or ditches constructed by the developer which exceed the above limit shall be constructed with a minimum fifteen (15) foot wide continuous earth roadway to provide access for maintenance equipment to all sections of the ditch. The ditch easement may be wide enough to contain such ditch slopes and roadway with ample clearance for the operation of maintenance equipment. Open ditches will have a side slope ratio of 2:1 and a minimum two (2) foot bottom width.

(2) No open ditch shall be constructed within 100 feet of the rear building line of a house, as measured from the house to the edge of the ditch easement.

(3) Any storm drainage courses carried along side lot lines shall be enclosed with approved pipe.

(4) Easements for drainage purposes shall be a minimum of twenty feet in width. Where the watercourse is large, easement widths shall be increased as determined by the Development Engineer.

(e) Protection of Drainage Systems. The developer shall adequately protect all ditches (roadways and watercourses) to the satisfaction of the Development Engineer or his designee as follows:

(1) All adjoining land where the vegetation has been injured or destroyed or where the land is in need of protection to prevent erosion, deposits in the drainage facilities and/or unsightly conditions shall be restored and protected as directed by the Development Engineer or his designee.

(2) In all cases, any drainage facility shall be in a stable condition, free from either erosion or sedimentation and/or other debris.

(3) No construction shall begin until the developer has complied with all of the provisions of the Kent City Codified Ordinances, and obtained all permits required by the Ohio Environmental Protection Agency and the Army Corp of Engineers.

(4) All storm sewer inlets that accept water runoff from the Development area shall be protected so that sediment-laden water will not enter the storm sewer, unless exempted by the Director or unless the storm system drains to a Sediment Settling Pond. In areas where construction will be ongoing, such as subdivisions, the storm sewer protection shall be maintained until all upsloped areas reach Final Stabilization, as determined by the Director.

(5) The developer shall hydraulically clean the storm sewers at the time of dedication and provide videotape to the satisfaction of the Director. All sediments shall be removed from the system and shall not be flushed downstream.

(6) All storm sewers, footer drains, roof gutter drains and all other drains will be outletted at the bottom of the slope. The slope below the outlet shall be able to control the water being drained through the storm sewer or other drains without causing erosion of the stream or channel banks or channel bottom.

(f) Pipe Policy. The City of Kent Construction Standards and Construction Drawings, as approved by the Service Director—The following pipe policy and the pipe policy of the State of Ohio Department of Transportation, "Construction and Material Specifications, 706, 707", shall be used in designing storm sewer systems subject to the approval of the Development Engineer or his designee.

—(1) All pipe lines (including culverts and storm sewers) which are located beneath the roadway shall meet the requirements set forth for Class A pipe.

—(2) Longitudinal storm sewer lines, not under the main roadways, shall be Class D or Class E pipe. Where these sewers are shallow or located beneath drives, Class B or Class C pipe shall be specified.

—(3) Longitudinal roadway drainage lines, for which sealed joints are unnecessary or undesirable, shall be Class H pipes. Portions of these drains that require stronger pipe because of shallow cover or location beneath drives shall be Class C pipe.

—(4) Open end driveway pipe twenty four inches or less in diameter may be Class F pipe and larger pipes shall be Class B or Class C pipe.

—(5) Outlet pipe or open joint drains (Class H or I), shall be in accordance with the provisions of Class F pipe and will usually be ten feet in length.

—(6) Pipe under drains shall be Class I pipe.

—(7) Pipe arches or elliptical pipes shall be Class G pipe.

(g) Storm Water Basins:

(1) Pool Geometry: The minimum length-to-width ratio for the pond is 3:1 (the length will be three (3) times the width).

(2) Riser in Embankment: The riser shall be located within the embankment for purposes of maintenance access. Access to the riser will be by manholes.

(3) Water Drains: Each retention and water quality basin shall have a drainpipe that can completely drain the pond. The drain shall have an elbow within the pond to prevent sediment deposition from plugging the drain.

(4) Principal Spillway: Each principal spillway shall be designed in accordance with the Natural Resources Conservation Service (NRCS) standards and specifications for the office serving Portage County, Ohio. Each principal spillway shall have the capacity to pass the 100 year design storm flows. The inlet or riser size for the pipe drops shall be designed so that the flow through the structure goes from weir flow control to pipe flow control without going into orifice control in the riser. The crest elevation of the primary spillway shall be no less than one foot below the emergency spillway crest. Premium joint pipe is required and a removable trash rack shall be installed at each location. Anti-seep collars shall be provided for all pipe conduits through an embankment.

(5) Emergency Spillway: An emergency spillway shall be provided on each Storm Water management and water quality basin. Emergency spillways shall convey flood flows safely past the embankment, and shall be designed in accordance with NRCS standards and specifications for the office serving Portage County, Ohio. Excavated spillways shall have a 100 year design storm capacity unless exempted in writing by the Director.

(6) Non-Clogging Low Flow Orifice: A non-clogging orifice shall be provided for the Water Quality Basins.

(7) Embankments: Each dam embankment shall be designed in accordance with the NRCS standards and specifications for the office serving Portage County, Ohio. Anti-seep collars shall be provided for all pipe conduits through an embankment.

(8) Safety Features: The perimeter of all water pool areas that are deeper than three (3) feet shall be surrounded by benches that meet the following:

A. A safety bench, with a maximum slope of 3%, which extends outward, on dry land, from the shoreline. This bench will be a minimum of 25 feet wide to provide for the safety of individuals and maintenance vehicles that are adjacent to the water pool. The safety bench may be landscaped to prevent access to the water pool.

B. Side slopes between the safety bench and the aquatic bench shall not be steeper than 3:1 (3 feet horizontal for every 1 foot vertical).

C. An aquatic bench that extends inward from the shoreline far enough to ensure public safety and has a maximum depth of 15 inches below the normal water surface elevations. The aquatic bench may be landscaped to prevent access to the deeper water pool.

D. Side slopes beyond the aquatic bench and below the permanent water level shall not be steeper than 2:1 (2 feet horizontal for every 1 foot vertical).

E. The contours of the pond will be designed and managed to eliminate drop-offs and other hazards. Side slopes getting to the pond shall not exceed 3:1 and shall terminate on a safety bench.

F. The primary spillway opening shall not permit access to the public and other non-maintenance personnel.

(h) These standards are general guidelines and shall not limit the right of the Director to impose at any time additional, more stringent requirements, nor shall the standards limit the right of the Director to waive, in writing, individual requirements.

(i) Methods for controlling increases in Storm Water runoff peaks and volumes may include, but are not limited to:

(1) Retarding flow velocities by increasing friction; for example, grassed road ditches rather than paved street gutters where practical, discharging roof water to vegetated areas, or grass and rock-lined drainage channels.

(2) Grading and use of grade control structures to provide a level of control in flow paths and stream gradients.

(3) Induced infiltration of increased Storm Water runoff into soil, where practical;

(4) Provisions for detention and retention; for example, permanent ponds and lakes with Storm Water basins provided with proper drainage, multiple-use areas for Storm Water detention, recreation, wildlife or transportation, or subsurface storage areas.

(5) Low Impact Development techniques as set forth in Chapter 1203: Low Impact Development.

(Ord. 2013-29. Passed 3-20-13.)

CHAPTER 1199
Erosion Controls

1199.01 Sedimentation and Erosion Controls Required.

1199.02 Design Standards.

1199.03 Maintenance.

1199.04 Inspection.

1199.05 Control of Materials and Debris.

1199.06 Water Quality Requirements.

1199.07 Enforcement and Penalties.

1199.08 Conflict.

1199.01 SEDIMENTATION AND EROSION CONTROLS REQUIRED.

(a) Effective erosion and sediment controls shall be ~~planned and applied in accordance with the following principles~~ **designed, installed and maintained to minimize the discharge of pollutants offsite. At a minimum, such controls shall be designed, maintained to:**

(1) The smallest practical area of land shall be exposed at any one time during Development, construction, extraction, or other use.

(2) When land is exposed during Development, use, extraction, etc., the exposure shall be kept to the shortest practical period of time.

(3) Temporary vegetation and/or mulching shall be used to protect critical areas exposed during Development, use, etc.

(4) Sediment basins (debris basins, debiting basins, or silt traps) shall be installed and maintained to remove all sediment from run-off and/or operating waters from land undergoing Development, use, etc.

(5) Provisions shall be made to effectively accommodate the increased run-off caused by soil and surface conditions during and after Development, use, etc.

(6) The Development plan or site plan shall be fitted to the topography and soils so as to create the least erosion potential.

(7) Wherever feasible, natural vegetation shall be retained and protected.

~~(8) All excavation shall be made to either a water producing depth, such depth to be not less than six (6) feet below the low water mark, or shall be graded or backfilled to conform, with the surrounding area, with non-noxious, non-flammable and non-combustible solids.~~

~~(89)~~ All banks resulting from reclamation of all excavations shall be sloped not greater than one (1) foot vertical to five (5) feet horizontal and said bank shall have a minimum of four (4) inches top soil mixed with four (4) inches of grade, then seeded and sufficiently mulched to eliminate any erosion.

(9) Control storm water volume and velocity within the site to minimize soil erosion.

(10) Control storm water discharges, including both peak flow rates and total storm water volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion

(11) Minimize the disturbance of steep slopes.

(12) Minimize sediment discharges from the site. The design, installation and maintenance of erosion controls shall address factors such as amount, frequency, intensity and duration of precipitation, the nature of resulting storm water runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site

(13) Wherever feasible, provide and maintain a 50-foot undisturbed natural buffer around surface waters of the state, direct storm water to vegetated areas to increase sediment removal and maximize storm water infiltration.

(14) Minimize soil compaction and unless unfeasible, preserve soil.

(15) Minimize the discharge of pollutants from equipment and vehicle washing, wheel water, and other wash waters. Wash waters shall be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge.

(16) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to storm water.

(17) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(b) The following type of construction projects are exempt from sediment and erosion control measures:

(1) If the rainfall erosivity factor, R, is less than 5 for the project.

(2) The construction planned is "routine maintenance" to re-establish the original line, grade or hydraulic capacity of Storm Water infrastructure (i.e. ditch cleaning, detention basin dredging, etc.) where the disturbed area is less than five (5) acres.

(3) Silviculture Disturbances

(4) Agricultural Disturbances.

(5) Construction related to oil and gas well exploration.

(c) The following type of maintenance projects are exempt from full sediment and erosion control measure requirements but shall stabilize the disturbed area(s) within 21 days of construction completion:

(1) Replacement of utility services (water service, sanitary or storm lateral, gas service, etc) to an existing building where the disturbed area is limited to a standard trench width necessary to replace the underground utility services.

(2) Replacement of sidewalk, driveways, driveway aprons where the disturbed area is less than one acre.

(3) Demolition of small structures such as single family homes, garages, shed, etc. that have a disturbed area less than a one acre.

(d) For developments which require the use of centralized sediment and erosion controls (i.e. controls that address storm water runoff from one or more lots) for which the current permittee intends to terminate responsibilities under their permit for a lot after sale of the lot to a new owner and such termination will either prevent or impair the implementation of the controls and therefore jeopardize compliance with the terms and conditions of this permit, the permittee will be required to maintain responsibility of the implementation of those controls. For developments where this is not the case, it is the permittee's responsibility to temporarily stabilize all lots sold to individual lot owners. In cases where permit responsibilities for individual lot(s) will be terminated after sale of the lot, the permittee shall inform the individual lot owner of the obligations under the permit.

(Ord. 2013-29. Passed 3-20-13.)

1199.02 DESIGN STANDARDS.

In order to control sediment pollution of water resources, the Owner(s) or person(s) responsible for the any Development area shall ~~shall~~ **should** use conservation planning and low impact Development practices pursuant to Chapter 1203: Low Impact Development, to maintain the level of conservation established in the following standards, where feasible, as determined by the Community Development Department:

(a) The standards and specifications contained in the State of Ohio's Rainwater and Land Development manual. As technology and understanding of habitat and land function develop, the Director may determine that additional Best Management Practices (BMPs) Storm Water Control Measures (SCMs) are appropriate. These regulations do not preclude the use of innovation or experimental Storm Water management technologies.

(b) Clearing and Grubbing: Clearing and grubbing will be done in two (2) or more phases. The first phase will include only those locations necessary to install the perimeter soil erosion, sediment and Storm Water control BMPs/SCMs. After the perimeter controls are in place and functioning, the remaining phase(s) of clearing and grubbing may continue.

(c) Timing of Sediment Trapping Practices: Sediment control practices shall be functional throughout all phases of up slope earth-disturbing activity. Settling facilities, perimeter controls and other practices intended to trap sediment shall ~~be implemented as the first step of grading, and within seven (7) days from the start of grubbing.~~ They shall be implemented as the first step of grading, and within seven (7) days from the start of grubbing. They shall continue to function until the up slope Development area is permanently restabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.

(d) **Stabilization of Denuded Areas:** Disturbed areas must be stabilized as specified in the tables below, or according to the most current Ohio EPA NPDES Storm Water Permit Rules, whichever is most restrictive:

Permanent Stabilization	
Area requiring Permanent Stabilization	Time Frame
Any areas that will lie undisturbed for one (1) year or more	Within seven (7) days of the most recent Disturbance
Any areas within fifty (50) feet of a stream and at final grade	Within two (2) days of reaching final grade
Any other areas at final grade	Within seven (7) days of reaching final grade within that area
Temporary Stabilization	
Area Requiring Temporary Stabilization	Time Frame
Any disturbed areas within fifty (50) feet of a stream and not at final grade	Within two (2) days of the most recent Disturbance if the area will remain idle for seven (7) days or more
Disturbed areas that will be undisturbed for more than 24 14 days but less than one (1) year and not within fifty (50) feet of a stream	Within seven (7) days of the most recent Disturbance within the area
Residential subdivisions for Disturbance which has occurred on building lots	Within 7 days of the most recent Disturbance if housing unit construction on the lot is not scheduled to begin within 14 days of the Disturbance. In any case, Temporary or Permanent Stabilization will be properly installed, pursuant to the

	most recent edition of the <i>Rainwater and Land Development manual</i> Development manual , before the second building permit is issued.
	Within 7 days of the most recent Disturbance if further construction activity will not occur within 21 days of the Disturbance.
Nonresidential subdivisions and commercial Developments	Where vegetative stabilization techniques may cause structural instability or are otherwise prohibited, alternative stabilization techniques must be employed.
Disturbed areas that will be idle over winter	Prior to the onset of winter weather

Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed.

(e) **Sediment Settling Ponds: Required for any one of the following conditions:** concentrated storm water runoff (e.g. storm sewer or ditches), runoff from denuded areas ten (10) acres or more, and all areas flowing at rates that exceed the design capacity of sediment barriers and/or other sediment barriers and/or inlet protection, shall pass through a sediment settling facility. The facility's storage capacity shall be no less than sixty-seven (67) cubic yards per acre of total drainage area.

(1) Permanent Storm Water management ponds that are designed to trap sediment during construction shall be designed to provide for a slow release of sediment-laden water. The ideal drawdown time is from three (3) to four (4) days (72 to 96 hours) with

a minimum 48 hour drain time for sediment basins serving a drainage area over 5 acres.

(2) The design of Settling Ponds shall have a minimum length of flow of 2:1.

(3) If feasible, sediment settling ponds shall be dewatered at the pond surface using a skimmer or equivalent device. The settling pond volume consists of both a dewatering zone and a sediment storage zone

A. The volume of the dewatering zone shall be a minimum of 1800 cubic feet (ft³) per acre of drainage (67 yd³/acre) with a minimum 48-hour drain time for sediment basins serving a drainage area over 5 acres.

B. The volume of the sediment storage zone shall be calculated by either (1) the volume of sediment storage shall be 1000 ft³ per disturbed acre within the watershed of the boundary or (2) the volume of the sediment storage zone shall be the volume necessary to store sediment as calculated with RUSLE or a similar generally accepted erosion prediction model.

(f) Sediment Barriers, Silt Fence, Filter Sock, Diversions or another mechanisms deemed appropriate by the Community Development Department: Sheet and rill flow runoff from denuded areas shall be intercepted to protect diverted to a settling pond or treated by a geotextile silt fence or other sediment barrier approved by the Director adjacent properties and water sources from sediment transported via sheet flow. The total runoff flow treated by a sediment barrier shall not exceed the design capacity for that sediment barrier.

(1) Silt fence shall be placed on a level contour downslope of the disturbed area. Placing silt fence in parallel does not extend the permissible drainage area to the silt fence.

Silt Fence Maximum Drainage Area Based on Slope

Maximum drainage area (in acres) to 100 linear feet of silt fence	Range of slope for particular drainage areas (in percent)
0.5	< 2%
0.25	>2% but < 20%
0.125	>20% but < 50%

(g) Working Near, Or Crossing Streams and Wetlands:

(1) Construction vehicles shall avoid water resources, wetlands, Riparian Areas, and their setbacks. If construction vehicles must cross these areas repeatedly during construction, an approved temporary crossing shall be constructed. Streams, including bed and banks, shall be restabilized immediately after in-channel work is completed, interrupted, or stopped.

(2) No soil, rock, debris, or any other material shall be dumped or placed into a water resource or into such proximity that it may slough, slip, or erode into a water resource unless such dumping or placing is authorized by the approving authority and,

when applicable, the US Army Corps Of Engineers and Ohio EPA, for such purposes as, but not limited to, constructing bridges, culverts, or erosion control structures.

(h) Construction Access Routes:

(1) Measures shall be taken to prevent soil transport onto public roads, or surfaces where runoff is not checked by sediment controls. Gravel construction entrance(s) shall be implemented as required by the Director and the Ohio EPA.

(2) 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 or sweeping. Street washing shall be allowed only after shoveling or sweeping has removed most of the sediment.

(i) Unstable Soils: Unstable soils prone to slipping or land sliding shall not be graded, excavated, filled or have loads imposed upon them unless the work is performed in accordance with a qualified professional engineer's recommendations to correct, eliminate, or adequately address the problems.

(j) Cut And Fill Slopes: Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion and slippage. Consideration shall be given to the length and steepness of the slope, soil type, up-slope drainage area, groundwater conditions and slope stabilization.

(k) Stabilization Of Outfalls And Channels: Outfalls and constructed or modified channels shall be designed and constructed to withstand the expected velocity of flow from a post-development, minimum ten-year (or greater) frequency storm without eroding.

(l) Establishment of Permanent Vegetation: A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until ground cover is achieved which, in the opinion of the Director, covers 80% or more of the soil surface with a uniform density, provides adequate cover, and is mature enough to satisfactorily control soil erosion and survive adverse weather conditions.

(m) Disposition of Temporary Practices: All temporary erosion and sediment control practices shall be disposed of immediately after final site stabilization is achieved or after the temporary practices are no longer needed, unless otherwise required by the Director. Trapped sediment shall be permanently stabilized to prevent further erosion.

(n) Underground Utility Construction: The construction of underground utility lines, pipes, etc. shall be subject to the following criteria:

(1) Trenches shall remain open for no more than five days.

(2) Discharges from dewatering activities, including discharges from dewatering of Trenches and excavations ~~draining devices sh~~ are prohibited unless managed by appropriate controls ~~all discharge in a manner~~ approved by the Development Engineer, which will not adversely affect resource waters or adjacent off-site properties. There shall be no turbid discharges to waters of the state resulting from dewatering activities.

(o) Permanent Stabilization of Conveyance Channels: Operator(s) shall undertake special measures to stabilize channels and outfalls and prevent erosive flows. Measures may include seeding, dormant seeding, mulching, erosion control matting, sodding, riprap, natural channel design with bioengineering techniques, or rack check dams.

(p) Inlet Protection: Other erosion and sediment control practice shall minimize sediment laden water entering active storm drain systems, unless the storm drain system drains to a Sediment Settling Pond. All inlets receiving runoff from drainage area of one or more acres will require a Sediment Settling Pond.

(Ord. 2013-29. Passed 3-20-13.)

1199.03 MAINTENANCE.

(a) All temporary and permanent erosion and sediment control practices shall be designed and constructed to minimize maintenance requirements. They shall be maintained and repaired as needed to ensure continued performance of their intended function. The person or entity responsible for the continued physical and financial maintenance of permanent erosion control practices shall be identified to the satisfaction of the Director.

(b) If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the permittee must replace or modify the control for the site conditions.

(c) Inspection and Maintenance Plan: The post construction operations and maintenance plan must be a stand alone document which contains the following:

- (1) A designated entity for Storm Water inspection and maintenance responsibilities.
- (2) The routine and non-routine maintenance tasks to be undertaken.
- (3) A schedule for inspections and maintenance.
- (4) Any necessary legally binding maintenance easement and agreements.
- (5) A map showing all access and maintenance easements.

(Ord. 2013-29. Passed 3-20-13.)

(d) Inspection and Maintenance Agreement: The Inspection and Maintenance Agreement required for BMPs/SCMs under this regulation as a stand-alone document

between the City of Kent and the applicant. A copy of this agreement should be attached to the property deed. The agreement shall contain the following information and provisions:

(1) Identification of the landowner(s), organization, or municipality responsible for long term inspection and maintenance, including repairs, of the BMPs/SCMs.

(2) The landowner(s), organization, or municipality shall maintain BMPs/SCMs in accordance with this regulation.

(3) The City of Kent has the authority to enter upon the property to conduct inspections as necessary, with prior notification of the property owner, to verify that the BMPs/SCMs are being maintained and operated in accordance with this regulation.

(4) The City of Kent shall maintain public records of the results of site inspections, shall inform landowner(s), organization, or municipality responsible for maintenance of the inspection results, and shall specifically indicate in writing any corrective actions required to bring the BMPs/SCMs into proper working condition.

(5) If the City notifies the landowner(s), organization, or municipality responsible for maintenance of the maintenance problems that require correction, the specific corrective actions shall be taken within reasonable time as determined by the City of Kent.

(6) The City of Kent is authorized to enter upon the property and perform corrective actions identified in the inspection report if the landowner(s), organization, or municipality responsible for the maintenance does not make the required corrections in the specified time period. The City of Kent shall be reimbursed by the landowner(s), organization, or municipality responsible for the maintenance for all expenses incurred within 10 days of receipt of invoice from the City of Kent, or more with written approval from the City of Kent Service Director.

(7) The method of funding long-term maintenance and inspections of all BMPs/SCMs.

(8) A release of the City of Kent from all damages, accidents, casualties, occurrences, or claims that might arise or be asserted against the City of Kent from the construction, presence, existence or maintenance of the BMPs/SCMs.

(e) Inspection and Maintenance Plan. This plan will be developed by the applicant and reviewed by the City of Kent. Once the Inspection and Maintenance Plan is approved, a recorded copy of the Plan must be submitted to the City of Kent as part of the final inspection approval. The plan will include at a minimum:

(1) The location of each BMP/SCM and identification of the drainage area served by each BMP/SCM

(2) Photographs of each BMP/SCM, including all inlets and outlets upon completion of construction

(3) Schedule of inspection

(4) A schedule for regular maintenance for each aspect of the storm water management system and description of routine and non-routine maintenance tasks to

ensure continued performance of the system as is detailed in the approved Comprehensive Storm Water Management Plan. A maintenance inspection checklist written so the average person can understand it shall be incorporated. The maintenance plan will include a detailed drawing of each BMP/SCM and outlet structures with the parts of the outlet structure labeled. This schedule may include additional standards as required by the City of Kent City Engineer, to ensure continued performance of BMPs/SCMs permitted to be located, or within 50 feet of, water resources.

(5) The location and documentation of all access and maintenance easements on the property.

Alteration or termination of these stipulations is prohibited without written consent from the City.

1199.04 INSPECTIONS.

(a) The Owner(s) of the Development area shall have the site inspected for soil erosion, sediment control and other environmental concerns every seven (7) calendar days, and within twenty-four (24) hours of a 0.5 inch or greater rainfall event until the site is certified as being stable by the Development Engineer or his designee.

(b) The Owner(s), or his designated representative, shall keep a written log of each inspection and any subsequent improvements to the soil erosion, sediment control or other environmental controls. At a minimum the inspections report shall include:

(1) the date of the inspections
(2) the name, titles, and qualifications of personnel making the inspection of the inspector,

(3) weather conditions information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred

(4) weather information and a description of any discharges at the time of the inspection

(5) location(s) of discharges of sediment and other pollutants from the site

(6) location(s) of BMPs/SCMs that need to be maintained

(7) location(s) where additional BMPs/SCMs are needed that didn't exist at the time of the inspection; and

(8) the corrective action required including any changes to the SWP3 necessary and implementation dates needed to correct the identified problems.

(c) If the inspection reveals that a control practice is in need of repair or maintenance, with the exception of a settling pond, it shall be repaired or maintained

within 3 days of the inspection. Sediment settling ponds shall be repaired or maintained within 10 days of the inspection

(d) 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 shall be amended and the new control practice shall be installed within 10 days of the inspection.

(e) If the inspection reveals that a control practice has not been implemented, the control practice shall be implemented within 10 days from the date of the inspection. If the inspection reveals the planned control practice is not needed, the record shall contain a statement of explanation as to why the control practice is not needed.

(f) The information listed above shall be maintained for 3 years following the submittal of a notice of termination.

~~(e) The inspections will include the date and actions taken to correct problems noted in past inspection logs.~~

~~(e) If the construction site is subject to Ohio EPA's National Pollutant Discharge Elimination System (NPDES) permits, a copy of all of the required inspection sheets will be submitted to the Development Engineer or his designee monthly if the Development is for a residential subdivision or a commercial or industrial site. Single family residential sites and other similar sites as identified by the Development Engineer or his designee need only submit inspection reports at the completion of the building permit phases.~~

~~(e) Inspections are not required for exempted items listed in Section 1199.01(b) and 1199.01(c). (Ord. 2013-29. Passed 3-20-13.)~~

(i) Before any earth is disturbed erosion and sediment control measures shall be installed. The Community Development Department shall complete an initial inspection to insure compliance.

(j) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for pollutants entering the drainage system.

(k) Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.

1199.05 CONTROL OF MATERIALS AND DEBRIS.

No solid (other than sediment) or liquid waste, including building materials, shall be discharged in storm water runoff. Under no circumstance shall wastewater from the washout of concrete trucks, stucco, paint, form release oils, curing compounds, and other construction materials be discharge directly into a drainage channel, storm sewer or surface waters of the state. Also, no pollutants from vehicle fuel, oils, or other vehicle fluids can be discharged to surface waters of the state. The SWP3 must include methods to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, and sanitary waste to precipitation, storm water runoff, and snow melt. The SWP3 shall include measures to prevent and respond to chemical spills and leaks. Site management practices shall be implemented to prevent toxic materials, hazardous materials, or other debris from entering the Community's and state's water resources or wetlands. These practices shall include, but are not limited to, the following:

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

(b) The washing of excess concrete material into a street, catch basin, or other public facility or natural resource shall not be permitted. A designated area for concrete washouts shall be made available and used for all concrete washouts.

(c) All fuel tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of the largest container in the storage area. All additional requirements of the local fire authority must be followed. If the fuel tanks have a self-contained "dike," the plug will be kept in the "dike" tank at all times. A mobile fueling spill prevention and response plan must be prepared and followed by all site personnel.

(d) Any toxic or hazardous waste and contaminated soils shall be disposed of properly.

(e) Runoff from contaminated sites shall not be allowed to leave the site.

(f) Proper permits shall be obtained for Development projects on solid waste landfill sites. (Ord. 2013-29. Passed 3-20-13.)

Where construction activities are to occur on sites with contamination from previous activities, operators shall be aware that concentrations of materials that meet other criteria (is not considered hazardous waste, meeting Voluntary Action Program (VAP) standards, etc.) may still result in storm water discharges in excess of Ohio Water Quality Standards.

**1199.06 WATER QUALITY REQUIREMENTS POST-CONSTRUCTION
STORM WATER MANAGEMENT REQUIREMENTS.**

Storm Water released from any part of a small Development site of 1 acre or greater but less than 5 acres shall implement post construction Best Management Practices (BMPs)/Storm Water Control Measures (SCMs). Structural post construction BMP/SCM methods and design parameters shall be commensurate with the impacts on the watershed and follow the current version of the State of Ohio's Rainwater and Land Development manual. A description of the measures that will be installed during the construction process to control pollutants in Storm Water Discharges that will occur after construction operation has been completed must be included in the (SWP3) for review & approval. The SWP3 shall include an explanation of the technical basis used to select the practices to control pollution where flow exceeds pre-development levels.

Storm Water released from any part of a large Development site of 5 or more acres or which will disturb less than 5 acres, but is a part of a larger common plan of Development or sale which will disturb 5 or more acres of land, shall include the post-construction BMP(s)/SCM(s) that will be able to detain storm water for protection of the stream channels, stream erosion control, and improved water quality, and shall meet the most restrictive of the following criteria as well as the current requirements of the Ohio EPA:

(a) The rationale for BMP/SCM selection must address the anticipated impacts on channel and floodplain morphology, hydrology, water quality and riparian form (habitat). the BMP(s)/SCM(s) chosen must be compatible with site and soil conditions.

(b) Post construction BMPs/SCMs must achieve the following goals:

(1) Water Quality Volume (WQv): For all large Development on previously undeveloped property, structural (designed) post-construction Storm Water treatment practices shall be incorporated into the permanent drainage system for the site. These practices must be sized to treat the Water Quality Volume (WQv). The WQv shall be the maximized water quality capture volume for the site, as defined in "Urban Runoff Quality Management," WEF Manual of Practice No. 23 and ASCE Manual and Report on Engineering Practice No. 87 (WEF and ASCE, 1998).

(2) The WQv shall be determined, through a site hydrologic study approved by the Development Engineer, that uses continuous hydrologic simulation and local long-term hourly precipitation records, or by using the following equation:

$$WQv = C * P * A / 12$$

where:

WQv = Water Quality Volume in acre-feet

C = Runoff Coefficient appropriate for storms less

than 1 inch (see the most current Ohio EPA NPDES Storm Water Permit

Table-1)

P = 0.75 inch precipitation depth
 A = area draining into the BMP in acres

LAND USE	Runoff Coefficient
Industrial & Commercial	0.8
High Density Residential (>8 dwellings/acre)	0.5
Medium Density Residential (4 to 8 dwellings/acre)	0.4
Low Density Residential (<4 dwellings/acre)	0.3
Open Space & Recreational Areas	0.2

Where the land use will be mixed, the Runoff Coefficient should be calculated using a weighted average. For example, if 60% of the contributing drainage area to the Storm Water treatment structure is Low Density Residential, 30% is High Density Residential and 10% is Open Space, the Runoff Coefficient is calculated as follows
 $(0.6)(0.3) + (0.3)(0.5) + (0.1)(0.2) = 0.35$.

The following alternative equation may also be used:

$$WQv = (0.858i^3 - 0.78i^2 + 0.774i + 0.04) * PA/12$$

where: WQv = Water Quality Volume in acre-feet I = watershed impervious ratio, namely, percent total imperviousness divided by 100;

P = mean storm presentation volume in inches

= regression constant from least-squares analysis (see [the most current Ohio EPA NPDES Storm Water Permit Table in Subsection ii](#))

A = area draining into the facility in acres

TABLE 2

Regression Constant and Required Draw-Down Time for Structural Post-Construction Treatment-Control Practices (WEF & ASCE, 1998)

Best Management Practice	Drain-Time of WQv in Hours	Regression Constant
Infiltration, Vegetated Swale and Filter Strip	12	1.109
Extended Detention Basin (Dry Ponds)	48	1.545
Retention Ponds (Wet Ponds)	12	1.109
—Solids Removal Only*	N/A	3.0
—Solids and Dissolved Nutrient Removal**		
Constructed Wetlands (above permanent pool)	24	1.299
Media Filtration, Bioretention	40	1.500
Other Facilities (if acceptable by the Development Engineer and Ohio EPA)	24	1.299

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* Provide both a permanent pool and an extended detention volume above the permanent pool, each sized at WQv

** Based on a permanent pool with wetland vegetation and a 2 to 3 week retention time

(3) An additional volume equal to 20 percent of the Water Quality Volume shall be incorporated into the facility for sediment storage and/or reduced infiltration capacity. Facilities shall be designed according to the methodology included in the WEF and ASCE manual of practice, State of Ohio's Rainwater and Land Development manual, or in another design manual acceptable for use by the Director and Ohio EPA.

(4) The BMP's listed in the most current Ohio EPA NPDES Storm Water Permit Table 2 below shall be considered standard BMP's approved for general use. BMP's listed in the most current Ohio EPA NPDES Storm Water Permit shall also be incorporated in this list. BMP's shall be designed such that the drain time is long enough to provide treatment, but short enough to provide storage available for successive rainfall events as described in the most current Ohio EPA NPDES Storm Water Permit Table 2 below and avoid the creation of nuisance conditions. The outlet structure must not discharge more than the first half of the WQv or extended detention volume (EDv) in less than one-third of the drain time. The EDv is the volume of Storm Water runoff that must be detained by a structural post-construction BMP. The EDv is equal to 75 percent of the WQv for wet extended detention basin, but is equal to the WQv for all the other BMP's listed in the most current Ohio EPA NPDES Storm Water Permit Table 2.

~~Target Draw-Down (Drain) Times for Structural
Post-Construction Treatment Control Practices~~

BEST MANAGEMENT PRACTICE	DRAIN TIME OF WQv
Infiltration Basin[^]	24 - 48 hours
Enhanced Water Quality Swale	24 hours
Dry Extended Detention Basin[*]	48 hours
Wet Extended Detention Basin^{**}	24 hours
Constructed Wetland (above permanent pool)⁺	24 hours
Sand & Other Media Filtration	40 hours
Bioretention Cell[^]	40 hours
Pocket Wetland[#]	24 hours
Vegetated Filter Strip	24 hours

[^] The WQv shall completely infiltrate within 48 hours so there is not standing or residual water in the BMP

^{*} Dry basins must include forebay and micropool each sized at 10% of the WQv

^{**} Provide both a permanent pool and an EDv above the permanent pool, each sized at 0.75 times WQv.

~~+ Extended detention shall be provided for the full WQv above the permanent water pool.~~

~~* Pocket wetlands must have a wet pool equal to the WQv with 25% of the WQv in a pool and 75% in marshes. The EDv about the permanent pool must be equal to the WQv.~~

(5) Facilities shall be cleaned and maintained such that the full Water Quality Volume is available and that the facility functions as designed.

(6) All construction activities shall maintain or improve ecological function of watercourses by protecting or improving the stream and riparian form. Ecological functions include pollution assimilation, flood attenuation, maintenance of the sediment regime, base flow, moderation of temperature and habitat to the maximum extent practicable (MEP);

(7) For all construction activities immediately adjacent to Surface Waters of the state, a minimum Riparian and Wetland setback, pursuant to Chapter 1201: Riparian and Wetland Buffers, shall be maintained in its natural state as a permanent buffer. Where impacts within this setback area are unavoidable due to the nature of the construction activity (e.g., stream crossings for roads or utilities), the project shall be designed so the number of stream crossings and the width of the Disturbance within the setback area are minimized.

(8) For all redevelopment projects: Post-construction practices shall assure a net reduction of 20% of the impervious area of the site, or provide for treatment of 20% of the WQv

(9) Transportation improvement projects of existing facilities located predominantly within existing rights-of-way may provide post construction water quality measures in accordance with the Ohio Department of Transportation's Location & Design Manual. The above is permissible if significant right-of-way impacts are required to meet the provision of the case as determined by the Director.

(10) Transportation Projects: The construction of new roads and roadway improvement projects by public entities may implement post construction BMP's in compliance with the current version of the Ohio Department of Transportation's Location and Design Manual, Volume Two Drainage Design.

(11) Offsite Mitigation of Post-Construction: Offsite mitigation of postconstruction BMP requirements where the standard methods listed in the most current Ohio EPA NPDES Storm Water Permit Table-2 are not feasible, must be approved by the Ohio EPA.

(Ord. 2013-29. Passed 3-20-13.)

1199.07 ENFORCEMENT AND PENALTIES.

(a) **Notice of Violation:** When the City of Kent determines that a land Development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- (1) The name and address of the landowner, developer or applicant.
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring.
- (3) A statement specifying the nature of the violation.
- (4) A description of the remedial measures necessary to bring the land Development activity into compliance with this local law and a time schedule for the completion of such remedial action.
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
- (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

(b) **Stop Work Orders:** The City of Kent may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land Development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the City of Kent confirms that the land Development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

(c) **Permit Revocation:** The City of Kent may suspend or revoke the permit after providing written notification to the permittee based on any of the following reasons:

- (1) Any violation(s) of the terms or conditions of the approved erosion and sediment control plan or permit.
- (2) Noncompliance with violation notice(s) or stop work order(s) issued.
- (3) Changes in the site characteristics upon which plan approval and permit issuance were based.
- (4) Any violation(s) of this or any other City of Kent laws, regulation, ordinance(s) or any rules and regulations adopted under it.
- (5) The work is, or threatens to become, a hazard to property or public safety; is adversely affecting or about to adversely affect adjacent property or rights-of-way, a drainage way, wetlands, fish or wildlife habitat, or a Storm Water facility; or is otherwise adversely affecting the public health, safety or welfare.

(d) Violations: Any land Development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

(e) Penalties: In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by the following schedule. For the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed an unclassified misdemeanor and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(1) First offense - a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six months, or both for conviction.

(2) Second offense - when both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six months, or both.

(3) Third or subsequent offense - all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both.

(f) Withholding of Certificate of Occupancy: If any building or land Development activity is installed or conducted in violation of this local law, the Director may prevent the occupancy of said building or land.

(g) Restoration of lands: Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Kent may take necessary corrective action, the cost of which shall become a lien upon the property until paid. (Ord. 2013-29. Passed 3-20-13.)

1199.08 CONFLICTS.

If there are any conflicts between provisions of Chapter 1199 and other sections of the Kent Codified Ordinances, then sections of Chapter 1199 shall control. (Ord. 2013-29. Passed 3-20-13.) , or whichever is more restrictive.