



POST- CONSTRUCTION STORMWATER RUNOFF PROGRAM

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Article I. In General

Sec. 52-1. Title.

This chapter shall be known as the "City of Mason Post Construction Stormwater Management Ordinance."
[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-2. Findings.

The city 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 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 city are at times subjected to flooding.
- (3) Land development alters the hydrologic response of watersheds, which may result in increased stormwater runoff rates volumes, and duration, increased flooding, increased stream channel erosion, and increased sediment transport and deposition.
- (4) Stormwater runoff produced as a consequence of 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 Grand River Watershed.
- (6) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the city will, absent reasonable regulation and control, adversely affect the city 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 chapter 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 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 rates and volumes, stream channel erosion, and nonpoint source pollution associated with stormwater runoff.
- (13) The regulation of land development by means of stormwater management policy and procedures and effective site planning will produce development that is compatible with the natural functions of the land or an entire watershed and thereby mitigate the adverse effects of excessive stormwater runoff from development.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-3. Purpose.

- (a) The purpose of this chapter 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 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 chapter 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 where geologically favorable conditions exist.
- (5) To maintain the ecological integrity of stream channels.
- (6) To minimize the negative impacts of development on downstream channel stability.
- (7) To preserve and protect water supply facilities and water resources by 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 chapter establishes minimum standards to protect water bodies from degradation resulting from changing land use where storm water management controls may be insufficient to meet water quantity and quality goals.
- (9) To ensure that storm drains and stormwater BMPs are adequate to address stormwater management needs within a proposed development, and for protecting downstream landowners from flooding and degradation of water quality. The procedures, standards, and recommendations set forth in this chapter and the city'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 other entities.
- (11) To facilitate the integration of stormwater management and pollution control with other ordinances, programs, policies, and the comprehensive plans of the city.
- (12) To establish legal authority to carry out all the inspection and monitoring procedures necessary to ensure compliance with this chapter.

[\(Ord. No. 203, 10-17-2016\)](#)

ARTICLE II. DEFINITIONS

Sec. 52-4. Definition of terms.

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

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

BMP or best management practice. A practice, or combination of practices and design criteria that comply with the city construction stormwater management guidance manual, the Michigan Department of Environmental Quality's Guidebook of BMPs for Michigan Watersheds, the Low Impact Development Manual for Michigan, or equivalent practices and design criteria that accomplish the purposes of this chapter (including, but not limited to minimizing stormwater runoff and preventing the discharge of pollutants into stormwater) as determined by the city and/or, where appropriate, the standards of the Ingham County drain commissioner.

Channel. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Conveyance facility. A storm drain, pipe, swale, or channel.

Designer. The licensed professional engineer, landscape architect or professional surveyor responsible for the design of the stormwater management plan.

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.

Developed or development. The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, city 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. Significant alteration of land topography which increases the rate of water flow or concentration in a manner which increases the likelihood of soil erosion and flooding; provided, however, that for the purposes of this article only, developed or development shall not include the actual construction of, or an addition, extension, or modification to, an individual single-family or a two-family detached dwelling that disturbs less than one acre.

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.

Engineered site grading plan. A sealed drawing or plan and accompanying text prepared by a designer 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 chapter are met.

Erosion and sediment control plan. A plan that is designed to minimize the accelerated erosion and sedimentation runoff at a site during construction.

Fee in lieu contribution. A payment of money in place of meeting all or part of the stormwater performance standards required by this chapter.

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

Impervious surface. Surface that does not allow stormwater runoff to slowly percolate into the soil.

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

Land disturbing activity. 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.

Maintenance agreement (covenant). A binding agreement that establishes the terms, measures, and conditions for the maintenance of stormwater systems and facilities.

MDEQ. Michigan Department of Environmental Quality.

National pollutant discharge elimination system (NPDES) stormwater discharge permit. The permit issued to the city by the Michigan Department of Natural Resources and Environment for point source discharges of stormwater from municipal separate storm sewer systems.

Nonpoint source pollution. Any source of water pollution that does not meet the legal definition of "point source" in section 502(14) of the Clean Water Act.

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.

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

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).

Permanent stormwater BMP. 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.

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

Post construction stormwater management concept plan (stormwater plan). Drawings and written information prepared by a designer 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 chapter are met.

Post construction stormwater management guidance manual. A detailed explanation of the policies, procedures, and design criteria for complying with this chapter.

Receiving stream or channel. The body of water or conveyance into which stormwater runoff is discharged.

Recharge. The replenishment of underground water reserves through percolation.

Redevelopment. 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 paved areas, and exterior changes or improvements that do not materially increase or concentrate stormwater runoff or cause additional nonpoint source pollution.

Responsible party. 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 storm water maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

Retention. A holding system for stormwater, either natural or man-made, which does not have a direct outlet to adjoining watercourses or wetlands.

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

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.

Stormwater BMP. Any facility, structure, channel, area, process, or measure which serves to control stormwater runoff in accordance with the purposes and standards of this chapter.

Stream buffer. An area of land at or near a stream bank, wetland, or water body that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may otherwise result in significant degradation to water quality.

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.

Watershed. An area of land draining to a common outlet otherwise known as a drainage or catchment area.

Wetlands. As defined by Michigan's wetland statute, Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

[\(Ord. No. 203, 10-17-2016\)](#)

ARTICLE III. GENERAL PROVISIONS

Sec. 52-5. Applicability.

- (a) This chapter shall be applicable to all land development public or private, including city projects, (new development and redevelopment), including but not limited to, 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 [Sec. 52-6](#):
- (1) Projects that disturb one acre or more.
 - (2) Projects less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more.
- (b) The procedures and standards set forth in this chapter and the policies, procedures, and design data specified in the city's post construction stormwater management guidance manual (guidance manual) provide the minimum standards to be adhered to by developers and shall not be construed to limit the authority of the city to adopt or publish and/or enforce higher standards as a condition of approval of developments. Copies of the guidance manual shall be available to the public at the Mason City Hall. This chapter shall be construed as providing minimum standards and should be construed in conjunction with the guidance manual. All plans and construction specifications shall be approved by the city public works director or the designee of the director unless the project involves an established county drain. Projects involving an established county drain shall adhere to the requirement of the Ingham County drain commissioner.
- (c) No site plan, plot plan, or plat disturbing one acre or more shall be approved until that said development or redevelopment meets all the following:
- (1) Soil erosion and sedimentation control measures consistent with the requirements of the Ingham County drain commissioner,
 - (2) Requirements for an approved post construction stormwater management concept plan (stormwater plan) as outlined in article IV of this chapter, and
 - (3) Related land development regulations.
- (d) No certificate of occupancy for any building will be issued, unless the applicant for said certificate shall have obtained a certification of completion indicating compliance with all applicable grading plans, specifications, and requirements, this chapter, and the guidance manual.
- (e) For an existing retention or detention basin constructed prior to the effective date of this chapter, an approved stormwater plan must be secured prior to any significant expansion, repair, or maintenance of said basin.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-6. Exemptions.

- (a) Notwithstanding the requirements of [Sec. 52-5](#), a stormwater plan shall not be required for activities protected by the Right to Farm Act 93 of 1981, as amended.
- (b) The installation or removal of individual manufactured homes within a manufactured home park. This exemption shall not be construed to apply to the construction, expansion, or modification of a manufactured 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 chapter, 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 public works director.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-7. Liability.

Any person who 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, or erosion of channels connecting thereto. The requirements of this chapter and other applicable city 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 or such erosion to the maximum extent practicable.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-8. Stormwater enforcement: powers and duties of enforcing officials.

- (a) The public works director shall administer and enforce this chapter, and may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this chapter and may provide such information in the form of a guidance manual.
- (b) The guidance manual may be updated and expanded from time to time, at the discretion of the city manager and with approval of the MDEQ based on improvements in engineering, science, monitoring and local maintenance experience.
- (c) Representatives of the city 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 chapter.

[\(Ord. No. 203, 10-17-2016; Ord. 222, § 24, 12-3-2018\)](#)

ARTICLE IV. POST-CONSTRUCTION STORMWATER MANAGEMENT CONCEPT PLAN REQUIREMENTS (STORMWATER PLAN)

Sec. 52-9. Pre-application conference.

A pre-application conference may be held with the city department of public works 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's regulations, plan submittal requirements, and any additional requirements imposed on that site due to downstream restrictions.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-10. Contents of post construction stormwater management concept plan (stormwater plan).

- (a) The stormwater management concept plan (stormwater plan) shall utilize to the maximum extent practicable 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 presented as follows:
 - (1) Through plans, illustrations, reports, and calculations, the stormwater plan shall display the required information specified in the guidance manual.

- (2) The stormwater plan must be sufficiently detailed to specify the type, location, and size of stormwater management facilities, using preliminary calculations. Detailed construction drawings are not required at the stormwater plan review stage.
 - (3) If it is proposed to develop a parcel in two or more phases, the stormwater plan shall be prepared and submitted for the total project.
- (c) Plan preparation. The Stormwater plan shall be prepared by a designer in accordance with the requirements outlined in the city's post construction stormwater management guidance manual. Other persons and professionals may assist in the preparation of the plan. All plans shall be properly sealed.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-11. Standards for post construction stormwater management concept plan (stormwater plan) approval.

- (a) All developments requiring a stormwater plan shall be designed, constructed, and maintained to prevent flooding, minimize stream channel impacts, protect water quality, and achieve the purposes of this chapter, as stated above. The city has adopted performance standards to meet the objectives of managing the quantity and quality of stormwater runoff from a site as detailed below and/or in the guidance manual.
- (b) Designers may select any combination of stormwater BMPs which meet the performance standards provided the selections:
 - (1) Comply with the requirements identified in this chapter and the guidance manual;
 - (2) Comply with all other local, county, state, or federal requirements; and
 - (3) Do not conflict with the existing local stormwater management and watershed plans.
- (c) The particular facilities and measures required on-site shall take into consideration the natural features, upland areas, wetlands, and watercourses on the site; the potential for on-site and offsite adverse stormwater impacts, water pollution, and erosion; and the size of the site.
- (d) The following on-site stormwater management concepts shall be followed:
 - (1) Natural topography and site drainage shall be preserved, and site grading shall be minimized to the maximum extent reasonably achievable considering the nature of the development.
 - (2) The preferred conveyance strategy is to transport, wherever possible, untreated, and treated runoff in conveyance facilities open to the atmosphere (e.g., swales, vegetated buffer strips, energy-dissipating structures, etc.), rather than through enclosed pipes, to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants.
 - (3) Watercourses shall not be deepened, widened, dredged, cleared of vegetation, straightened, stabilized, or otherwise altered without applicable permits or approvals from the public works director, relevant county agencies and the applicable State of Michigan department(s).
 - (4) The following channel protection criteria shall be met. There shall be no net increase in runoff rate and volume 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 guidance manual.
 - (5) 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 may, in its discretion, upon the recommendation of its public works director:
 - 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 guidance manual.
 - (6) The following water quality criteria shall be met. Water quality criteria are met when:
 - a. The minimum treatment volume control criteria of one inch of runoff from the entire site is detained and
 - b. When the following total suspended solids criteria is met:
 - 1. A minimum of 80% of total suspended solids has been removed as compared with uncontrolled runoff, or

2. A maximum 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 guidance manual.

- (7) Under certain conditions, the city, upon recommendation by the public works director, may impose the following additional restrictions on stormwater discharges:
- a. Peak discharge may be further restricted when it can be shown that a probable risk to downstream structures or unique natural areas exists or that existing severe flooding problems could be negatively impacted.
 - b. Measures may be imposed to protect against ground or surface water pollution where the nature of the soils or bedrock underlying a stormwater management structure constitutes substantial risk of contamination, such as might be the case in limestone formations. Special provisions to be followed in these cases will be provided by the public works director.
 - c. Where groundwater yields are very low or where a groundwater supply already is heavily used, the city may require that the entire volume of the two-year, 24-hour rainfall event be retained and infiltrated. If substantial irrigation needs are anticipated, portions of stored stormwater may be reused for irrigation purposes.
- (8) Stormwater "credits" for onsite stormwater management may be considered in accordance with the provisions provided in the guidance manual.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-12. Stormwater management concept plan (stormwater plan) submission.

- (a) The stormwater plan shall be submitted to the department of public works for review in accordance with the requirements specified in the guidance manual, unless site plan review is required, in which case the applicant need only apply to the planning commission for site plan review pursuant to [Article VII of Chapter 94, Zoning.](#)
- (b) The public works director shall forward the stormwater plan to the city engineer for review, unless being reviewed by the planning commission in which case the zoning and development director shall forward to the city engineer.
- (c) Compliance with the requirements of this chapter does not eliminate the need for the proprietor to obtain required permits and approvals from county and state agencies.
- (d) Compliance with the requirements of this chapter does not eliminate the need for the proprietor to comply with other applicable city ordinances and regulations.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-13. Stormwater management plan review procedures.

- (a) If the proposed plan is not sufficient as originally submitted, the public works director, or the designee of the director, shall notify the applicant in writing, setting forth the reasons for withholding a recommendation for approval.
- (b) Planning commission review
 - (1) The planning commission shall apply and incorporate the department of public works review and approval of the stormwater plan prior to proceeding with its formal action on the proposed development or redevelopment.
 - (2) If the planning commission determines that all the required information has not been received, the proprietor may request that the matter be tabled to allow for the submittal of the required information.
 - (3) If all the required information has been received, the planning commission shall approve, approve with conditions, or deny approval of the development/redevelopment and its accompanying stormwater plan.
 - (4) If the stormwater plan is approved, the planning commission shall require the following as a condition of approval:

- a. Before approval of the final stormwater BMP construction plans, copies of all necessary wetland, floodplain, inland lakes and streams, erosion control or other needed state, federal, or local permits relating to stormwater management have been provided by the applicant for the city files.
- b. A satisfactory maintenance agreement in accordance with this chapter that assures long-term maintenance of all drainage improvements will be in place before approval of the final plan. Documentation of maintenance agreement will be supplied to the department of public works and approved by the public works director.
- c. Before approval of the final stormwater BMP construction plans, the applicant will post cash or a letter of credit in an amount not less than 10% of the cost of the stormwater facilities for projects of less than \$100,000 or 5% of the cost for projects over \$100,000. This maintenance guarantee will be held for one year after the date of completion of construction and final inspection of the stormwater facilities, or until construction on all phases in the development are completed, whichever time period is longer (see [Sec. 52-28](#)).
- d. This deposit will be returned to the applicant (in the case of cash) or allowed to expire (in the case of a letter of credit), as provided above, provided all stormwater facilities are clean, unobstructed, and in good working order, as determined by the public works director.
- e. Electronic files (in AutoCAD and pdf format) of the as-built storm drains and stormwater BMPs will be submitted by the applicant or his/her engineer to the department of public works along with the final plan for existing systems, or upon completion of system construction for new systems.
- f. Complete development agreements (including deed restrictions) must be submitted for the city review and approval prior to recording.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-14. Review fees.

The city council shall establish and from time to time may revise 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.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-15. Reserved for future use.

Sec. 52-16. Revision of stormwater management plan.

- (a) 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.
- (b) If the site plan, subdivision plat, or other earth change plan is revised, then the stormwater management concept plan shall also be revised and reviewed by the department of public works and/or planning commission to ensure continued compliance with all other applicable ordinances.
- (c) A minor change in the post construction stormwater management plan may be approved administratively by the public works director or the director's designee. For purposes of this section, a "minor change" shall mean a revision that does not relate to the function or intent of applicable standards.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-17. Drains under the jurisdiction of the drain commissioner.

- (a) Drainage districts will not be altered when designing development drainage, except as provided under Sections 425 or 433 of Act 40, Public Act 1956 as amended.
- (b) 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". 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.

- (c) A permit will be obtained from the Ingham County drain commissioner's office prior to discharging into, tapping, or crossing any county drain. The permit must be obtained prior to final plan approval.
- (d) Proposed relocations of county drains will be processed through the office of the drain commissioner.
[\(Ord. No. 203, 10-17-2016\)](#)

ARTICLE V. STORMWATER BEST MANAGEMENT PRACTICES (BMP) - CONSTRUCTION PLANS

Sec. 52-18. Submittal, review, and approval procedures requirements.

- (a) The applicant will submit five copies of the stormwater BMP construction plans with a letter of transmittal to the department of public works with the final site plan for the development/redevelopment.
- (b) The stormwater BMP construction plan submittal shall contain a completed application form provided by the city; the fee required by [Sec. 52-14](#); stormwater BMP construction plans that satisfies the requirements of this section and the city's post construction stormwater management guidance manual (guidance manual); a stormwater maintenance plan; and a certification stating that all requirements of the approved plan will be complied with. Failure of the owner to demonstrate that the project meets these requirements, as determined by the city, shall be reason to deny approval of the stormwater BMP construction plans.
- (c) The city engineer shall check the stormwater BMP construction plans for consistency with the post construction stormwater management concept plan (stormwater plan) and may require a revised stormwater plan if substantive changes in the site development proposal have been made.
- (d) The grading and soil erosion sedimentation control permit shall be obtained from the appropriate jurisdiction.
- (e) The stormwater BMP construction plans shall be prepared in accordance with the provisions provided in this chapter.
- (f) Construction drawings and engineering specifications shall be subject to review and approval by the department of public works in order to ensure that the construction plan conforms with the approved stormwater plan; that adequate storm drainage will be provided; that the proposed stormwater management system provides adequately for water quantity and quality management; and to ensure protection of property owners and watercourses both within the proposed development and downstream.
- (g) The following information is required to be submitted where applicable:
 - (1) A grading and soil erosion permit under "The Michigan Soil Erosion and Sedimentation Control Act", P.A. 451, Part 91 Public Acts of 1994 as amended, will be obtained from the Ingham County drain commissioner prior to any construction.
 - (2) For developments that will result in disturbance of five or more acres of land, a complete notice of coverage must be submitted to the Michigan department of environmental quality, water bureau, to have the discharge deemed authorized under a national pollutant discharge elimination system permit.
 - (3) The applicant will make arrangements acceptable to the department of public works for inspection during construction and for final verification of the construction by the designer the city engineer prior to approving certificate of occupancy.
 - (4) Review of final construction plans by the department of public works and the city engineer will not proceed until site plan approval has been granted.
 - (5) Approval of the stormwater BMP construction plans by the city is valid for one calendar year. If an extension beyond this period is needed, the applicant will submit a written request to the city for an extension. The city may grant one-year extensions of the approval and may require updated or additional information if needed. City action under this provision may be taken administratively provided that no changes to the stormwater BMP construction plans and/or standards have occurred. In the event one or more such changes have occurred, city action under this provision shall be taken by the final reviewing body. Financial guarantees pursuant to Sec. 52-13(c)(3) and deposits shall remain in place during all such extension periods.

- (6) For site condominiums, complete master deed documents (including "exhibits" drawings) must be submitted for the city's review and approval prior to recording.
- (h) No substantive changes shall be made to an approved stormwater BMP construction plan without review and written approval by the city. The department of public works may request additional data with a plan amendment as may be necessary for a complete review of the stormwater BMP construction plan and to ensure that changes to the plan will comply with the requirements of this chapter.
- (i) The stormwater BMP construction plans shall be prepared by a designer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater BMPs meet the requirements of this chapter.
- (j) The owner shall agree that all land clearing, construction, land development and drainage will be done according to the approved stormwater BMP construction plan.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-19. As-built certification.

An as-built certification for stormwater BMPs must be provided to the department of public works prior to final approval of the development. The certification shall include all the requirements noted in the guidance manual applicable to the specific project involved.

[\(Ord. No. 203, 10-17-2016\)](#)

ARTICLE VI. ENGINEERED SITE GRADING PLANS

Sec. 52-20. Contents of engineered site grading plans.

- (a) The engineered site grading and soil erosion and sedimentation control plans for a development shall be submitted by the owner to the appropriate county agency.
- (b) In addition to the requirements outlined in the engineered site grading plan shall include the following information:
 - (1) The general stormwater management scheme for the proposed development indicating how stormwater management will be provided and where drainage will outlet.
 - (2) A description of the off-site outlet and evidence of its adequacy. If no adequate watercourse exists to effectively handle a concentrated flow of water from the proposed development, discharge will be reduced to sheet flow prior to exiting the site and shall not exceed the allowable outlet rate defined in the engineering design standards. Additional volume controls may be required in such cases and/or acquisition of rights-of-way from downstream property owners receiving the stormwater flow.
 - (3) Identification of any on-site and/or off-site stormwater management facilities and appropriate easements, granted to the entity that will be responsible for future maintenance.
 - (4) Any drainage originating outside of the development limits that flows onto or across the development. (In general, drainage from off-site shall not be passed through on-site stormwater BMPs).
 - (5) Any natural watercourses, the city and county drains that traverse or about the property.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-21. Grading plan review procedures and standards.

- (a) The following standards shall be met by the applicant:
 - (1) The increased volume of water discharged from a development shall not create adverse impacts to downstream property owners, wetlands, and watercourses (e.g., flooding; excessive soil saturation; crop damage; erosion; degradation in water quality or habitat).
 - (2) Natural topography and site drainage shall be preserved, and site grading shall be minimized to the maximum extent reasonably achievable considering the nature of the development.
 - (3) Watercourses shall not be deepened, widened, dredged, cleared of vegetation, straightened, stabilized, or otherwise altered without applicable permits or approvals from the city, relevant county agencies and the applicable state department(s).

(b) Review procedures:

- (1) Engineered site grading plans shall be subject to review and approval by the public works director or his/her designee(s) to assure compliance with this chapter.
- (2) Engineered site grading plans shall be reviewed and approved by the public works director or his/her designee prior to the issuance of a building permit.
- (3) Construction plans shall be reviewed by the department of public works to ensure that the construction plan conforms to the approved post construction stormwater management concept plan.

[\(Ord. No. 203, 10-17-2016\)](#)

ARTICLE VII. CONSTRUCTION AND MAINTENANCE INSPECTION FOR PERMANENT STORMWATER MANAGEMENT BMPs

Sec. 52-22. Notice of construction commencement.

The applicant must notify the department of public works before the commencement of construction. In addition, the applicant must notify the department of public works 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.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-23. Construction inspections by city or its representatives.

The department of public works or its representatives may conduct periodic inspections of the stormwater practices shown on the approved stormwater BMP 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's stormwater management guidance manual. A final inspection by the city is required before any construction performance bond or guarantee, or portion thereof, shall be released.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-24. Maintenance inspections.

The department of public works or its representatives may conduct periodic inspections for all stormwater practices constructed as part of the approved BMP construction plans. All inspections will be documented in writing. The inspection shall document maintenance and repair needs and discrepancies from the stormwater maintenance agreement and stormwater maintenance plans. Failure to list a defect shall not relieve the owner of requirements for compliance with applicable regulations.

[\(Ord. No. 203, 10-17-2016\)](#)

ARTICLE VIII. PERFORMANCE GUARANTEES, EASEMENTS AND MAINTENANCE

Sec. 52-25. Applicability of requirements.

Requirements of this article concerning performance guarantees, easements, and maintenance agreements shall apply to owners required to submit a post construction stormwater management concept plan (stormwater plan) to the city for review and approval.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-26. Performance guarantees.

- (a) The applicant shall post an acceptable construction performance bond or irrevocable letter of credit or cash to guarantee compliance with standard construction practices and laws and with construction requirements of approved facility specific BMPs. The construction performance bond shall be in the amount of 100% of the cost of constructing the treatment train or system components. Required construction performance bonds shall be provided to the city after the stormwater plan, but prior to the final approval of the stormwater BMP construction plans and initiation of any earth change.
- (b) After determination by the public works director that all facilities are completed in compliance with the approved stormwater plan and the stormwater BMP construction plans, the posted construction performance bond remaining shall be released.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-27. Stormwater management easements.

- (a) Necessity of easements for on-site stormwater BMPs. Stormwater management easements shall be provided in a form required by the city and the city attorney (see guidance manual) and recorded as directed as part of the approval of the city to assure access for inspections; (1) access to stormwater BMPs for maintenance purposes; and (2) preservation of primary and secondary drainageways which are needed to serve stormwater management needs of other properties.
- (b) Easements for off-site stormwater BMPs. The owner shall obtain easements assuring use of and access to all areas used for off-site stormwater management, including undeveloped or undisturbed lands.
- (c) Recording of easements. Easements required by this article shall run with the land and shall be recorded with the county register of deeds according to county requirements.
- (d) Recording prior to building permit issuance. 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.
- (e) Right-of-entry. The easements must contain a provision granting the city and its representatives the right-of-entry for the purposes of conducting periodic inspections of stormwater BMPs at reasonable times and in a reasonable manner. In addition, such easements shall be deemed to include the right to enter a property when the city has a reasonable basis to believe that a violation of this chapter is occurring or has occurred and to enter when necessary, for abatement of a public nuisance or correction of a violation of this chapter.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-28. Maintenance bond.

- (a) A maintenance bond shall be provided to the city.
- (b) The maintenance bond shall be provided for a period of one year after the date of completion of construction and final inspection of the stormwater facilities, or until construction on all phases in the development are completed, whichever time period is longer.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-29. Maintenance agreement.

- (a) *Purpose of maintenance agreement.* The purpose of the maintenance agreement is to provide the means and assurance that maintenance of stormwater BMPs shall be undertaken.
- (b) *Responsible party.*
 - (1) The responsible party named in the recorded stormwater maintenance agreement shall maintain in good condition and promptly repair and restore all structural and non-structural stormwater BMPs and all necessary access routes and appurtenances. Such repairs or restoration and maintenance shall be in accordance with the approved storm water management design plan, the stormwater maintenance agreement, and the stormwater maintenance plan.
 - (2) The responsible party shall make records of installation and of all maintenance and repairs and shall retain the records for at least five years. These records shall be made available to the city during inspection of the practice and at other reasonable times upon request.

- (c) *Maintenance agreement required.*
- (1) A maintenance agreement shall be submitted to the city, for review by the public works director and his/her designee and the city attorney, for all development, and shall be subject to approval in accordance with the stormwater plan. A formal maintenance plan shall be included in the maintenance agreement.
 - (2) Maintenance agreements shall be approved by the city manager prior to final subdivision plat or condominium approval, as applicable, and prior to construction approval in other cases.
 - (3) A maintenance agreement is not required to be submitted to the city for drains that will be maintained by the county drain commissioner.
- (d) *Maintenance agreement provisions.*
- (1) The maintenance agreement shall include a plan for routine, emergency, and long-term maintenance of all stormwater BMPs, with a detailed annual estimated budget for the initial three years, and a clear statement that, except for maintenance required as a result of an emergency, only future maintenance activities in accordance with the maintenance agreement plan shall be permitted without the necessity of securing new permits. Written notice of the intent to proceed with non-routine maintenance shall be provided by the party responsible for maintenance to the department of public works at least 14 days in advance of commencing work. The property owner shall give the city a certification annually that the required maintenance has been completed.
 - (2) The maintenance agreement shall be binding on all subsequent owners of land served by the stormwater BMPs and shall be recorded in the office of the county register of deeds prior to the effectiveness of the approval of the city manager.
 - (3) If it has been found by the city manager, following notice and an opportunity to be heard by the property owner, that there has been a material failure or refusal to undertake maintenance as required under this chapter and/or as required in the approved maintenance agreement as required hereunder, the public works director shall then be authorized, but not required, to hire an entity with qualifications and experience in the subject matter to undertake the monitoring and maintenance as so required, in which event the property owner shall be obligated to advance or reimburse payment (as determined by the city) for all costs and expenses associated with such monitoring and maintenance, together with reasonable administrative fees. The maintenance agreement required under this chapter shall contain a provision spelling out this requirement and, if the applicant objects in any respect to such provision or the underlying rights and obligations, such objection shall be resolved prior to the commencement of construction of the proposed development on the property.

(Ord. No. 203, 10-17-2016; Ord. 222, § 25, 12-3-2018)

ARTICLE IX. VIOLATIONS AND REMEDIES

Sec. 52-30. Reserved for future use.

Sec. 52-31. Sanctions for violations.

- (a) Any person violating any provision of this ordinance shall be responsible for a municipal civil infraction and subject to a fine for a first offense and enhanced fines for subsequent offense(s), plus costs, damages, expenses, and other sanctions authorized by the Mason City Code and [Chapter 82-291](#) and other applicable laws, including, without limitation, equitable relief. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.

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

The city is authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this chapter.

- (b) Any person who neglects or fails to comply with a stop work order issued under this chapter shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2,500 per day or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.
- (c) Any person who aids or abets a person in a violation of this chapter shall be subject to the sanctions provided in this section.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-32. Stop work order.

- (a) Unless otherwise specified, any person violating any provision of this chapter shall be responsible for a municipal civil infraction and subject to a fine or fines provided by [Chapter 82-291](#) of the Mason City Code, including equitable remedies to enjoin such conduct.
- (b) Any person who neglects or fails to comply with a stop work notice or order issued under this chapter shall be guilty of a misdemeanor punishable as provided in [Chapter 82-291](#) of the Mason City Code.
- (c) Any person who aids or abets a person in violation of this chapter shall be subject to the sanctions provided in this section.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-33. Failure to comply; completion.

In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the city may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the city for all costs of such work, and the amount thereof, if unpaid, may be placed as a lien against the property and collected at the time and by the method available for collection of property taxes.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-34. Emergency measures.

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

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-35. Cost recovery for damage to storm drain system.

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

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-36. Collection of costs; lien.

Costs incurred by the city and the drain commissioner pursuant to this chapter shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the city treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of truces assessed upon the roll and the

enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the city or the drain commissioner shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

[\(Ord. No. 203, 10-17-2016\)](#)

Sec. 52-37. Effect of approval on remedies.

The approval or disapproval of any post construction stormwater management concept plan shall not have any effect on any remedy which may be available to any person at law or in equity.

[\(Ord. No. 203, 10-17-2016\)](#)

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