

1st READING 7/15/13  
2nd READING 8/5/13  
3rd READING 8/19/13

**ORDINANCE NUMBER 2013-17**

**AN ORDINANCE ADOPTING  
A STORM WATER QUALITY ORDINANCE  
FOR THE CITY OF ST. CLAIRSVILLE**

**WHEREAS**, the Ohio Environmental Protection Agency is requiring that the City of St. Clairsville adopt a storm water quality ordinance; and

**WHEREAS**, St. Clairsville is considered a small municipal separate storm sewer system, or MS4, and in order to discharge storm water, as regulated by the National Pollutant Discharge Elimination System (NPDES) guidelines, St. Clairsville has sought and gained the approval to discharge storm water from the Ohio EPA; and

**WHEREAS**, the storm water quality ordinance is a tool to guide the management of storm water in concert with the Ohio Environmental Protection Agency and its guidelines.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. CLAIRSVILLE, OHIO:**

**Section 1:** That the storm water quality ordinance, attached hereto as Exhibit A and fully incorporated herein, is hereby approved by the Council of the City of St. Clairsville, Ohio.

**Section 2:** That the Planning and Zoning Administrator, other city employees and representatives as needed, will administer and implement the storm water quality ordinance.

**Section 3:** That the immediate implementation of a storm water quality ordinance will protect the public health, safety and welfare of the citizen's of the City of St. Clairsville.

**Section 4:** That this ordinance shall take effect and be in full force from and after the earliest period allowed by the Charter of the City of St. Clairsville, Ohio.

PASSED at a meeting of the council of the City of St. Clairsville on this 19th day of August, 2013, by the affirmative vote of 6 members of the council.

Passed: August 19, 2013

  
Patricia A. Bruhn  
President of Council

Approved: August 19, 2013

  
Robert Umrey  
Mayor

  
Kathleen M. Kaluger  
Clerk of Council

# Chapter 991 - Storm Water Quality Ordinance

Chapter 991 entitled “Storm Water Quality Ordinance” of Title 9 entitled “Flood Damage Reduction Regulations” of the Codified Ordinances of the City of St. Clairsville is hereby enacted and shall read as follows:

## 991.10 Erosion and Sediment Control - Construction and Post Construction Storm Water Control

### 991.11 PURPOSE AND SCOPE.

(a) The purpose of Chapter 1 of this ordinance 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 Saint Clairsville.

(b) This Chapter 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 Chapter applies to all regulated discharges outlined in the eligibility section of the most recent version of the Ohio EPA General Construction Stormwater Permit.

### 991.12 REGULATED ACTIVITIES.

(a) Chapter 1 of this ordinance applies to all regulated discharges outlined in the eligibility section of the most recent version of the Ohio EPA General Construction Stormwater Permit.

### 991.13 APPLICATION PROCEDURES.

Applicants must submit the following documentation to the City of St. Clairsville prior to construction:

- An Ohio EPA Construction General Permit notice of intent form.
- Site location map.
- A copy of the Ohio EPA Construction General Permit coverage letter.  
(This document must be submitted as soon as Ohio EPA grants coverage to facilitate an efficient review time.)
- Two copies of a Storm Water Pollution Prevention Plan (SWP3). One copy of the approved (SWP3) will be returned to the applicant.

Criteria for the listed documentation must be the same as outlined in the most current Ohio Environmental Protection Agency (EPA) National Pollution Discharge Elimination (NPDES) General Storm Water Permit for Construction Activities. Within 21 calendar days of the receipt of all documentation, the City of St. Clairsville shall approve or disapprove the application for a sediment erosion control permit. A statement of disapproval shall include the reason therefore and shall identify the deficiencies in the documentation and shall state the procedures for filing a revised plan. Upon receipt of revised documentation, the plan reviewer shall respond with approval or disapproval within 21 calendar days. Applicants must show proof of being granted Ohio EPA Construction General Permit coverage before the review process can be completed. Final approval will be issued upon receipt of proof that an Ohio EPA NPDES General Storm Water Permit for Construction Activity permit has been granted. Once final approval has been made and a permit issued, any subsequent changes shall be approved in writing.

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

(a) The applicant shall submit a Storm Water Pollution Prevention Plan (SWP3) consistent with the requirements set forth in the most recent Ohio EPA NPDES General Construction Permit. For specific requirements of a SWP3 the designer shall refer to SWP3 Check List. The SWP3 must address erosion and sediment control during construction as well as post construction water quality practices. Post construction practices must meet the requirements of the most recent Ohio EPA General Construction Stormwater Permit. The SWP3 shall incorporate measures as recommended by the most current edition of Rainwater and Land Development Manual as published by the Ohio Department of Natural Resources .

#### **991.15 COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS.**

All submittals are required to show proof of compliance with all state and federal regulations.

Approvals issued in accordance with this Chapter do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the U.S. 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.

(a) 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, or approval letter.

(b) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, or a project approval letter. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers.

(c) 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, a copy of the applicable Nationwide Permit, public notice, or project approval letter.

(d) Ohio Dam Safety Law: Proof of compliance shall be a copy of the Ohio Department of Natural Resources Division of Water permit application tracking number, a copy of the project approval letter from the Ohio Department of Natural Resources Division of Water.

**991.16 FEES.**

There is no separate fee needed for plan submittals required in Chapter 1 of this ordinance. The fee required and outlined for the site plan review section of the City Code will suffice.

The plan reviewer, before issuing such a permit, shall charge and collect a penalty in every case where work or development otherwise covered by this ordinance has actually commenced prior to the issuance of a permit according to the following schedule:

- 1) For developments involving one (1) but less than five (5) acres the penalty shall be \$250.00.
- 2) For developments involving five (5) or more acres the penalty shall be \$500.00.

## **991.20 Illicit Discharge and Connection Elimination**

### **991.21 PURPOSE/INTENT.**

The purpose of Chapter 2 is to provide for the health, safety, and general welfare of the citizens of St. Clairsville through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal, state and local law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (a.) To regulate the contribution of pollutants to the (MS4) by stormwater discharges by any user.
- (b.) To prohibit illicit connections and discharges to the MS4
- (c.) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

### **991.22 APPLICABILITY.**

This ordinance shall apply to all water entering the (MS4) generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **991.23 DISCHARGE PROHIBITIONS.**

#### Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

Waterline flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.); uncontaminated pumped ground water; discharges from potable water sources; foundation 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. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and

other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections.

The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

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

**991.24 SUSPENSION OF MS4 ACCESS.**

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

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

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

Any person discharging to the MS4 in violation of this ordinance may have his/her MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may appeal the authorized enforcement agency's decision for a reconsideration and hearing as authorized by this ordinance.

(c.) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

**991.25 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

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

**991.26 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES**

The City of St. Clairsville will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the MS4, or waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at his/her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with chapter 2 of this ordinance, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

**991.27 WATERCOURSE PROTECTION.**

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

**991.28 NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the State said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of St. Clairsville within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.



### **991.30 Enforcement of the Water Quality Ordinance.**

#### **991.31 Establishment of Storm Water Quality Board.**

The Storm Water Quality Board is hereby established and will have such powers and duties as provided under this Ordinance, including but not limited to reviewing applications as outlined in this Chapter, reviewing complaints, hearing appeals as well as any other duties outlined in this Ordinance.

#### **991.32 Storm Water Quality Board.**

A Storm Water Quality Board is hereby established by this Ordinance. This Board will consist of three members; the Street Department or Landscape and Grounds Superintendent, a member of City Council, to be appointed by the President of Council for a term not to exceed the members term on Council and a member of the public appointed by the Mayor for a term of three (3) years. This member shall ideally have experience with storm water as outlined in this Code such as an engineer, excavator or person involved in the construction industry or a field familiar with the concerns outlined in this Code. All members shall serve without compensation.

A vacancy occurring during the term of any member of the Storm Water Quality Board shall be filled for the unexpired term in the manner authorized for the original appointment. The Mayor, with the concurrence of two-thirds of the full membership of Council shall have the right to remove an appointed member for cause. It shall be the function and duty of the Storm Water Quality Board to act and have control of enforcing the guidelines outlined in the Storm Water Quality Ordinance and assist in making new regulations when needed.

#### **991.33 Notice of Violation.**

Whenever the City of St. Clairsville finds that a person has violated a prohibition or failed to meet a requirement of any part of this ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1.) The performance of monitoring, analyses, and reporting;
- (2.) The elimination of illicit connections or discharges;
- (3.) The elimination of causes of violations pertaining to the requirements set forth in the Ohio EPA General Construction Stormwater Permit.
- (4.) The elimination of causes of violations pertaining to the requirements set forth in the Ohio EPA Municipal Storm Sewer System Permit also known as the (MS4) General Permit.
- (5.) That violating discharges, practices, or operations shall cease and desist;
- (6.) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (7.) Payment of a fine to cover administrative and remediation costs; and
- (8.) The implementation of source control or treatment BMPs.

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

(b.) Upon finding a violation of this Article, the permitting authority may issue a notice of violation, stop order, or corrective order to any person causing or permitting the violation.

#### **991.34 APPEAL OF NOTICE OF VIOLATION.**

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

#### **991.35 APPEAL PROCESS.**

City Council is hereby designated as the appeals board. Every appeal shall be made to the appeals board in writing. The procedure of appeals shall be as follows:

- a) A written appeal shall be filed with the City of St. Clairsville by the party aggrieved by any order or decision of the authorized enforcement agency. Any additional correspondence should be attached.
- b) Every appeal shall be made within thirty (30) days from the date on the letter mailed to anyone outlining the violation.
- c) Any communication purporting to be an appeal shall be regarded as mere notice to seek relief and shall not be considered by City Council until it is made in the form required.
- d) If the applicant fails to file an appeal properly and fails to supply the required data within thirty (30) days from the date of letter the case shall be dismissed for lack of prosecution.
- e) The appeal shall be accompanied by a fee of \$200, which amount shall be used to defray the cost incurred by the City.
- f) All property owners as listed with the County Auditor within 150 feet of the offending property shall be notified by first class mail of the appeal hearing.
- g) At the appeal hearing of the case before the City Council, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first followed by the comments of others. To maintain orderly procedure, each side shall proceed without interruption by the other.
- h) Every person before the rostrum shall abide by the order and direction of the Council President. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges of Council and shall be dealt with, as the President deems proper.

- i) Following the appeal hearing, City Council may affirm, amend, modify or withdraw any notice or order and notify the appellant or such decision. Following the decision of City Council, all parties shall be notified of the decision by first class mail delivered to the address as listed on the County Auditor's records or the address provided by the party.
- j) Any party to the hearing, including the City, may seek judicial review by filing a petition in the County District Court within thirty (30) days after the issuance of the decision by City Council.

**991.36 ENFORCEMENT MEASURES AFTER APPEAL.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or in the event of an appeal, within 30 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**991.37 ACCESS TO FACILITIES.**

(a.) The City of St. Clairsville may enter a site at any time during normal business hours, and at other reasonable times, to inspect, investigate, or monitor activities subject to this Ordinance. If the person in charge of the site does not consent to any entry by the City of St. Clairsville, the Law Director of the City of St. Clairsville must obtain an administrative search warrant from a court with jurisdiction by showing that reasonable administrative standards for inspecting the site have been met.

(b.) The City of St. Clairsville shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(c.) Facility operators shall allow the City of St. Clairsville ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(d.) The City of St. Clairsville shall have the right to set up on any permitted facility such devices as are necessary as the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water or illicit discharge.

(e.)The City of St. Clairsville has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

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

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

### **991.38 Penalties**

Any person, firm, or corporation violating any of the provisions of the rules and regulations shall be required to take the remedial actions and be subject to civil penalties as follows:

- (1.) The City of St. Clairsville shall have the right to recover the lesser of \$450.00 per day for each day that the violation exists or all damages proximately caused by the violation to the municipality, which may include any reasonable expenses incurred in investigating violations, expenses involved in rectifying any damages, costs and attorney fees incurred by the city as the result of enforcing violations of this ordinance.
- (2.) In addition to the above remedial measures, any person, firm or corporation guilty of violating any of the provisions of this ordinance shall be subject to a fine of up to Fifty Dollars (\$50.00) per day for each day the violation exists, beginning the first day of the violation and continuing each day thereafter until the violation is corrected. Each day that a violation of this ordinance exists shall constitute a separate offense
- (3.) In addition to the remedies and civil penalties set forth above, The City of St. Clairsville may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

- (4.) The remedies and penalties set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, if the violator fails to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator through means designated by the permitting authority.

**991.39 COST OF ABATEMENT OF THE VIOLATION.**

Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the municipality by reason of such violation. The liability shall be paid in not more than 12 equal monthly payments. Interest at the rate of 1 percent per annum shall be assessed on the balance beginning on the 30<sup>th</sup> day following discovery of the violation.

**991.39.1 INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**991.39.2 COMPENSATORY ACTION.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**991.39.3 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**991.39.4       DISCLAIMER OF LIABILITY.**

Compliance with the provisions of Chapter 1 and 2 of this ordinance shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Chapter 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.

**991.39.5 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.**

(a) Where any part of this ordinance is in conflict with other provisions of law, regulation, or ordinance, the most restrictive provisions shall prevail.

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

(c) No part of this ordinance 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 Chapter shall not be a defense in any action to abate such a nuisance.

(d) Failure of the City of St. Clairsville 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 there from, and shall not result in City of St. Clairsville, its officers, employees, or agents being responsible for any condition or damage resulting there from.

(e)The City of St. Clairsville shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Law Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

(f)The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

**991.39.6       REMEDIES NOT EXCLUSIVE.**

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

## **991.40 Definitions**

**ACRE:** A measurement of area equaling 43,560 square feet.

**AUTHORIZED ENFORCEMENT AGENCY:** The storm water quality board, employees and other designees of the Mayor or City Council designated to enforce this ordinance.

**BEST MANAGEMENT PRACTICES (BMPs):** Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to minimize soil erosion and sedimentation and 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.

**CLEAN WATER ACT:** The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

**COMMUNITY:** St. Clairsville and its designated representatives, boards, or commissions.

**CONSTRUCTION ACTIVITY:** NPDES Storm Water permits are required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition. All construction activities must conform to the most current OEPA regulations for construction activity.

**DISTURBED AREA:** An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

**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.

**EROSION AND SEDIMENT CONTROL:** 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.

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

**ILLEGAL DISCHARGE:** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this ordinance.

**ILLICIT CONNECTIONS:** An illicit connection is defined as either of the following:  
Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,  
Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**INDUSTRIAL ACTIVITY:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**LARGER COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

**MS4 (MUNICIPAL SEPARATE STORM SEWER SYSTEM):** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, ditches, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**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.

**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.

**NON-STORM WATER DISCHARGE:** Any discharge to the storm drain system that is not composed entirely of storm water.

**OHIO EPA NPDES GENERAL CONSTRUCTION PERMIT:** A permit issued by the Ohio Environmental Protection Agency to an applicant for the discharge of storm water from sites where construction activity is being conducted with discharges to subsequent receiving waters.

**PERSON:** Means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.



**PERMITTING AUTHORITY:** The City of St. Clairsville and any other group outlined in this ordinance such as the Storm Water Quality Board that assist in enforcing this Ordinance.

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

**PREMISES:** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**RAINWATER AND LAND DEVELOPMENT MANUAL (RWLD):** Issued by Ohio Department of Natural Resources. The RWLD Manual contains Ohio's minimum technical standards for post construction storm water quality and erosion and sediment control standards. The most current edition of these standards shall be applicable with this Chapter.

**RUNOFF:** The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

**SEDIMENT:** 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.

**SEDIMENTATION:** The deposition or settling of sediment.

**SETBACK:** 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 Chapter.

**SOIL DISTURBING ACTIVITY:** Clearing, grubbing, 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.

**SOIL ERODIBILITY:** The susceptibility of soil to erosion and the amount and rate of Runoff, as measured under the standard unit plot condition. Soil erodibility factors are available in the Belmont County Soil Survey

**STREAM:** A surface water course with a well defined bed and bank, either natural or artificial, which confines and conducts continuous or periodical flowing water in such a way that terrestrial vegetation cannot establish roots within the channel. (ORC 6105.01)

**STORM WATER:** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**STORM WATER POLLUTION PREVENTION PLAN:** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

**STORM WATER POLLUTION PREVENTION PLAN CHECKLIST:** Details the minimum requirements of a SWP3 in St. Clairsville, available at the St. Clairsville Municipal Building.

**STORM WATER QUALITY BOARD:** A board established as outlined in Chapter 3 of this ordinance.

**WASTEWATER:** Means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

**WATER RESOURCE:** 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.

**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 (33 CFR part 328, as amended).

**WETLAND PROFESSIONAL:** An individual with training and experience in wetland delineation acceptable to the Army Corp of Engineers.