

**CITY OF EAST LANSING
POST-CONSTRUCTION
STORMWATER MANAGEMENT
GUIDANCE MANUAL**

**CHAPTER I
CITY OF EAST LANSING
POST CONSTRUCTION
STORMWATER MANAGEMENT
ORDINANCE**

February 16, 2016

February 16, 2016

Introduced: _____
Public Hearing: _____
Adopted: _____
Effective: _____

CITY OF EAST LANSING
SUBSTITUTE ORDINANCE NO. 1367

AN ORDINANCE TO ADD ARTICLE V – POST
CONSTRUCTION STORMWATER MANAGEMENT-
TO CHAPTER 34 – SOIL EROSION CONTROL – TO
THE CODE OF THE CITY OF EAST LANSING.

THE CITY OF EAST LANSING ORDAINS:

Article V is hereby added to Chapter 34 of the Code of the City of East Lansing to read as follows:

Article V. Post Construction Stormwater Management

Division I. Title, Findings, & Purpose

Sec. 34-201. Title.

(a) This Article shall be known as the “City of East Lansing Post Construction Stormwater Management Ordinance”.

Sec. 34-202. Findings.

(a) The City of East Lansing finds that:

(1) The constitution and laws of the State of Michigan authorizes local units of government to provide stormwater management services and systems that will

February 16, 2016

contribute to the protection and preservation of the public health, safety, and welfare and to the protection of our natural resources.

(2) Water bodies, roadways, structures, and other property within, and downstream of the limits of the City of East Lansing are at times subjected to flooding. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the City of East Lansing and the region.

(3) Land development activities and associated increases in site impervious cover often alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, increased sediment transport and deposition, and increased nonpoint source pollutant loading to the receiving water bodies and the Great Lakes.

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

(5) Increases of stormwater runoff, soil erosion, and nonpoint source pollution have occurred as a result of land development, and have impacted the water resources of the Red Cedar River and the Looking Glass River Watersheds.

(6) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the City of East Lansing will, absent proper regulation and control, adversely affect the City's water bodies and water resources, and those of downstream communities.

(7) Stormwater runoff, soil erosion, and nonpoint source pollution can be controlled and minimized by the regulation of stormwater runoff from development.

(8) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.

(9) Adopting the standards, criteria and procedures contained in this ordinance and implementing the same will address many of the deleterious effects of stormwater runoff.

(10) Substantial economic losses can result from adverse impacts on the waters of the City of East Lansing and the watershed.

(11) Improper design and construction of stormwater best management practices (BMPs) can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.

(12) The regulation of stormwater runoff discharges from land development activities is necessary in order to control and minimize increases in stormwater runoff

February 16, 2016

rates and volumes, stream channel erosion, and nonpoint source pollution associated with stormwater runoff.

(13) The regulation of land development activities by means of stormwater management policies and procedures and site design will help produce developments that are compatible with the natural functions of a particular site or an entire watershed and thereby help mitigate the adverse effects of stormwater runoff from the developments.

Sec. 34-203. Purpose.

(a) The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in the City of East Lansing and the watersheds to which it drains and to comply with the City's National Pollution Discharge Elimination System (NPDES) permit and other applicable federal and state regulations.

(b) This ordinance seeks to meet that purpose by minimizing the negative impacts of increased stormwater discharges from new land development and redevelopment through the following objectives:

- (1) To minimize increased stormwater runoff rates and volumes from identified land development and redevelopment.
- (2) To minimize nonpoint source pollution.
- (3) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures.
- (4) To encourage water recharge into the ground where geologically favorable conditions exist.
- (5) To maintain the ecological integrity of stream channels.
- (6) To minimize the impacts of development upon streambank and streambed stability.
- (7) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution.
- (8) To reduce the adverse impact of changing land use on water bodies and, to that end, this ordinance establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are insufficient stormwater management controls.

February 16, 2016

(9) To ensure that storm drain drainage or stormwater BMPs are adequate to address stormwater management needs within a proposed development, and for protecting downstream landowners from further flooding and degradation of water quality. The procedures, standards, and recommendations set forth in this Ordinance and the City of East Lansing's Post Construction Stormwater Management Guidance Manual (Guidance Manual) are designed for these purposes.

(10) To ensure that all stormwater facilities necessary for a proposed development will have an appropriate governmental unit responsible in perpetuity for performing maintenance or for overseeing the performance of maintenance by a private entity, such as a property owners' association.

(11) To facilitate the integration of stormwater management and pollution control with other ordinances, programs, policies, and the comprehensive plans of the City of East Lansing.

(12) To establish legal authority to carry out all of the inspection and monitoring procedures necessary to ensure compliance with this ordinance.

(13) To facilitate compliance with state and federal standards and permits by owners of construction sites, developments, and permanent stormwater BMPs with the City of East Lansing.

(14) To encourage the use of Low Impact Development, Green Infrastructure, and Integrated Management Practices, as practicable, in managing stormwater during and following development, and in meeting NPDES Phase 2 requirements. Also, to allow for incentives, as practicable, for projects that adopt these practices.

Division II. Definitions

Sec. 34-204. Definition of Terms.

The following terms, phrases, words, and derivatives shall have the meaning defined below:

(a) Applicant. Any person proposing or implementing the development or redevelopment of land.

(b) BMP or Best Management Practice. A practice, or combination of practices and design criteria that comply with the City of East Lansing Post Construction Stormwater Management Guidance Manual or equivalent practices and design criteria that accomplish the purposes of this Ordinance (including, but not limited to minimizing stormwater runoff and preventing the discharge of pollutants into stormwater) as

February 16, 2016

determined by the City of East Lansing City Engineer and/or, where appropriate, the standards of the Ingham and Clinton County Drain Commissioners.

- (c) Channel. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- (d) Clean Water Act means the Federal Water Pollution Control Act, 33 USC Sec 1251 et seq., as amended, and the applicable regulations promulgated there under.
- (e) Conveyance Facility. A storm drain, pipe, swale, or channel.
- (f) Design Engineer. The registered professional engineer responsible for the design of the stormwater management plan.
- (g) Detention. A system which is designed to capture stormwater and release it over a given period of time through an outlet structure at a controlled rate. The goals of this BMP are to control peak discharge rates and provide gravity settling of pollutants.
- (h) Developed or Development. The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, City of East Lansing approval of a site plan, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval, or other approvals required for the development of land or the erection of buildings or structures.
- (i) Discharge means precipitation that does not infiltrate into the ground or evaporates due to impervious land surfaces but instead flows onto adjacent land or surface water areas and is routed into drain/sewer systems.
- (j) Drain means any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, et. seq., other than an established county or intercounty drain.
- (k) Drainage means the collection, conveyance, or discharge of ground water and/or surface water.
- (l) Drainageway means the area within which surface water or ground water is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.

February 16, 2016

(m) Earth Change means any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.

(n) Easement. A legal right granted by a landowner to a grantee allowing the use of private land for conveyance or treatment of stormwater runoff and access to stormwater practices.

(o) Engineered Site Grading Plan. A sealed drawing or plan and accompanying permit application prepared by a registered engineer or landscape architect which shows alterations of topography, alterations of watercourses, flow directions of stormwater runoff, and proposed stormwater management and measures, having as its purpose to ensure that the objectives of this Ordinance are met.

(p) Erosion and Sediment Control Plan means a plan that is designed to minimize the accelerated erosion and sedimentation runoff at a site during construction.

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

(r) Green Infrastructure means strategically planned and managed networks of natural lands, working landscapes and other open spaces that conserve ecosystem values and functions and provide associated benefits to human populations.

(s) Impervious Surface. Surface that does not allow stormwater runoff to slowly percolate into the ground (e.g. building rooftops, pavement, sidewalks, driveways, etc...).

(t) Infiltration. The percolation of water into the ground, expressed in inches per hour.

(u) Land Disturbing Activity means any activity that changes the volume or peak flow discharge of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity that bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

February 16, 2016

(v) Low Impact Development means the application of techniques that emulate the natural water cycle processes of infiltration, filtering, storage, evaporation and detaining runoff close to its source

(w) National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means the permit issued to the City of East Lansing by the Michigan Department of Environmental Quality for point source discharges of stormwater from municipal separate storm sewer systems.

(x) Non-Structural Measure. A stormwater control and treatment technique that uses natural processes, restoration or enhancement of natural systems, or design approaches to control runoff and/or reduce pollutant levels. Such measures are used in lieu of or to supplement structural practices on a land development site. Non-structural measures include, but are not limited to: minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and on-lot practices such as vegetated areas that intercept roof and driveway runoff.

(y) Offset Fee means a payment of a specified amount of money pursuant to Section I of the City of East Lansing Stormwater Policy & Procedures Manual for the public construction of stormwater retention, absorption or treatment in place of meeting all or part of the stormwater performance standards required by this ordinance and the Stormwater Policy & Procedures Manual.

(z) Offsite Facility. All or part of a drainage system that is located partially or completely off the development site which it serves.

(aa) Operation & Maintenance Plan. A binding agreement that sets forth the terms, measures, and conditions for the operation and maintenance of the stormwater system and facilities.

(bb) Peak Rate of Discharge. The maximum rate of stormwater flow at a particular location following a storm event, as measured at a given point and time in cubic feet per second (CFS).

February 16, 2016

(cc) Permanent Stormwater BMP means a stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

(dd) Plan. Written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these which contain information pursuant to this Ordinance.

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

(ff) Post Construction Stormwater Management Concept Plan (Stormwater Plan). Drawings and written information prepared by a registered engineer, registered landscape architect, or registered surveyor which describe the way in which accelerated soil erosion and/or stormwater flows from a particular site are proposed to be controlled, both during and after construction, having as its purpose to ensure that the objectives of this Ordinance are met.

(gg) Post Construction Stormwater Management Guidance Manual (Guidance Manual). A detailed explanation of the policies, procedures and design criteria for complying with the City's Post Construction Stormwater Management Program. The Guidance Manual consists of three parts- Chapter I is the City of East Lansing Post Construction Stormwater Management Ordinance; Chapter II is the City of East Lansing Stormwater Policy & Procedures Manual; and Chapter III is the City of East Lansing Stormwater Design Manual.

(hh) Receiving Stream or Channel. The body of water or conveyance into which stormwater runoff is discharged

(ii) Recharge. The replenishment of underground water reserves.

(jj) Redevelopment means a change to a previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving, or excavating, but excluding ordinary maintenance activities, remodeling of buildings on the existing footprint, resurfacing of existing paved areas, and exterior changes or improvements that do not materially increase or concentrate stormwater runoff or cause additional nonpoint source pollution.

(kk) Responsible Party means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock, company, trust, estate, governmental entity, or any other legal entity; or their representatives, agents, or assigns that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

(ll) Retention. A holding system for stormwater, either natural or man-made, which does not have an outlet to adjoining watercourses or wetlands. Water is removed through infiltration and/or evaporation processes.

(mm) Runoff. That part of precipitation, which flows over the land.

(nn) Sediment. Mineral or organic particulate matter that has been removed from its site of origin by the processes of soil erosion, is in suspension in water, or is being transported.

(oo) Stormwater Permit. A permit issued by the City Engineering Department pursuant to Section E of the City of East Lansing Stormwater Policy & Procedures Manual to permit the commencement of on-site land disturbing activity.

(pp) Stream Buffer. An area of land at or near a streambank, wetland, or waterbody that has intrinsic water quality value due to the ecological and biological processes it

February 16, 2016

performs or is otherwise sensitive to changes which may result in significant degradation to water quality.

(qq) Surface waters of the state: Are defined consistent with the Part 4 Rules (Rules 323.1041 through 323.1117 of the Michigan Administrative Code) to mean all of the following, but not including drainage ways and ponds (detention and retention ponds or lagoons) used solely for wastewater conveyance, treatment, or control:

- The Great Lakes and their connecting waters
- All inland lakes
- Rivers
- Streams
- Wetlands
- Impoundments
- Open drains
- Other surface bodies of water within the confines of the state

(rr) Watercourse. Any natural or manmade waterway or other body of water having reasonably well defined banks. Rivers, streams, creeks, brooks, and channels, whether continually or intermittently flowing, as well as lakes and ponds are watercourses for purposes of stormwater management.

(ss) Watershed. An area in which there is a common outlet into which stormwater ultimately flows, otherwise known as a drainage area.

(tt) Wetlands. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh, as defined by state law and/or City Ordinances.

Division III. General Provisions

Sec. 34-301. Applicability

(a) This Post Construction Stormwater Management Ordinance shall be applicable to all land development (new development and redevelopment), including but not limited to,

February 16, 2016

site plan, plot plan and plat applications as well as any grading applications, that meet one or more of the following criteria unless exempt pursuant to Section 34-302:

- (i.) Projects that disturb one (1) acre or more.
- (ii.) Projects less than one (1) acre that are part of a larger common plan of development or sale that would disturb one (1) acre or more.
- (iii.) Projects less than one acre with special circumstances such as development in floodplains, wetlands, or other critical areas and any development or redevelopment that may have a significant downstream impact.

(b) The procedures and standards set forth in this Post Construction Stormwater Management Ordinance, and the policies, procedures, and design data specified in the City of East Lansing Post Construction Stormwater Management Guidance Manual (Guidance Manual) provide the minimum standards to be adhered to by developers and in no way limits the authority of the City of East Lansing to adopt or publish and/or enforce higher standards as a condition of approval of developments.

(c) No site plan, plot plan, or plat disturbing one (1) acre or more shall be approved under Chapters 40 and 50 of the City Code until approval by the City Engineer that said development or redevelopment meets all:

- (i.) Soil erosion and sedimentation control measures consistent with the requirements of Chapter 34 of the City Code and Article VI of this Ordinance,
- (ii.) Requirements for an approved Post Construction Stormwater Management Concept Plan (Stormwater Plan) as outlined in Article IV of this Ordinance, and
- (iii.) Related land development regulations.

(d) No certificate of occupancy for any building will be issued under Chapter 6 of the City Code, unless the applicant for said certificate shall have obtained a certification of completion indicating compliance with all applicable grading plans, specifications, and requirements outlined in Chapter 34 of the City Code, this Post Construction Stormwater Management Ordinance and the Guidance Manual.

(e) For an existing stormwater basin constructed prior to the effective date of this ordinance, an approved Stormwater Plan must be secured prior to any significant expansion, repair, or maintenance of said stormwater basin.

Sec. 34-302. Exemptions.

(a) Notwithstanding the requirements of Section 34-301, a Stormwater Plan shall not be required for activities protected by the Right to Farm Act 93 of 1981.

February 16, 2016

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

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

(d) Any emergency project that is immediately necessary for the protection of life, property, or natural resources.

(e) Linear construction projects, such as pipeline or utility line installation, that do not result in the installation of any impervious cover, as determined by the City Engineer. Such projects must be designed to minimize the number of stream crossings and width of disturbance, and are subject to all applicable Federal, State and local construction, stormwater management, and soil erosion & sedimentation control requirements.

(f) Where the stormwater discharge from a development or redevelopment site discharges into the City of East Lansing's combined sewer system, the City Engineer may modify or waive certain requirements outlined in Sec. 34-303 if conditions are such that compliance is not practicable.

Sec. 34-303. Stormwater Control Requirements.

(a) Any development or redevelopment meeting the applicability criteria established in Sec. 34-301 and Sec. 34-302 must meet the following minimum stormwater management control criteria:

(i) The following volume/channel protection criteria shall be met. No net increase in site runoff volume and peak flow rate from storm events up to the two-year, 24-hour event from predevelopment conditions. Specific details for compliance with this requirement are outlined in the City of East Lansing's Post-Construction Stormwater Management Guidance Manual consisting of this Stormwater Ordinance, the Policy & Procedures Manual and the Design Manual.

(ii) The following peak rate/flood control criteria shall be met. The peak discharge rate from all storms up to the 100-year, 24-hour event shall not be greater than predevelopment discharge rates. Where the runoff volume is not increased from the predevelopment condition, the peak rate corresponding to the same storms is considered controlled. If specific watershed conditions require additional peak rate control, the City of East Lansing can a) restrict the peak discharge from the 100-year, 24 hour event to a fixed release rate; or b) require additional runoff volume reduction. Specific details for compliance

with this requirement are outlined in the City of East Lansing's Post-Construction Stormwater Management Guidance Manual consisting of this Stormwater Ordinance, the Policy & Procedures Manual and the Design Manual.

(iii) The following water quality criteria shall be met. Water quality criteria are met when (a) the minimum treatment volume control criteria of one (1) inch of runoff from the entire site is retained and (b) when the following Total Suspended Solids (TSS) criteria are met:

- (i.) A minimum of 80 percent of TSS has been removed as compared with uncontrolled runoff, or
- (ii) A minimum discharge concentration of TSS not to exceed 80 mg/l is met.

If the required minimum TSS levels are not met by the capture of one inch of runoff from the entire site, then additional treatment methods must be designed to meet the minimum TSS removal requirements. Specific details for compliance with this requirement are outlined in the City of East Lansing's Post-Construction Stormwater Management Guidance Manual consisting of this Stormwater Ordinance, the Policy & Procedures Manual and the Design Manual.

(iv) In all cases the development or redevelopment shall preserve the primary and secondary drainageways which are needed to serve stormwater management needs of other properties.

Sec. 34-304. Liability.

(a) Any person and/or entity that undertakes or causes to be undertaken any land development shall ensure that soil erosion, sedimentation, increased pollutant loads and changed water flow characteristics resulting from the activity are controlled so as to minimize pollution of receiving waters. No person or entity shall disturb any land regulated by this Article without first obtaining a Stormwater Permit. The requirements of this ordinance and other applicable City of East Lansing ordinances are minimum standards and a person's compliance with the same shall not relieve such person from the duty of enacting all measures necessary to minimize pollution of receiving waters to the maximum extent possible.

Sec. 34-305. Designation of Stormwater Authority: Powers and Duties.

(a) The City Engineer shall administer and enforce this Ordinance, and may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance and may provide such information in the form of a Guidance Manual subject to Council approval.

(b) The City of East Lansing Post Construction Stormwater Management Guidance Manual (Guidance Manual) may be updated and expanded from time to time, at the

February 16, 2016

discretion of the City Engineer, subject to Council approval, based on improvements in engineering, science, monitoring and local maintenance experience.

(c) Representatives of the City Engineer shall have the right to enter upon any land for the purposes of making an inspection or acquiring information to determine whether or not the property conforms to the requirements of this ordinance.

**Division IV. Post Construction Stormwater Management Concept Plan
Requirements (Stormwater Plan)**

Sec. 34-401. Pre-application Conference.

A pre-application conference as specified in Section E of the Stormwater Policy & Procedures Manual shall be held between the developer and a representative of the City of East Lansing Engineering Department prior to the submittal of a Stormwater Plan and before any alterations to the land. The purpose of the pre-application conference is to provide information about the City of East Lansing's regulations, plan submittal requirements, and any additional requirements imposed on that site due to downstream restrictions.

Sec. 34-402. Contents of Post Construction Stormwater Management Concept Plan (Stormwater Plan).

(a) The Post Construction Stormwater Management Concept Plan (Stormwater Plan) shall utilize to the maximum extent practicable Low Impact Development site planning and design techniques that reduce runoff rates, volumes, and pollutant loads. Such techniques include, but are not limited to, minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and distributed practices that intercept and treat runoff from developed areas.

(b) The Stormwater Plan shall be prepared in accordance with Section E of the Stormwater Policy & Procedures Manual.

February 16, 2016

Sec. 34-403. Review Fees.

The City of East Lansing City Council shall establish application fees and escrow requirements by resolution. Fees and escrow account payments shall be sufficient to cover administrative and technical review costs anticipated to be incurred by the City including the costs of on-site inspections.

Sec. 34-404. Off-Site Stormwater Management.

Requirements for off-site stormwater management may be considered in accordance with the Offset provisions provided in Section I of the Stormwater Policy & Procedures Manual.

Sec. 34-405 Revision of Plan

If it becomes necessary to alter a development or earth change proposal after the Stormwater Plan has been approved, a revised Stormwater Plan must be submitted, reviewed, and approved in accordance with the procedure set forth above. All requirements and standards for a Stormwater Plan shall apply.

Sec. 34-406. Drains Under the Jurisdiction of the Drain Commissioner.

- (a) Where a site will discharge its stormwater directly to the Red Cedar River or directly to a County or Intercounty Drain, the developer must comply with the City of East Lansing's Post Construction Stormwater Requirements, as a minimum, as well as the requirements of the MDEQ and Drainage Boards.
- (b) Drainage districts will not be altered when designing development drainage, except as provided under Section 433 of Act 40, Public Act 1956 as amended.
- (c) Existing county drain easements will be indicated on the Stormwater Plan as well as the final stormwater BMP construction plans and will be designated as "Ingham County Drain", "Clinton County Drain", or the appropriate inter-county drain as applicable. County drain easements prior to 1956 were not required by statute to be recorded immediately; therefore, it may be necessary to check the permanent records of the Drain Office to see if a drain easement is in existence on the subject property.
- (d) A permit will be obtained from the appropriate Drain Commissioner's Office prior to discharging into, tapping or crossing any county or inter-county drain. The permit must be obtained prior to final plan approval.
- (e) Proposed relocations of county drains will be processed through the office of the appropriate Drain Commissioner.

Division V. Stormwater BMP Construction Plans.

Sec. 34-501. Submittal, Review and Approval Procedures Requirements

The stormwater BMP construction plan submittal shall contain a completed application form for the Stormwater Permit provided by the City of East Lansing; the fee required by Sec. 34-403; stormwater BMP construction plans that satisfies the requirements of Section E of the Stormwater Policy & Procedures Manual; a stormwater maintenance plan that satisfies the requirements of Section E of the Stormwater Policy & Procedures Manual ; and a certification by the applicant stating that all requirements of the approved construction plans and maintenance plan will be complied with. Failure of the owner to demonstrate that the project meets these requirements, as determined by the City of East Lansing, shall be reason to deny approval of the stormwater BMP construction plans. Upon satisfactory submittal and acceptance of the above documents, the City may then issue a Stormwater Permit.

Division VI. Engineered Site Grading Plans.

Sec. 34-601 Contents of Engineered Site Grading Plans

In addition to the requirements outlined in Chapter 34 Soil Erosion Control, Article II, Section 34-33 (c), the Engineered Site Grading & Soil Erosion and Sedimentation Control Plan shall include the information outlined in Section E of the Stormwater Policy & Procedures Manual.

**Division VII. Construction & Maintenance Inspection for
Permanent Stormwater Management BMPs**

Sec. 34-701. Notice of Construction Commencement.

The applicant must notify the City of East Lansing Engineering Department before the commencement of construction. In addition, the applicant must notify the City of East Lansing Engineering Department in advance of construction of critical components of the stormwater practices shown on the approved stormwater BMP construction plans. The City may, at its discretion, issue verbal or written authorization to proceed with critical construction steps, such as installation of permanent stormwater BMPs based on stabilization of the drainage area and other factors.

Sec. 34-702. Construction Inspections by City of East Lansing or its Representatives.

The City of East Lansing Engineering Department or its representatives shall conduct periodic inspections of the stormwater practices shown on the approved stormwater BMP

February 16, 2016

construction plan, and especially during critical installation and stabilization steps. All inspections shall be documented in writing. The inspection shall document any variations or discrepancies from the approved plan, and the resolution of such issues. Additional information regarding inspections can be found in the City of East Lansing's Post Construction Stormwater Management Guidance Manual. A final inspection by the City of East Lansing is required before any performance bond or guarantee, or portion thereof, shall be released.

Sec. 34-703. Maintenance Inspections by Owner.

Following completion of construction, the responsible party shall conduct periodic inspections for all stormwater practices constructed as part of the approved BMP construction plans. Maintenance inspections by the owner or his representative shall be conducted annually, at a minimum, and, as soon as practicable after significant storm events, both for evidence of damage and evaluation of effectiveness. All inspections shall be documented in writing. The inspection shall document any maintenance and repair needs and any discrepancies from the stormwater maintenance agreement and stormwater maintenance plans.

All inspection records shall be retained for a minimum of five (5) years and made available to the City for their review upon request.

Sec. 34-704. Maintenance Inspections by City of East Lansing.

Maintenance inspections may be conducted periodically by City staff to verify compliance with the requirements of this ordinance.

Division VIII. Performance Guarantees, Easements and Maintenance.

Sec. 34-801. Applicability of Requirements.

Requirements of this Article concerning performance guarantees, easements, and maintenance agreements shall apply to owners of the property required to submit a Post Construction Stormwater Management Concept Plan (Stormwater Plan) to the City of East Lansing for review and approval.

Sec. 34-802. Performance Guarantees.

(a) The applicant shall post an acceptable form performance bond or irrevocable letter of credit. The performance guarantee shall be an amount determined by the City Engineer as specified in Section H of the City of East Lansing Stormwater Policy and Procedure Manual. Required performance guarantees shall be provided to the City of East Lansing after the Stormwater Plan, but prior to the final approval of the stormwater BMP construction plans, issuance of a Stormwater Permit, and initiation of any earth change.

February 16, 2016

(b) After determination by the City Engineer that all facilities are completed in compliance with the approved Stormwater Plan and the stormwater BMP construction plans, the posted performance guarantee remaining shall be released.

Sec. 34-803. Stormwater Management Easements and Inspections.

(a) Easements for Off-site Stormwater BMPs:

(1) The applicant shall provide copies of easements assuring access to all areas used for off-site stormwater management, including undeveloped or undisturbed lands if not owned by the applicant.

(b) Recording of Easements:

(1) Easements shall be recorded with the appropriate County Register of Deeds according to county requirements.

(c) Recording Prior to Building Permit Issuance:

(1) The applicant must provide the City Clerk with evidence of the recording of the easement prior to final subdivision plat or condominium approval or other applicable final construction approval.

(d) Right-of-Entry:

(1) The City of East Lansing and its representatives have the right of entry for the purposes of inspecting all stormwater BMPs at reasonable times and in a reasonable manner. This includes the right to enter a property when necessary for abatement of a public nuisance or an emergency correction of a violation of this Ordinance.

Sec. 34-804. Maintenance Bond.

(a) A maintenance bond as specified in Section H of the City of East Lansing Stormwater Policy and Procedure Manual shall be provided to the City of East Lansing.

(b) The maintenance bond shall be provided for a period of two years commencing from the date of final approval of the Stormwater Plan.

Sec. 34-805. Maintenance Requirements.

(a) Purpose of Maintenance Requirements

(1) The purpose of the maintenance requirements are to provide the means and assurance that maintenance of stormwater BMPs shall be undertaken in perpetuity in order that they may continue to operate as originally designed.

(b) Responsible Party

(1) The owner of the property which contains any or all of the structural and non-structural stormwater BMPs and all necessary access routes and appurtenances shall maintain in good condition and promptly repair and restore all structural and non-structural stormwater BMPs and all necessary access routes and appurtenances. For projects initiated after the effective date of this ordinance, such repairs or restoration and maintenance shall be in accordance with the approved stormwater management design plan and the stormwater maintenance plan.

(2) The owner shall make records of installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the City of East Lansing during inspection of the practice and at other reasonable times upon request.

(3) The owner of the property which contains any or all of the structural and non-structural stormwater BMPs and all necessary access routes and appurtenances shall, upon transfer of ownership; (i) disclose to the new owner the maintenance requirements of paragraph (1) of this subsection, (ii) provide the new owner with a copy of the approved stormwater management design plan and the stormwater operation and maintenance plan, and (iii) provide the new owner with any maintenance and repair records required to be kept pursuant to paragraph (2) of this subsection.

(4) The current responsible party under the requirements of a Stormwater Permit will be required to complete and submit the “CITY OF EAST LANSING POST-CONSTRUCTION STORMWATER MANAGEMENT PROGRAM-VERIFICATION OF STORM SYSTEM OPERATION & MAINTENANCE” certification on an annual basis.

(c) Maintenance Plan Required

(1) A maintenance plan shall be submitted to the City of East Lansing, for review by the City Engineer and his/her designee, for all development, and shall be subject to approval in accordance with the Stormwater Plan.

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

(3) A maintenance plan is not required to be submitted to the City of East Lansing for Chapter 18 Drains that will be maintained by the appropriate County Drain Commissioner.

February 16, 2016

(d) Maintenance Plan Provisions

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

(2) All subsequent owners of land occupied by the stormwater BMPs shall repair and maintain the structural and non-structural stormwater BMPs and all necessary access routes and appurtenances in accordance with the approved maintenance plan.

(3) If it has been found by the City of East Lansing Council, following notice and an opportunity to be heard by the property owner, that there has been a material failure or refusal to undertake maintenance as required under this ordinance and/or as required in the approved maintenance plan as required hereunder, the City Engineer shall then be authorized, but not required, to hire an entity with qualifications and experience in the subject matter to undertake the monitoring and maintenance as so required, in which event the property owner shall be obligated to advance or reimburse payment (as determined by the City of East Lansing) for all costs and expenses associated with such monitoring and maintenance, together with a reasonable administrative fee. The maintenance plan required under this Ordinance shall contain a provision spelling out this requirement.

Division IX. Severability.

Sec. 34-901 Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in force and effect.

Division X. Enforcement.

Sec. 34-1001. Penalty for Violations.

February 16, 2016

(a) Except as otherwise provided herein, any person and/or entity violating any provision of this ordinance shall be responsible for a municipal civil infraction and subject to a fine of not less than \$250.00 for a first offense, and not less than \$500.00 for a subsequent offense, plus costs, damages, expenses, and other sanctions as authorized under Section 1-13 of the City Code.. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this ordinance.

For purposes of this section, “subsequent offense” means a violation of the provisions of this ordinance committed by the same person and/or entity within 12 months of a previous violation of the same provision of this ordinance for which said person and/or entity admitted responsibility or was adjudicated to be responsible.

The City Manager’s designees are authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this Ordinance that is a civil infraction.

(b) Any person who neglects or fails to comply with a stop work order issued under this ordinance shall be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court. Each act of violation and every day upon which such violation shall occur or continues shall constitute a separate offense.

Sec. 34-1002. Stop Work Order.

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this Ordinance, the City of East Lansing is authorized to issue a Stop Work Order so as to prevent further or continuing violations or adverse effects. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply therewith. To the extent any violation shall constitute a public nuisance as defined by Section 26-2 of the City Code, the City of East Lansing may also undertake or cause to be undertaken, any necessary or advisable protective measures so as to abate the nuisance pursuant to Section 26-4 of the City Code to prevent continued violations of this ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and assessed and collected pursuant to Section 26-4 of the City Code.

Sec. 34-1003. Failure to Comply; Completion.

In addition to any other remedies, should any owner fail to comply with an order of the Court requiring compliance with the provisions of this Ordinance, said noncompliance

February 16, 2016

shall constitute a public nuisance pursuant to Section 26-4 of the City Code and the City of East Lansing may abate the nuisance by having the necessary work done to bring the property into compliance, and the owner shall be responsible to the City for all costs of such work which shall be assessed and collected pursuant to the provisions of Section 26-4 of the City Code.

Sec. 34-1004. Emergency Measures.

When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, and/or to prevent loss of life, injury or damage to property, the City of East Lansing is authorized, pursuant to Section 26-4 of the City Code to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the City for all such costs which shall be assessed and collected pursuant to Section 26-4 of the City Code.

Sec. 34-1005. Cost Recovery for Damage to Storm Drain System.

A discharger shall be liable for all costs incurred by the City of East Lansing as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain or receiving waters, or violates any of the provisions of this Ordinance. Costs include, but are not limited to, those penalties levied by the Environmental Protection Agency or Michigan Department of Environmental Quality for violation of an NPDES permit, attorney fees, and other costs and expenses.

Sec. 34-1006. Collection of Costs; Lien.

In addition to other remedies, costs incurred by the City of East Lansing and either of the Drain Commissioners pursuant to this ordinance shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six (6) months or more may be certified annually to the City of East Lansing Treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the City or the appropriate Drain Commissioner shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

Sec. 34-1007. Effect of Approval on Remedies.

The approval or disapproval of any of the Post Construction Stormwater Management requirements shall not have any effect on any remedy of any person at law or in equity.