

**CHAPTER 1197**  
**Comprehensive Storm Water Management**

- 1197.01 Purpose and intent.**
- 1197.02 Definitions.**
- 1197.03 Disclaimer of liability.**
- 1197.04 Conflicts, severability, nuisances and responsibility.**
- 1197.05 Development of Comprehensive Storm Water Management Plans.**
- 1197.06 Application procedures.**
- 1197.07 Compliance with state and federal regulations.**
- 1197.08 Comprehensive Storm Water Management Plans.**
- 1197.09 Performance standards.**
- 1197.10 Alternative actions.**
- 1197.11 Easements.**
- 1197.12 Maintenance and final inspection approval.**
- 1197.13 On-going inspections.**
- 1197.14 Fees.**
- 1197.15 Bond.**
- 1197.16 Installation of water quality best management practices.**
- 1197.17 Violations.**
- 1197.18 Appeals from decisions.**
- 1197.99 Penalty.**

**1197.01 PURPOSE AND INTENT.**

The purpose of this regulation is to establish technically feasible and economically reasonable storm water management standards to achieve a level of storm water quality and quantity control that will minimize damage to property and degradation of water resources and will promote and maintain the health, safety, and welfare of the citizens of the Village of New Concord:

- (a) This regulation requires owners who develop or re-develop their property within the Village of New Concord to:
  - (1) Control storm water runoff from their property and ensure that all storm water management practices are properly designed, constructed, and maintained.
  - (2) Reduce water quality impacts to receiving water resources that may be caused by new development or redevelopment activities.
  - (3) Control the volume, rate, and quality of storm water runoff originating from their property so that surface water and ground water are protected and flooding and erosion potential are not increased.
  - (4) Minimize the need to construct, repair, and replace subsurface storm drain systems.
  - (5) Preserve natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, except in slippage prone soils.
  - (6) Incorporate storm water quality and quantity controls into site planning and design at the earliest possible stage in the development process.
  - (7) Reduce the expense of remedial projects needed to address problems caused by inadequate storm water management.
  - (8) Maximize use of storm water management practices that serve multiple purposes including, but not limited to, flood control, erosion control, fire protection, water quality protection, recreation, and habitat preservation.
  - (9) Design sites to minimize the number of stream crossings and the width of associated disturbance in order to minimize the Village of New Concord's future expenses related to the maintenance and repair of stream crossings.
  - (10) Maintain, promote, and re-establish conditions necessary for naturally occurring stream processes that assimilate pollutants, attenuate flood

flows, and provide a healthy water resource.

(c) This regulation shall apply to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways and roads; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; grading; and all other uses that are not specifically exempted in Section 1197.01.

(d) Public entities, including the State of Ohio, Muskingum County, and the Village of New Concord shall comply with this regulation for roadway projects initiated after the date upon which this Chapter becomes effective-and, to the maximum extent practicable, for projects initiated before that time.

(e) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

(f) This regulation does not require a Comprehensive Storm Water Management Plan for linear construction projects, such as pipeline or utility line installation, that do not result in the installation of impervious surface as determined by the Village Engineer. Such projects must be designed to minimize the number of stream crossings and the width of disturbance. Linear construction projects must comply with the requirements of Chapter 1199 Erosion and Sediment Control.

#### **1197.02 DEFINITIONS.**

For the purpose of this regulation, the following terms shall have the meaning herein indicated:

- (a) ACRE: A measurement of area equaling 43,560 square feet.
- (b) AS-BUILT SURVEY: A survey shown on a plan or drawing prepared by a Registered Surveyor indicating the actual dimensions, elevations, and locations of any structures, underground utilities, swales, detention facilities, and sewage treatment facilities after construction has been completed.
- (c) BEST MANAGEMENT PRACTICES (BMPs): Schedule of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements, and other practices to reduce the pollution of water resources and to control storm water volume and rate.
- (d) CLEAN WATER ACT: Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4, 33 U.S.C. 1251 et. seq. Referred to as the Federal Water Pollution Control Act or the Federal Water Pollution Control Act Amendments of 1972.
- (e) COMMUNITY: The Village of New Concord, its designated representatives, boards, or commissions.
- (f) COMPREHENSIVE STORM WATER MANAGEMENT PLAN: The written document and plans meeting the requirements of this regulation that set forth the plans and practices to minimize storm water runoff from a development area, to safely convey or temporarily store and release post-development runoff at an allowable rate to minimize flooding and stream bank erosion, and to protect or improve storm water quality and stream channels.
- (g) CRITICAL STORM: A storm that is calculated by means of the percentage increase in volume of runoff by a proposed development area. The critical storm is used to calculate the maximum allowable storm water discharge rate from a developed site.
- (h) DETENTION FACILITY: A basin, pond, oversized pipe, or other structure that reduces the peak flow rate of storm water leaving the facility by temporarily storing a portion of the storm water entering the facility.
- (i) DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

- (j) DEVELOPMENT DRAINAGE AREA: A combination of each hydraulically unique watershed with individual outlet points on the development area.
- (k) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
- (l) DRAINAGE: The removal of excess surface water or groundwater from land by surface or subsurface drains.
- (m) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.
- (n) EXTENDED CONVEYANCE: A storm water management practice that replaces and/or enhances traditional open or closed storm drainage conduits by retarding flow, promoting percolation of runoff into the soil, and filtering pollutants during the storm water quality event.
- (o) EXTENDED DETENTION: A storm water management practice that replaces and/or enhances traditional detention facilities by releasing the runoff collected during the storm water quality event over at least 24 to 48 hours, retarding flow and allowing pollutants to settle within the facility.
- (p) FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization practices, such as the use of mulches or geotextiles, have been employed.
- (q) GRADING: The process in which the topography of the land is altered to a new slope.
- (r) IMPERVIOUS COVER: Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks, and other areas not covered by vegetation.
- (s) INFILTRATION: A storm water management practice that does not discharge to a water resource during the storm water quality event, requiring collected runoff to either infiltrate into the groundwater and/or be consumed by evapotranspiration, thereby retaining storm water pollutants in the facility.
- (t) LARGER COMMON PLAN OF DEVELOPMENT: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- (u) MAXIMUM EXTENT PRACTICABLE: The level of pollutant reduction that operators of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.
- (v) NPDES: National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
- (w) NONSTRUCTURAL STORM WATER MANAGEMENT PRACTICE: Storm water runoff control and treatment techniques that use natural practices to control runoff and/or reduce pollution levels.
- (x) POST-DEVELOPMENT: The conditions that exist following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of storm water runoff.
- (y) PRE-CONSTRUCTION MEETING: Meeting prior to construction between all parties associated with the construction of the project including government agencies, contractors and owners to review agency requirements and plans as approved and submitted.
- (z) PRE-DEVELOPMENT: The conditions that exist prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of storm water runoff.
- (aa) PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio with specific education and experience in water resources engineering, acting in conformance with the Code of Ethics of the Ohio State Board of Registration for Engineers and Surveyors.
- (bb) REDEVELOPMENT: A construction project on land where impervious cover has previously been developed and where the new land use will not increase the

- runoff coefficient. If the new land use will increase the runoff coefficient, then the project is considered to be a new development project rather than a redevelopment project. (Refer to Table 1 in Section 1197.09)
- (cc) RIPARIAN AREA: Land adjacent to any brook, creek, river, or stream having a defined bed and bank that, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this regulation.
  - (dd) RIPARIAN AND WETLAND SETBACK: The real property adjacent to a water resource on which soil disturbing activities are limited.
  - (ee) RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually returned to water resources.
  - (ff) SEDIMENT: The soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
  - (gg) SEDIMENTATION: The deposition of sediment in water resources.
  - (hh) SITE OWNER/OPERATOR: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.
  - (ii) SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, increased storm water quantity and/or decreased storm water quality.
  - (jj) STABILIZATION: The use of Best Management Practices that reduce or prevent soil erosion by storm water runoff, trench dewatering, wind, ice, gravity, or a combination thereof.
  - (kk) STRUCTURAL STORM WATER MANAGEMENT PRACTICE: Any constructed facility, structure, or device that provides storage, conveyance, and/or treatment of storm water runoff.
  - (ll) WATER QUALITY VOLUME. The volume of runoff from a contributing watershed that must be captured and treated, equivalent to the maximized capture volume as defined in the American Society of Civil Engineers (ASCE) Manual and Report on Engineering Practice No. 87 and Water Environment Federation Manual of Practice No. 23 titled Urban Runoff Quality Management.
  - (mm) WATER RESOURCE: Any public or private body of water; including wetlands; the area within the ordinary high water level of lakes and ponds; as well as the area within the ordinary high water level of any brook, creek, river, or stream having a defined bed and bank (either natural or artificial) which confines and conducts continuous or intermittent flow.
  - (nn) WATER RESOURCE CROSSING: Any bridge, box, arch, culvert, truss, or other type of structure intended to convey people, animals, vehicles, or materials from one side of a watercourse to another. This does not include private, non-commercial footbridges or pole mounted aerial electric or telecommunication lines, nor does it include below grade utility lines.
  - (oo) WATERSHED: The total drainage area contributing storm water runoff to a single point.
  - (pp) WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

### **1197.03 DISCLAIMER OF LIABILITY.**

(a) Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property.

(b) By approving a Comprehensive Storm Water Management Plan under this regulation, the Village of New Concord does not accept responsibility for the design, installation, and operation and maintenance of storm water management practices, and this Chapter in no way affects the Village's political subdivision immunity under Ohio law

#### **1197.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.**

(a) Where this regulation conflicts with other provisions of law or ordinance, the most restrictive provisions, as determined by the Village Administrator shall prevail.

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

(c) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

(d) Failure of the Village of New Concord to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the Village of New Concord, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

#### **1197.05 DEVELOPMENT OF COMPREHENSIVE STORM WATER MANAGEMENT PLANS.**

(a) This regulation requires that a Comprehensive Storm Water Management Plan be developed and implemented for soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land, and on which any regulated activity of Section 1197.01(c) is proposed.

(b) The Village of New Concord shall administer this regulation, shall be responsible for determination of compliance with this regulation, and shall issue notices and orders as may be necessary. The Village of New Concord may consult with the Muskingum County SWCD, private engineers, storm water districts, or other technical experts in reviewing the Comprehensive Storm Water Management Plan.

#### **1197.06 APPLICATION PROCEDURES.**

(a) Pre-Application Meeting: The applicant shall attend a Pre-Application Meeting with the Village Engineer to discuss the proposed project, review the requirements of this regulation, identify unique aspects of the project that must be addressed during the review process, and establish a preliminary review and approval schedule.

(b) Preliminary Comprehensive Storm Water Management Plan: The applicant shall submit two (2) sets of a Preliminary Comprehensive Storm Water Management Plan (Preliminary Plan) and the applicable fees to the Village Engineer and/or the Village Administrator. The Preliminary Plan shall show the proposed property boundaries, setbacks, dedicated open space, public roads, water resources, storm water control facilities, and easements in sufficient detail and engineering analysis to allow the Village Engineer to determine if the site is laid out in a manner that meets the intent of this regulation and if the proposed storm water management practices are capable of controlling runoff from the site in compliance with this regulation. The applicant shall submit two (2) sets of the Preliminary Plan and applicable fees as follows:

(1) For subdivisions: In conjunction with the submission of the preliminary

- subdivision plan.
- (2) For other construction projects: In conjunction with the application for a zoning permit.
  - (3) For general clearing projects: In conjunction with the application for a zoning permit.

(c) Final Comprehensive Storm Water Management Plan: The applicant shall submit two (2) sets of a Final Comprehensive Storm Water Management Plan (Final Plan) and the applicable fees to the Village Engineer and/or the Village Administrator in conjunction with the submittal of the final plat, improvement plans, or application for a building or zoning permit for the site. The Final Plan shall meet the requirements of Section 1197.08, shall demonstrate compliance with the Performance Standards and requirements established in Section 1197.09, and shall be approved by the Village Engineer prior to approval of the final plat and/or before issuance of a Zoning Permit.

(d) Review and Comment: The Village Engineer and/or the Village Administrator shall review the Preliminary and Final Plans submitted, and shall approve or return for revisions with comments and recommendations for revisions. A Preliminary or Final Plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised Preliminary or Final Plan.

(e) Approval Necessary: Land clearing and soil-disturbing activities shall not begin and zoning and/or building permits shall not be issued without an approved Comprehensive Storm Water Management Plan.

(f) Valid for Two Years: Approvals issued in accordance with this regulation shall remain valid for two (2) years from the date of approval.

#### **1197.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.**

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or county agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to, those listed below. Applicants are required to show proof of compliance with these regulations before the Village of New Concord will issue a building or zoning permit.

- (a) Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.
- (b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
- (c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
- (d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project.

If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

- (1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.
  - (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
- (e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

#### **1197.08 COMPREHENSIVE STORM WATER MANAGEMENT PLANS.**

(a) Comprehensive Storm Water Management Plan Required: The applicant shall develop a Comprehensive Storm Water Management Plan describing how the quantity and quality of storm water will be managed after construction is complete for every discharge from the site and/or into a water resource. The Plan will illustrate the type, location, and dimensions of every structural and non-structural storm water management practice incorporated into the site design, and the rationale for their selection. The rationale must address how these storm water management practices will address flooding within the site as well as flooding that may be caused by the development upstream and downstream of the site. The rationale will also describe how the storm water management practices minimize impacts to the physical, chemical, and biological characteristics of on-site and downstream water resources and, if necessary, correct current degradation of water resources that is occurring or take measures to prevent predictable degradation of water resources.

(b) Preparation by Professional Engineer: The Comprehensive Storm Water Management Plan shall be prepared by a registered professional engineer and include supporting calculations, plan sheets, and design details. To the extent necessary, as determined by the Village Engineer, a site survey shall be performed by a Registered Professional Surveyor to establish boundary lines, measurements, or land surfaces.

(c) Community Procedures: The Village Engineer or the Village Administrator shall prepare and maintain procedures providing specific criteria and guidance to be followed when designing the storm water management system for the site. These procedures may be updated from time to time, at the discretion of the Village Engineer based on improvements in engineering, science, monitoring, and local maintenance experience. The Village Engineer shall make the final determination of whether the practices proposed in the Comprehensive Storm Water Management Plan meet the requirements of this regulation. The Village Engineer may also maintain a list of acceptable Best Management Practices, including the most current edition of the Mid Ohio Regional Planning Commission (MORPC) Stormwater Manual, that meet the criteria of this regulation to be used in the Village of New Concord.

(d) Contents of Comprehensive Storm Water Management Plan: The Comprehensive Storm Water Management Plan shall contain an application, narrative report, construction site plan sheets, a long-term Inspection and Maintenance Agreement, and a site description with the following information provided:

- (1) Site description:
  - A. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).
  - B. Total area of the site and the area of the site that is expected to be disturbed (i.e. grubbing, clearing, excavation, filling or grading, including off-site borrow areas).

- C. A description of prior land uses at the site.
  - D. An estimate of the impervious area and percent of imperviousness created by the soil-disturbing activity at the beginning and at the conclusion of the project.
  - E. Existing data describing the soils throughout the site, including the soil series and association, hydrologic soil group, porosity, infiltration characteristics, depth to groundwater, depth to bedrock, and any impermeable layers.
  - F. If available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.
  - G. The location and name of the immediate water resource(s) and the first subsequent water resource(s).
  - H. The aerial (plan view) extent and description of water resources at or near the site that will be disturbed or will receive discharges from the project.
  - I. Describe the current condition of water resources including the vertical stability of stream channels and indications of channel incision that may be responsible for current or future sources of high sediment loading or loss of channel stability.
- (2) Site map showing:
- A. Limits of soil-disturbing activity on the site.
  - B. Soils types for the entire site, including locations of unstable or highly erodible soils.
  - C. Existing and proposed one-foot (1') contours. This must include a delineation of drainage watersheds expected before, during, and after major grading activities as well as the size of each drainage watershed in acres.
  - D. Water resource locations including springs, wetlands, streams, lakes, water wells, and associated setbacks on or within 200 feet of the site, including the boundaries of wetlands or streams and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.
  - E. Existing and planned locations of buildings, roads, parking facilities, and utilities.
  - F. The location of any in-stream activities including stream crossings.
- (3) Contact information: Company name and contact information as well as contact name, addresses, and phone numbers for the following:
- A. The Professional Engineer who prepared the Comprehensive Storm Water Management Plan.
  - B. The site owner.
- (4) Phase, if applicable, of the overall development plan.
- (5) List of subplot numbers if project is a subdivision.
- (6) Ohio EPA NPDES Permit Number and other applicable state and federal permit numbers, if available, or status of various permitting requirements if final approvals have not been received.
- (7) Location, including complete site address and subplot number if applicable.
- (8) Location of any easements or other restrictions placed on the use of the property.
- (9) A site plan sheet showing:
- A. The location of each proposed post-construction storm water management practice.
  - B. The geographic coordinates of the site AND each proposed practice in North American Datum Ohio State Plane North.
- It is preferred that the entire site be shown on one plan sheet to allow a complete view of the site during plan review. If a smaller scale is used to accomplish this, separate sheets providing an enlarged view of areas on

- individual sheets should also be provided.
- (10) An Inspection and Maintenance Agreement. The Inspection and Maintenance Agreement required for storm water management practices under this regulation shall be between the Village of New Concord and the applicant and shall contain the following information and provisions:
- A. The location of each storm water management practice, including those practices permitted to be located in, or within 50 feet of, water resources, and identification of the drainage area served by each storm water management practice.
  - B. A schedule for regular maintenance for each aspect of the storm water management system to ensure continued performance of that system as is detailed in the approved Comprehensive Storm Water Management Plan. This schedule may include additional standards, as required by the Village of New Concord Engineer, to ensure continued performance of storm water management practices permitted to be located in, or within 50 feet of, water resources.
  - C. Identification of the landowner(s), organization, or municipality responsible for long-term maintenance, including repairs, of the storm water management practices.
  - D. The landowner(s), organization, or municipality shall maintain storm water management practices in accordance with this regulation.
  - E. The Village of New Concord may conduct inspections as necessary to verify that the storm water management practices are being maintained and operated in accordance with this regulation.
  - F. The Village of New Concord shall maintain public records of the results of site inspections, shall inform the landowner(s), organization, or municipality responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water practices into proper working condition.
  - G. If the Village of New Concord notifies the landowner(s), organization, or municipality responsible for maintenance of the maintenance problems that require correction, the specific corrective actions shall be taken within a reasonable time frame as determined by the Village of New Concord.
  - H. The Village of New Concord is authorized to enter upon the property and to perform the corrective actions identified in the inspection report if the landowner(s), organization, or municipality responsible for maintenance does not make the required corrections in the specified time period. The Village of New Concord shall be reimbursed by the landowner(s), organization, or municipality responsible for maintenance for all expenses incurred within 10 days of receipt of invoice from the Village of New Concord. The Village may pursue any and all other legal remedies if the Village is not fully reimbursed within the required time period.
  - I. The method of funding long-term maintenance and inspections of all storm water management practices.
  - J. A release of the Village of New Concord from all damages, accidents, casualties, occurrences, or claims that might arise or be asserted against the Village of New Concord from the construction, presence, existence, or maintenance of the storm water management practices.

Alteration or termination of these stipulations is prohibited. The applicant must provide a draft of this Inspection and Maintenance Agreement as part of the Comprehensive Storm Water Management Plan submittal. Once a draft is approved, a recorded copy of the Agreement must be submitted to

the Village of New Concord to receive final inspection approval of the site.

- (11) Calculations required: The applicant shall submit calculations for projected storm water runoff flows, volumes, and timing into and through all storm water management practices for flood control, channel protection, water quality, and the condition of the habitat, stability, and incision of each water resource and its floodplain, as required in Section 1197.09 of this regulation. These submittals shall be completed for both pre- and post-development land use conditions and shall include the underlying assumptions and hydrologic and hydraulic methods and parameters used for these calculations. The applicant shall also include critical storm determination and demonstrate that the runoff from upper watershed areas have been considered in the calculations.
- (12) List of all contractors and subcontractors before construction: Prior to construction or before the pre-construction meeting, provide the list of all contractors and subcontractors names, addresses, and phone numbers involved with the implementation of the Comprehensive Storm Water Management Plan including a written document containing signatures of all parties as proof of acknowledgment that they have reviewed and understand the requirements and responsibilities of the Comprehensive Storm Water Management Plan.
- (13) Existing and proposed drainage patterns: The location and description of existing and proposed drainage patterns and storm water management practices, including any related storm water management practices beyond the development area and the larger common development area.
- (14) For each storm water management practice to be employed on the development area, include the following:
  - A. Location and size, including detail drawings, maintenance requirements during and after construction, and design calculations, all where applicable.
  - B. Final site conditions including storm water inlets and permanent nonstructural and structural storm water management practices. Details of storm water management practices shall be drawn to scale and shall show volumes and sizes of contributing drainage areas.
  - C. Any other structural and/or non-structural storm water management practices necessary to meet the design criteria in this regulation and any supplemental information requested by the Village Engineer.

#### **1197.09 PERFORMANCE STANDARDS.**

(a) General: The storm water system, including storm water management practices for storage, treatment and control, and conveyance facilities, shall be designed to prevent structure flooding during the 100-year, 24-hour storm event; to maintain predevelopment runoff patterns, flows, and volumes; and to meet the following criteria:

- (1) Integrated practices that address degradation of water resources. The storm water management practices shall function as an integrated system that controls flooding and minimizes the degradation of the physical, biological, and chemical integrity of the water resources receiving storm water discharges from the site. Acceptable practices shall:
  - A. Not disturb riparian areas, unless the disturbance is intended to support a watercourse restoration project.
  - B. Maintain predevelopment hydrology and groundwater recharge on as much of the site as practicable.
  - C. Only install new impervious surfaces and compact soils where necessary to support the future land use.
  - D. Compensate for increased runoff volumes caused by new

impervious surfaces and soil compaction by reducing storm water peak flows to less than predevelopment levels. Storm water management practices that meet the criteria in this regulation, and additional criteria required by the Village Engineer shall comply with this regulation.

- (2) Practices designed for final use: Storm water management practices shall be designed to achieve the storm water management objectives of this regulation, to be compatible with the proposed post-construction use of the site, to protect the public health, safety, and welfare, and to function safely with minimal maintenance.
  - (3) Storm water management for all lots: Areas developed for a subdivision, as defined in Chapter 1117, Design Standards, shall provide storm water management for the development of all subdivided lots. This shall include provisions for lot grading and drainage that prevent structure flooding during the 100-year, 24-hour storm; and maintain, to the extent practicable, the pre-development runoff patterns, volumes, and peaks from the lot.
  - (4) Storm water facilities in water resources: Storm water management practices and related activities shall not be constructed in water resources unless the applicant shows proof of compliance with all appropriate permits from the Ohio EPA, the U.S. Army Corps, and other applicable federal, state, and local agencies as required in Section 1197.07 of this regulation, and the activity is in compliance with Chapter 1199, Erosion and Sediment Control, all as determined by the Village Engineer.
  - (5) Storm water ponds and surface conveyance channels: All storm water pond and surface conveyance designs must provide a minimum of one (1) foot freeboard above the projected peak stage within the facility during the 100-year, 24-hour storm. When designing storm water ponds and conveyance channels, the applicant shall consider public safety as a design factor and alternative designs must be implemented where site limitations would preclude a safe design.
  - (6) Exemption: The site where soil-disturbing activities are conducted shall be exempt from the requirements of Section 1197.09 if it can be shown to the satisfaction of the Village Engineer that the site is part of a larger common plan of development where the storm water management requirements for the site are provided by an existing storm water management practice, or if the storm water management requirements for the site are provided by practices defined in a regional or local storm water management plan approved by the Village Engineer.
  - (7) Maintenance: All storm water management practices shall be maintained in accordance with Inspection and Maintenance Agreements approved by the Village Engineer as detailed in Section 1197.08.
  - (8) Ownership: Unless otherwise required by the Village of New Concord, storm water management practices serving multiple lots in subdivisions shall be on a separate lot held and maintained by an entity of common ownership or, if compensated by the property owners, by the Village of New Concord. Storm water management practices serving single lots shall be placed on these lots, protected within an easement, and maintained by the property owner.
  - (9) Preservation of Existing Natural Drainage. Practices that preserve and/or improve the existing natural drainage shall be used to the maximum extent practicable. Such practices may include minimizing site grading and compaction; protecting and/or restoring water resources, riparian areas, and existing vegetation; and maintaining unconcentrated storm water runoff to and through these areas.
- (b) Storm Water Conveyance Design Criteria: All storm water management practices

shall be designed to convey storm water to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include but not be limited to:

- (1) Stream relocation or enclosure: The Village Engineer may allow the enclosure or relocation of water resources only if the applicant shows proof of compliance with all appropriate permits from the Ohio EPA, the U.S. Army Corps, and other applicable federal, state, and local agencies as required in Section 1197.07 of this regulation, and the activity is in compliance with Chapter 1199, Erosion and Sediment Control, all as determined by the Village Engineer. At a minimum, stream relocation designs must show how the project will minimize changes to the vertical stability, floodplain form, channel form, and habitat of upstream and downstream channels on and off the property.
- (2) Off-site storm water discharges: Off-site storm water runoff that discharges to or across the applicant's development site shall be conveyed through the storm water conveyance system planned for the development site at its existing peak flow rates during each design storm. Off-site flows shall be diverted around storm water quality control facilities or, if this is not possible, the storm water quality control facility shall be sized to treat the off-site flow. Comprehensive Storm Water Management Plans will not be approved until it is demonstrated to the satisfaction of the Village Engineer that off-site runoff will be adequately conveyed through the development site in a manner that does not exacerbate upstream or downstream flooding and erosion.
- (3) Sheet flow: The site shall be graded in a manner that maintains sheet flow over as large an area as possible. The maximum area of sheet flow shall be determined based on the slope, the uniformity of site grading, and the use of easements or other legally-binding mechanisms that prohibit re-grading and/or the placement of structures within sheet flow areas. In no case shall the sheet flow length be longer than 300 feet, nor shall a sheet flow area exceed 1.5 acres. Flow shall be directed into an open channel, storm sewer, or other storm water management practice from areas too long and/or too large to maintain sheet flow, all as determined by the Village Engineer.
- (4) Open channels: Unless otherwise allowed by the Village Engineer drainage tributary to storm water management practices shall be provided by an open channel with landscaped banks and designed to carry the 10 year, 24 hour storm water runoff from upstream contributory areas.
- (5) Open drainage systems: Open drainage systems shall be preferred on all new development sites to convey storm water where feasible. Storm sewer systems shall be allowed only when the site cannot be developed at densities allowed under Village of New Concord zoning or where the use of an open drainage system affects public health or safety, all as determined by the Village Engineer. The following criteria shall be used to design storm sewer systems when necessary:
  - A. Storm sewers shall be designed such that they do not surcharge from runoff caused by the 5 year, 24 hour storm, and that the hydraulic grade line of the storm sewer stays below the gutter flow line of the overlying roadway, or below the top of drainage structures outside the roadway during a 10 year, 24 hour storm. The system shall be designed to meet these requirements when conveying the flows from the contributory area within the proposed development and existing flows from offsite areas that are upstream from the development.
  - B. The minimum inside diameter of pipe to be used in public storm sewer systems is 12 inches. Smaller pipe sizes may be used in private systems, subject to the approval of the Village Engineer.
  - C. All storm sewer systems shall be designed taking into

- consideration the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency. The hydraulic grade line for the storm sewer system shall be computed with consideration for the energy losses associated with entrance into and exit from the system, friction through the system, and turbulence in the individual manholes, catch basins, and junctions within the system.
- D. The inverts of all curb inlets, manholes, yard inlets, and other structures shall be formed and channelized to minimize the incidence of quiescent standing water where mosquitoes may breed.
  - E. Full headwalls shall be required at all storm sewer inlets or outlets to and from open channels or lakes.
- (6) Water Resource Crossings. The following criteria shall be used to design structures that cross a water resource in the Village of New Concord:
- A. Water resource crossings other than bridges shall be designed to convey the stream's flow for the minimum 25 year, 24 hour storm.
  - B. Bridges, open bottom arch or spans are the preferred crossing technique and shall be considered in the planning phase of the development. Bridges and open spans should be considered for all State Scenic Rivers, coldwater habitat, exceptional warmwater habitat, seasonal salmonid habitat streams, and Class III headwater streams. The footers or piers for these bridges and open spans shall not be constructed below the ordinary high water mark.
  - C. If a culvert or other closed bottom crossing is used, twenty-five (25) percent of the cross-sectional area or a minimum of 1 foot of box culverts and pipe arches must be embedded below the channel bed.
  - D. The minimum inside diameter of pipes to be used for crossings shall be 12 inches.
  - E. The maximum slope allowable shall be a slope that produces a 10 fps velocity within the culvert barrel under design flow conditions. Erosion protection and/or energy dissipaters shall be required to properly control entrance and outlet velocities.
  - F. All culvert installations shall be designed with consideration for the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency.
  - G. Full headwalls shall be required at all culvert inlets or outlets to and from open channels or lakes.
  - H. Streams with a drainage area of 5 square miles or larger shall incorporate floodplain culverts at the bankfull elevation to restrict head loss differences across the crossing so as to cause no rise in the 100-year storm event.
  - I. Bridges shall be designed such that the hydraulic profile through a bridge shall be below the bottom chord of the bridge for either the 100 year, 24 hour storm, or the 100 year flood elevation as determined by FEMA, whichever is more restrictive.
- (7) Overland flooding: Overland flood routing paths shall be used to convey storm water runoff from the 100 year, 24 hour storm event to an adequate receiving water resource or storm water management practice such that the runoff is contained within the drainage easement for the flood routing path and does not cause flooding of buildings or related structures. The peak 100-year water surface elevation along flood routing paths shall be at least one foot below the finished grade elevation at the structure. When designing the flood routing paths, the conveyance capacity of the site's storm sewers shall be taken into consideration.
- (8) Compensatory flood storage mitigation: In order to preserve floodplain

storage volumes and thereby avoid increases in water surface elevations, any filling within floodplains approved by the Village of New Concord must be compensated by removing an equivalent volume of material. For all areas of development that do not increase the floodplain storage by 1/10th of the floodplain elevation there shall be no compensatory flood storage requirement. First consideration for the location(s) of compensatory floodplain volumes should be given to areas where the stream channel will have immediate access to the new floodplain within the limits of the development site. Consideration will also be given to enlarging existing or proposed retention basins to compensate for floodplain fill if justified by a hydraulic analysis of the contributing watershed. Unless otherwise permitted by the Village of New Concord, reductions in volume due to floodplain fills must be mitigated within the legal boundaries of the development. Embankment slopes used in compensatory storage areas must reasonably conform to the natural slopes adjacent to the disturbed area. The use of vertical retaining structures is specifically prohibited.

- (9) Velocity dissipation: Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall to provide non-erosive flow velocity from the structure to a water resource so that the natural physical and biological characteristics and functions of the water resource are maintained and protected.

(c) Storm Water Quality Control:

(1) All stormwater quality control shall be in accordance with the Ohio EPA General Permit for Stormwater Discharges Associated with Construction Activity Under the NPDES.

(d) Storm Water Management on Redevelopment Projects: Comprehensive Storm Water Management Plans for redevelopment projects shall reduce existing site impervious areas by at least 20 percent. Where site conditions prevent the reduction of impervious area, then stormwater management practices shall be implemented to provide storm water quality control facilities for at least 20 percent of the site's impervious area. When a combination of impervious area reduction and storm water quality control facilities is used, the combined area shall equal or exceed 20 percent of the site. Where conditions prevent impervious area reduction or on-site stormwater management for redevelopment projects, practical alternatives as detailed in Section 1197.10 may be approved by the Village Engineer.

**1197.10 ALTERNATIVE ACTIONS.**

(a) When the Village of New Concord determines that site constraints compromise the intent of this regulation, off-site alternatives may be used that result in an improvement of water quality and a reduction of storm water quantity. Such alternatives shall meet the following standards:

- (1) Shall achieve the same level of storm water quantity and quality control that would be achieved by the on-site controls required under this regulation.
- (2) Implemented in the drainage area of the proposed development project to the maximum extent practicable.

(b) Alternative actions may include, but are not limited to the following. All alternative actions shall be approved by the Village Engineer and/or the Village Administrator:

- (1) Fees, in an amount specified by the Village of New Concord to be applied to community-wide storm water management practices.
- (2) Implementation of off-site storm water management practices and/or the retrofit of an existing practice to increase quality and quantity control.
- (3) Stream, floodplain, or wetland restoration.

- (4) Acquisition or conservation easements on protected open space significantly contributing to storm water control such as wetland complexes.

#### **1197.11 EASEMENTS.**

Access to storm water management practices as required by the Village Engineer and/or Village Administrator for inspections and maintenance shall be secured by easements. The following conditions shall apply to all easements:

- (a) Easements shall be included in the Inspection and Maintenance Agreement submitted with the Comprehensive Storm Water Management Plan.
- (b) Easements shall be approved by the Village of New Concord prior to approval of a final plat and shall be recorded with the Muskingum County Recorder and on all property deeds.
- (c) Unless otherwise required by the Village Engineer, access easements between a public right-of-way and all storm water management practices shall be no less than 25-feet wide. The easement shall also incorporate the entire practice plus an additional 25-foot wide band around the perimeter of the storm water management practice.
- (d) The easement shall be graded and/or stabilized as necessary to allow maintenance equipment to access and manipulate around and within each facility, as defined in the Inspection and Maintenance Agreement for the site.
- (e) Easements to structural storm water management practices shall be restricted against the construction therein of buildings, fences, walls, and other structures that may obstruct the free flow of storm water and the passage of inspectors and maintenance equipment; and against the changing of final grade from that described by the final grading plan approved by the Village of New Concord. Any re-grading and/or obstruction placed within a maintenance easement may be removed by the Village of New Concord at the property owners' expense.

#### **1197.12 MAINTENANCE AND FINAL INSPECTION APPROVAL.**

To receive final inspection and acceptance of any project, or portion thereof, the following must be completed and provided to the Village Engineer:

- (a) Final stabilization must be achieved and all permanent storm water management practices must be installed and made functional, as determined by the Village Engineer and per the approved Comprehensive Storm Water Management Plan.
- (b) An As-Built Certification, including a Survey and Inspection, must be sealed, signed and dated by a Professional Engineer and a Professional Surveyor with a statement certifying that the storm water management practices, as designed and installed, meet the requirements of the Comprehensive Storm Water Management Plan approved by the Village Engineer. In evaluating this certification, the Village Engineer may require the submission of a new set of storm water practice calculations if he/she determines that the design was altered significantly from the approved Comprehensive Storm Water Management Plan. The As-Built Survey must provide the location, dimensions, and bearing of such practices and include the entity responsible for long-term maintenance as detailed in the Inspection and Maintenance Agreement.
- (c) A copy of the complete and recorded Inspection and Maintenance Agreement as specified in Section 1197.08 must be provided to the Village Engineer

#### **1197.13 ON-GOING INSPECTIONS.**

The Village of New Concord may inspect storm water management practices periodically. Upon finding a malfunction or other need for maintenance, the Village of New Concord shall provide written notification to the responsible party, as detailed in the Inspection and Maintenance Agreement, of the need for maintenance. Upon notification, the responsible party shall have ten (10) working days, or other mutually agreed upon time, to makes repairs or

submit a plan with detailed action items and established timelines. Should repairs not be made within this time, or a plan approved by the Village Engineer for these repairs not be in place, the Village of New Concord may undertake the necessary repairs and assess the responsible party.

#### **1197.14 FEES.**

The Comprehensive Storm Water Management Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the Village of New Concord before the review process begins. The Village Engineer and/or Village Administrator shall establish a fee schedule based upon the actual estimated cost for providing these services.

#### **1197.15 BOND.**

(a) If a Comprehensive Storm Water Management Plan is required by this regulation, soil-disturbing activities shall not be permitted until a surety bond of 100% of the total stormwater management project cost, has been deposited with the Village of New Concord Finance Department. This surety bond shall be posted for the Village of New Concord to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The stormwater bond will be returned, less Village of New Concord administrative fees as detailed in Section 1135.01, Zoning Fees of the Village of New Concord Codified Ordinances, when the following three criteria are met:

- (1) After 80% of the lots of the project have been complete or 100% of the total project has been permanently stabilized or three (3) years from the time of permanent stabilization have passed.
- (2) An As Built Inspection of all water quality practices is conducted by the Village Engineer.
- (3) A Inspection and Maintenance Agreement signed by the developer, the contractor, the Village of New Concord, and the private owner or homeowners association, who will take long term responsibility for these BMPs, is accepted by the Village Engineer.

(b) Once these criteria are met, the applicant shall be reimbursed all bond monies that were not used for any part of the project. If all of these criteria are not met after three years of permanent stabilization of the site, the Village of New Concord may use the bond monies to fix any outstanding issues with all storm water management structures on the site and the remainder of the bond shall be given to the private lot owner/ homeowners association for the purpose of long-term maintenance of the project.

#### **1197.16 INSTALLATION OF WATER QUALITY BEST MANAGEMENT PRACTICES.**

The applicant may not direct runoff through any water quality structures, or portions thereof that would be degraded by construction site sediment until the entire area tributary to the structure has reached final stabilization as determined by the Village Engineer. This occurs after the completion of the final grade at the site, after all of the utilities are installed, and the site is subsequently stabilized with vegetation or other appropriate methods. The developer must provide documentation acceptable to the Village Engineer to demonstrate that the site is completely stabilized. Upon this proof of compliance, the water quality structure(s) may be completed and placed into service. Upon completion of installation of these practices, all disturbed areas and/or exposed soils caused by the installation of these practices must be stabilized within 2 days.

#### **1197.17 VIOLATIONS.**

No person shall violate or cause or knowingly permit to be violated any of the provisions

of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

**1197.18 APPEALS FROM DECISIONS.**

(a) Any person aggrieved by any order, requirement, determination, or any other action or inaction may appeal the decision to the Planning and Zoning Commission by filing a written notice of appeal with the Village Clerk not later than ten (10) days after the decision is delivered by personal service or postmarked by the U.S. mail, postage prepaid, return-receipt requested, to the person seeking to appeal.

(b) At the time of filing the notice of appeal, if the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the weight of the evidence, the appellant shall include in the record all evidence relevant to the findings or conclusion.

(c) A person who intends to appear at the appeal hearing as an appellee may file with the Clerk additional parts of the record at any time before the hearing.

**1197.99 PENALTY.**

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars (\$500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The imposition of any other penalties provided herein shall not preclude the Village of New Concord instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the Village of New Concord.

**CHAPTER 1198**  
**Illicit Discharge and Illegal Connection Control**

- 1198.01 Purpose and intent.**
- 1198.02 Applicability.**
- 1198.03 Definitions.**
- 1198.04 Disclaimer of liability.**
- 1198.05 Conflicts, severability, nuisances and responsibility.**
- 1198.06 Responsibility for administration.**
- 1198.07 Discharge and connection prohibitions.**
- 1198.08 Monitoring of illicit discharges and illegal connections.**
- 1198.09 Enforcement.**
- 1198.10 Remedies not exclusive.**

**1198.01 PURPOSE AND INTENT.**

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the Village of New Concord through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This regulation establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:

- (a) To prohibit illicit discharges and illegal connections to the MS4.
- (b) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.

**1198.02 APPLICABILITY.**

This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the Village of New Concord, except for those discharges generated by the activities detailed in Section 1198.07(a)(1) to (a)(3) of this regulation.

**1198.03 DEFINITIONS.**

(a) The words and terms used in this regulation, unless otherwise expressly stated, shall have the following meaning:

- (1) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (2) "Community" means the Village of New Concord, its designated representatives, boards, or commissions.
- (3) "Environmental Protection Agency or United States Environmental Protection Agency (USEPA)" means the United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA), or any duly authorized official of said agency.
- (4) "Floatable Material" means, in general terms, any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.
- (5) "Hazardous Material" means any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or

- physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (6) "Illicit Discharge" as defined at 40 C.F.R. 122.26 (b)(2) means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a NPDES permit or noted in Section 1198.07 of this regulation.
  - (7) "Illegal Connection" means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.
  - (8) "Municipal Separate Storm Sewer System (MS4)" as defined at 40 C.F.R. 122.26 (b)(8), municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
    - A. Owned or operated by a State, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over sewage, industrial wastes, including special districts under State law such as a sewer district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States.
    - B. Designed or used for collecting or conveying storm water;
    - C. Which is not a combined sewer; and
    - D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.
  - (9) "National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area wide basis.
  - (10) "Off-Lot Discharging Household Sewage Treatment System" means a system designed to treat household sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.
  - (11) "Owner/Operator" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.
  - (12) "Pollutant" means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.
  - (13) "Storm Water" any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
  - (14) "Wastewater" The spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

**1198.04 DISCLAIMER OF LIABILITY.**

Compliance with the provisions of this regulation shall not relieve any person from

responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property, and this Chapter in no way affects the Village's political subdivision immunity under Ohio law.

#### **1198.05 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.**

(a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the Village of New Concord, shall prevail.

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

(c) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

(d) Failure of the Village of New Concord to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the Village of New Concord, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

#### **1198.06 RESPONSIBILITY FOR ADMINISTRATION.**

The Village of New Concord shall administer, implement, and enforce the provisions of this regulation. The Village of New Concord may contract with the Muskingum County Board of Health to conduct inspections and monitoring and to assist with enforcement actions.

#### **1198.07 DISCHARGE AND CONNECTION PROHIBITIONS.**

(a) Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, an illicit discharge into the MS4. The commencement, conduct, or continuance of any illicit discharge to the MS4 is prohibited except as described below:

- (1) Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by the Village of New Concord to be significant contributors of pollutants to the MS4.
- (2) Discharges specified in writing by the Village of New Concord as being necessary to protect public health and safety.
- (3) Discharges from off-lot discharging household sewage treatment systems existing prior to January 1, 2007 and permitted by the Muskingum County Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29, or other applicable Muskingum County Board of Health regulations, until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for household sewage treatment systems existing prior to January 1, 2007. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Muskingum County Board of Health. Discharges from new or replacement off-lot household sewage treatment systems installed after January 1, 2007 are not exempt from the requirements of this regulation.

In compliance with the Village of New Concord Storm Water Management Program, discharges from all off-lot discharging household sewage treatment systems must either be eliminated or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available for systems existing prior to January 1, 2007, discharges from off-lot discharging household sewage treatment systems existing prior to January 1, 2007 will no longer be exempt from the requirements of this regulation.

(b) Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.

- (1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.

#### **1198.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS.**

(a) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The Village of New Concord shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. This program shall include the mapping of the MS4, including MS4 outfalls and household sewage treatment systems; the routine inspection of storm water outfalls to the MS4, and the systematic investigation of potential residential, commercial, industrial, and institutional facilities for the sources of any dry weather flows found as the result of these inspections.

(b) Inspection of Residential, Commercial, Industrial, or Institutional Facilities.

- (1) The Village of New Concord shall be permitted to enter and inspect Facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.
- (2) The Village of New Concord shall have the right to set up at facilities subject to this regulation such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the Village of New Concord.
- (3) The Village of New Concord shall have the right to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner/operator's expense. All devices used to measure storm water flow and quality shall be calibrated by the Village of New Concord to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the Village of New Concord and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.
- (5) Unreasonable delays in allowing the Village of New Concord access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.
- (6) If the Village of New Concord is refused access to any part of the facility from which storm water is discharged, and the Village of New Concord demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this

- regulation or any order issued hereunder, or to protect the public health, safety, and welfare, the Village of New Concord may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.
- (7) Any costs associated with these inspections shall be assessed to the facility owner/operator.

#### **1198.09 ENFORCEMENT.**

(a) Notice of Violation. When the Village of New Concord finds that a person has violated a prohibition or failed to meet a requirement of this regulation, the Village of New Concord may order compliance by written Notice of Violation. Such notice must specify the violation and shall be hand delivered, and/or sent by certified mail, to the owner/operator of the facility. Such notice may require one or more of the following actions:

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

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

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

(d) Administrative Hearing: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the Village of New Concord shall schedule an administrative hearing with the Planning and Zoning Commission to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent by registered mail.

(e) Injunctive Relief: It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation pursuant to Ohio R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of this regulation, the Village of New Concord may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.

#### **1198.10 REMEDIES NOT EXCLUSIVE.**

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

**CHAPTER 1199**  
**Erosion and Sediment Control**

- 1199.01 Purpose and intent.**
- 1199.02 Definitions.**
- 1199.03 Disclaimer of liability.**
- 1199.04 Conflicts, severability, nuisances and responsibility.**
- 1199.05 Development of Storm Water Pollution Prevention Plans.**
- 1199.06 Application procedures.**
- 1199.07 Compliance with state and federal regulations.**
- 1199.08 Storm water pollution prevention plan.**
- 1199.09 Performance standards.**
- 1199.10 Fees.**
- 1199.11 Bond.**
- 1199.12 Enforcement.**
- 1199.13 Violations.**
- 1199.14 Appeals from decisions.**
- 1199.99 Penalty.**

**1199.01 PURPOSE AND INTENT.**

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of Village of New Concord:

- (b) This regulation will:
- (1) Allow development while minimizing increases in erosion and sedimentation.
  - (2) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

(c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section 1199.01(d).

(d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

**1199.02 DEFINITIONS.**

(a) For the purpose of these Erosion and Sediment Control Regulations, the following terms are defined:

- (1) "Acre" means a measurement of area equaling 43,560 square feet.
- (2) "Best management practices (BMPs)" means a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.
- (3) "Community" throughout this regulation, shall refer to Village of New Concord, its designated representatives, boards, or commissions.
- (4) "Construction entrance" means the permitted points of ingress and egress to development areas regulated under this regulation.
- (5) "Development area" means a parcel or contiguous parcels owned by one

- person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.
- (6) "Disturbed area" means an area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
  - (7) "Drainage" means:
    - A. The area of land contributing surface water to a specific point.
    - B. The removal of excess surface water or groundwater from land by surface or subsurface drains.
  - (8) "Erosion" means the process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.
  - (9) "Erosion and sediment control" means the control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.
  - (10) "Final stabilization" means all soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.
  - (11) "Landscape Architect" means a Professional Landscape Architect registered in the State of Ohio.
  - (12) "Larger common plan of development or sale" means a contiguous area where multiple separate and distinct construction activities may take place at different times on different schedules under one plan.
  - (13) "Maximum extent practicable" means the level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.
  - (14) "NPDES" means the National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
  - (15) "Parcel" means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the Muskingum County Auditor's Office.
  - (16) "Person" means any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.
  - (17) "Phasing" means clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
  - (18) "Professional Engineer" means a Professional Engineer registered in the State of Ohio.
  - (19) "Qualified inspection personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls, who possess the skills to assess all conditions at the construction site that could impact storm water quality and to assess the effectiveness of any sediment and erosion control measure selected to control the quality of storm water discharges from the construction activity.
  - (20) "Rainwater and land development" means Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall be used with this regulation.
  - (21) "Runoff" means the portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water

- resources or wetlands.
- (22) "Sediment" means the soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.
  - (23) "Sedimentation" means the deposition or settling of sediment.
  - (24) "Setback" means a designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. Soil disturbing activities in this area are restricted by this regulation.
  - (25) "Soil disturbing activity" means clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.
  - (26) "Soil and Water Conservation District" means an entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Muskingum County SWCD.
  - (27) "Stabilization" means the use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.
  - (28) "Storm Water Pollution Prevention Plan (SWP3)" means the written document that sets forth the plans and practices to be used to meet the requirements of this regulation.
  - (29) "Surface waters of the State" means all streams, lakes, reservoirs, marshes, wetlands, or other waterways situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.
  - (30) "Unstable soils" means a portion of land that is identified by the Municipal Engineer as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.
  - (31) "Water resource" means any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.
  - (32) "Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

#### **1199.03 DISCLAIMER OF LIABILITY.**

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property, and this Chapter in no way affects the Village's political subdivision immunity under Ohio law.

#### **1199.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.**

(a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the Village of New Concord, shall prevail.

(b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be

affected thereby.

(c) This regulation shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

(d) Failure of the Village of New Concord to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the Village of New Concord, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

#### **1199.05 DEVELOPMENT OF STORM WATER POLLUTION PREVENTION PLANS.**

(a) This regulation requires that a Storm Water Pollution Prevention Plan be developed and implemented for all parcels of one (1) acre or more and on which any regulated activity of Section 1199.01(b) is proposed.

(b) Activities disturbing one acre or less are not required to submit a Storm Water Pollution Prevention Plan. These activities must comply with all other provisions of this regulation.

#### **1199.06 APPLICATION PROCEDURES.**

(a) Soil disturbing activities submitting a storm water pollution prevention plan: The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the Village of New Concord as follows:

- (1) For subdivisions: After the approval of the preliminary plans and with submittal of the improvement plans.
- (2) For other construction projects: Before issuance of a zoning permit by the Zoning Inspector.
- (3) For general clearing projects: Prior to issuance of a zoning permit by the Zoning Inspector.

(b) The Village of New Concord shall review the plans submitted under 1199.06(a) for conformance with this regulation and approve, or return for revisions with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan.

(c) Soil disturbing activities shall not begin and zoning permits shall not be issued without an approved SWP3.

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

(e) Approvals issued in accordance with this regulation shall remain valid for one (1) year from the date of approval.

#### **1199.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.**

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these state and federal regulations and shall be submitted with Storm Water Pollution Prevention Plans.

(a) Ohio EPA NPDES Permits authorizing storm water discharges associated with

construction activity or the most current version thereof. Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.

- (b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
- (c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
- (d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
  - (1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.
  - (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
- (e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

#### **1199.08 STORM WATER POLLUTION PREVENTION PLAN.**

(a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit a SWP3 in accordance with the requirements of this regulation.

(b) The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The SWP3 shall incorporate measures as recommended by the most current edition of Rainwater and Land Development as published by the Ohio Department of Natural Resources and shall include the following information:

- (1) Site description: The SWP3 shall provide:
  - A. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).
  - B. Total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavation, filling or grading, including off-site borrow areas).
  - C. An estimate of the impervious area and percent of imperviousness created by the soil-disturbing activity.
  - D. Existing data describing the soil and, if available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.

- E. A description of prior land uses at the site.
- F. An implementation schedule which describes the sequence of major soil-disturbing operations (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation of the sequence.
- G. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s).
- H. The aerial (plan view) extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project.
- I. For subdivided developments where the SWP3 does not call for a centralized sediment control capable of controlling multiple individual lots, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices.
- J. Location and description of any storm water discharges associated with dedicated asphalt and dedicated concrete plants associated with the development area and the best management practices to address pollutants in these storm water discharges.
- K. Site map showing:
  1. Limits of soil-disturbing activity of the site, including off site spoil and borrow areas.
  2. Soils types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.
  3. Existing and proposed one-foot (1') contours. This must include a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed in acres.
  4. Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.
  5. Existing and planned locations of buildings, roads, parking facilities, and utilities.
  6. The location of all erosion and sediment control practices, including the location of areas likely to require temporary stabilization during the course of site development.
  7. Sediment ponds, including their sediment settling volume and contributing drainage area.
  8. Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including Dumpster areas, areas designated for cement truck washout, and vehicle fueling.
  9. The location of designated stoned construction entrances where the vehicles will ingress and egress the construction site.
  10. The location of any in-stream activities including stream crossings.

(2) A soils engineering report. The Village of New Concord Engineer may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings, and shall contain all the information listed below.

Recommendations included in the report and approved by the Village of

Granville Engineer shall be incorporated in the grading plans and/or other specifications for site development.

- A. Data regarding the nature, distribution, strength, and erodibility of existing soils.
- B. If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.
- C. Conclusions and recommendations for grading procedures.
- D. Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction are completed.
- E. Design criteria for corrective measures when necessary.
- F. Opinions and recommendations covering the stability of the site.

**1199.09 PERFORMANCE STANDARDS.**

The SWP3 must contain a description of the controls appropriate for each construction operation and the applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the contractor responsible for implementation (e.g., contractor A will clear land and install perimeter controls and contractor B will maintain perimeter controls until final stabilization). The SWP3 shall identify all subcontractors engaged in activities that could impact storm water runoff. The SWP3 shall contain signatures from all of the identified subcontractors indicating that they have been informed and understand their roles and responsibilities in complying with the SWP3.

The controls shall include the following minimum components:

- (a) Non-Structural Preservation Measures. The SWP3 must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing or grubbing practices.
- (b) Erosion Control Practices. The SWP3 must make use of erosion controls that are capable of providing cover over disturbed soils. A description of control practices designed to restabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover.

Erosion control practices must meet the following requirements:

- (1) Stabilization. Disturbed areas must be stabilized as specified in Tables 1 and 2 below.

**Table 1: Permanent Stabilization**

<b>Area requiring permanent stabilization</b>	<b>Time frame to apply erosion controls</b>
Any area that will lie dormant for one year or more.	Within 7 days of the most recent disturbance.
Any area within 50 feet of a stream and at final grade.	Within 2 days of reaching final grade.
Any area at final grade.	Within 7 days of reaching final grade within that area.

**Table 2: Temporary Stabilization**

Area requiring temporary stabilization	Time frame to apply erosion controls
Any disturbed area within 50 feet of a stream and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 21 days.
For all construction activities, any disturbed area, including soil stockpiles that will be dormant for more than 21 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area.
Disturbed areas that will be idle over winter	Prior to November 1.
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

- (2) Permanent stabilization of conveyance channels. Applicants shall undertake special measures to stabilize channels and outfalls and prevent erosive flows. Measures may include seeding, dormant seeding, mulching, erosion control matting, sodding, riprap, natural channel design with bioengineering techniques, or rock check dams, all as defined in the most recent edition of Rainwater and Land Development or the Field Office Technical Guide available at [www.nrcs.usda.gov/technical/efotg/](http://www.nrcs.usda.gov/technical/efotg/).
- (c) Runoff Control Practices. The SWP3 shall incorporate measures that control the flow of runoff from disturbed areas so as to prevent erosion. Such practices may include rock check dams, pipe slope drains, diversions to direct flow away from exposed soils and protective grading practices. These practices shall divert runoff away from disturbed areas and steep slopes where practicable.
- (d) Sediment Control Practices. The SWP3 shall include a description of, and detailed drawings for, all structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. Such practices may include, among others: sediment settling ponds, silt fences, storm drain inlet protection, and earth diversion dikes or channels which direct runoff to a sediment settling pond. All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond.  
Sediment control practices must meet the following requirements:
- (1) Timing. Sediment control structures shall be functional throughout the course of earth disturbing activity. Sediment basins and perimeter sediment barriers shall be implemented prior to grading and within seven

- (7) days from the start of grubbing. They shall continue to function until the up slope development area is restabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.
- (2) Sediment settling ponds. A sediment settling pond, or equivalent best management practice upon approval from the Village of New Concord Engineer, is required for any one of the following conditions, as determined in Table 3 below:
- A. Concentrated storm water runoff.
  - B. Runoff from drainage areas that exceeds the design capacity of silt fence or inlet protection.
  - C. 10-acres of disturbed drainage.
- The sediment-settling pond shall provide both a sediment storage zone and a dewatering zone. The volume of the dewatering zone shall be at least 67 cubic yards of storage per acre of total contributing drainage area and have a minimum of 48-hour drain time for sediment basins serving a drainage area over 5 acres.
- The volume of the sediment storage zone shall be calculated by one of the following methods:
- A. The volume of the sediment storage zone shall be 1000 feet, three (3) per disturbed acre within the watershed of the basin.
  - B. The volume of the sediment storage zone shall be the volume necessary to store the sediment as calculated with a generally accepted erosion prediction model. When determining the total contributing drainage area, off-site areas and areas which remain undisturbed by construction activity must be included unless runoff from these areas is diverted away from the sediment settling pond and is not co-mingled with sediment-laden runoff. The depth of the dewatering zone must be less than or equal to five (5) feet. The configuration between the inlets and the outlet of the basin must provide at least two units of length for each one unit of width (>2:1 length: width ratio), however a length to width ration of 4:1 is recommended. Sediment must be removed from the sediment-settling pond when the design capacity has been reduced by 40 percent. This limit is typically reached when sediment occupies one-half of the basin depth. When designing sediment settling ponds, the applicant must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls must be used where site limitations would preclude a safe design. The use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal is encouraged.
- (3) Silt fence and diversions. Sheet flow runoff from denuded areas shall be intercepted by silt fence or diversions to protect adjacent properties, water resources, and wetlands from sediment transported via sheet flow. Where intended to provide sediment control, silt fence shall be placed on a level contour and shall be capable of temporarily ponding runoff. The relationship between the maximum drainage area to silt fence for a particular slope range is shown in Table 3 below. Storm water diversion practices shall be used to keep runoff away from disturbed areas and steep slopes. Such devices, which include swales, dikes or berms, may receive storm water runoff from areas up to 10 acres. Placing silt fence in parallel does not extend the permissible drainage area to the silt fence.

**Table 3: Maximum Drainage Area to Silt Fence**

Maximum Drainage Area (acres) to 100 linear feet of silt fence	Range of Slope for a drainage area (%)
0.5	<2%
0.25	≥2% but < 20%
0.125	≥20% but < 50%

- (4) Inlet protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize sediment-laden water entering active storm drain systems. All inlets receiving runoff from drainage areas of one or more acres will require a sediment settling pond. Straw or hay bales are not acceptable forms of inlet protection.
- (5) Off-site tracking of sediment and dust control. Best management practices must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These best management practices must include, but are not limited to, the following:
- A. Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of the Rainwater and Land Development Manual.
  - B. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall also be cleaned weekly.
- Based on site conditions, the Village of New Concord Engineer may require additional best management practices to control off site tracking and dust.
- These additional BMPs may include:
- 1. Silt fence or construction fence installed around the perimeter of the development area to ensure that all vehicle traffic adheres to designated construction entrances.
  - 2. Designated wheel-washing areas. Wash water from these areas must be directed to a designated sediment trap, the sediment-settling pond, or to a sump pump for dewatering in conformance with Section 1199.09(g) of this regulation.
  - 3. Applicants shall take all necessary measures to comply with applicable regulations regarding fugitive dust emissions, including obtaining necessary permits for such emissions. The Village of New Concord Engineer may require dust controls including the use of water trucks to wet disturbed areas, tarping stockpiles, temporary stabilization of disturbed areas, and regulation of the speed of vehicles on the site.
- (6) Surface Waters of the State protection. Construction vehicles shall avoid water resources and wetlands. If the applicant is permitted to disturb areas within 50 feet of a water resource or wetland, the following conditions shall be addressed in the SWP3:
- A. All BMPs and stream crossings shall be designed as specified in the most recent edition of the Rainwater and Land Development Manual.

- B. Structural practices shall be designated and implemented on site to protect water resources or wetlands from the impacts of sediment runoff.
  - C. No structural sediment controls (e.g., the installation of silt fence or a sediment settling pond in-stream) shall be used in a water resource or wetland.
  - D. Where stream crossings for roads or utilities are necessary and permitted, the project shall be designed such that the number of stream crossings and the width of the disturbance are minimized.
  - E. Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.
  - F. Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.
- (7) Modifying controls. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the applicant shall replace or modify the control for site conditions.
- (e) Non-Sediment Pollutant Controls: No solid or liquid waste, including building materials, shall be discharged in storm water runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands. These practices shall include but are not limited to the following:
- (1) Waste Materials: A covered Dumpster shall be made available for the proper disposal of garbage, plaster, drywall, grout, gypsum, and other waste materials.
  - (2) Concrete Truck Wash Out: The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be made available.
  - (3) Fuel/Liquid Tank Storage: All fuel/liquid tanks and drums shall be stored in marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of all containers in the storage area.
  - (4) Toxic or Hazardous Waste Disposal: Any toxic or hazardous waste shall be disposed of properly.
  - (5) Contaminated Soils Disposal and Runoff: Contaminated soils from redevelopment sites shall be disposed of properly. Runoff from contaminated soils shall not be discharged from the site. Proper permits shall be obtained for development projects on solid waste landfill sites or redevelopment sites.
- (f) Compliance with Other Requirements. The SWP3 shall be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.
- (g) Trench and Ground Water Control. There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternately, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.
- (h) Internal Inspections. All controls on the site shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-

half inch of rain per 24-hour period. The inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized or runoff is unlikely due to weather conditions (e.g., site is covered with snow, ice, or the ground is frozen). A waiver of inspection requirements is available until one month before thawing conditions are expected to result in a discharge if prior written approval has been attained from the Village of New Concord Engineer and all of the following conditions are met:

- (1) The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e. more than one (1) month).
- (2) Land disturbance activities have been suspended, and temporary stabilization is achieved.
- (3) The beginning date and ending dates of the waiver period are documented in the SWP3.

The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required. Qualified inspection personnel are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls.

These inspections shall meet the following requirements:

- A. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for, pollutants entering the drainage system.
- B. Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly. The applicant shall utilize an inspection form provided by the Village of New Concord or an alternate form acceptable to the Village of New Concord Engineer. The inspection form shall include:
  1. The inspection date.
  2. Names, titles and qualifications of personnel making the inspection.
  3. Weather information for the period since the last inspection, including a best estimate of the beginning of each storm event, duration of each storm event and approximate amount of rainfall for each storm event in inches, and whether any discharges occurred.
  4. Weather information and a description of any discharges occurring at the time of inspection.
  5. Locations of:
    - a. Discharges of sediment or other pollutants from site.
    - b. BMPs that need to be maintained.
    - c. BMPs that failed to operate as designed or proved inadequate for a particular location.
    - d. Where additional BMPs are needed that did not exist at the time of inspection.
  6. Corrective action required including any necessary changes to the SWP3 and implementation dates.
- C. Discharge locations shall be inspected to determine whether erosion and sediment control measures are effective in preventing significant impacts to the receiving water resource or wetlands.
- D. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.
- E. The applicant shall maintain for three (3) years, following final stabilization, the results of these inspections, the names and qualifications of personnel making the inspections, the dates of inspections, major observations relating to the implementation of the SWP3, a certification as to whether the facility is in compliance

with the SWP3, and information on any incidents of non-compliance determined by these inspections.

- (i) Maintenance. The SWP3 shall be designed to minimize maintenance requirements. All control practices shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the Village of New Concord Engineer.

When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

- (1) When practices require repair or maintenance. If an internal inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.
- (2) When practices fail to provide their intended function. If an internal inspection reveals that a control practice fails to perform its intended function as detailed in the SWP3 and that another, more appropriate control practice is required, the SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.
- (3) When practices depicted on the SWP3 are not installed. If an internal inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.
- (4) Final Stabilization. Final stabilization shall be determined by the Village of New Concord Engineer. Once a definable area has achieved final stabilization, the applicant may note this on the SWP3 and no further inspection requirement applies to that portion of the site.

#### **1199.10 FEES.**

The Storm Water Pollution Prevention Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the Village of New Concord before the review process begins. Please consult with Village of New Concord Engineer and/or the Village Administrator for current fee schedule.

#### **1199.11 BOND.**

(a) If a Storm Water Pollution Prevention Plan is required by this regulation, soil disturbing activities shall not be permitted until a surety bond has been deposited with the Village of New Concord Finance Department per Section 1197.15 of the Codified Ordinances. The bond will be used for the Village of New Concord to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The surety bond shall be returned, less Village of New Concord administrative fees as detailed in Section 1127.08, Zoning Fees of the Village of New Concord Codified Ordinances, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the Village of New Concord Engineer.

(b) No project subject to this regulation shall commence without approval by the Village of New Concord Engineer.

**1199.12 ENFORCEMENT.**

(a) All development areas may be subject to external inspections by the Village of New Concord to ensure compliance with the approved SWP3.

(b) After each external inspection, the Village of New Concord shall prepare and distribute a status report to the applicant.

(c) If an external inspection determines that operations are being conducted in violation of the approved SWP3 the Village of New Concord may take action as detailed in Section 1199.13 of this regulation.

**1199.13 VIOLATIONS.**

(a) No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

(b) Upon notice, the Village Administrator and/or his/her designee may suspend any active soil disturbing activity for a period not to exceed ninety (90) days, and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this regulation. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the Mayor and/or designee finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

**1199.14 APPEALS FROM DECISIONS.**

(a) Any person aggrieved by any order, requirement, determination, or any other action or inaction may appeal the decision to the Planning and Zoning Commission by filing a written notice of appeal with the Village Clerk not later than ten (10) days after the decision is delivered by personal service or postmarked by the U.S. mail, postage prepaid, return-receipt requested, to the person seeking to appeal.

(b) At the time of filing the notice of appeal, if the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the weight of the evidence, the appellant shall include in the record all evidence relevant to the findings or conclusion.

(c) A person who intends to appear at the appeal hearing as an appellee may file with the Clerk additional parts of the record at any time before the hearing.

**1199.99 PENALTY.**

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars (\$500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The imposition of any other penalties provided herein shall not preclude the Village of New Concord instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances,

rules, or regulations, or the orders of the Village of New Concord.