

Storm Water Runoff & Post-Construction Control Ordinance

#2017-296

Preamble

An Ordinance to provide for the administration of a storm water runoff and post construction control program within Muskegon County in order to encourage and regulate the proper use and protection of natural resources, to provide for administration and enforcement, to establish civil penalties for violations, and to provide for reimbursement of costs incurred by the County Enforcing Agency pursuant to this Ordinance.

Whereas, land development alters the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, increased flooding, stream channel erosion, sediment transport and deposition, which damages the integrity of stream channels and their biological functions and;

Whereas, storm water runoff produced by land development contributes to increased quantities of water-borne nonpoint pollutants which can impair and destroy natural resources and;

Whereas, increased storm water runoff rates and volumes, and pollutants associated with storm water runoff from future development projects within the County will, absent reasonable regulation and control, adversely affect the County's water bodies and water resources, and those of downstream communities, and;

Whereas, Federal and State regulations require certain municipalities within and including the County, to implement a program of storm water controls. These municipalities are required to obtain a permit for storm water discharges from their Municipal Separate Storm Sewer Systems (MS4) under the National Pollutant Discharge Elimination System (NPDES);

Now, therefore be it resolved that; storm water runoff and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from development and adopting the following standards, criteria and procedures contained in the Storm water Runoff and Post-Construction Control Ordinance (Storm Water Ordinance) and implementing it will address many of the harmful effects of storm water runoff, therefore, adopting the Ordinance is necessary for the preservation of the public health, safety and welfare of the County.

Whereas, after careful study of the proposed Storm Water Ordinance, the Muskegon County Board of Public Works has recommended adoption of the Ordinance to the Muskegon County Board of Commissioners.

Therefore, pursuant to the authority set forth in MCL 46.11(j) and MCL 324.9105(3), the Board of Commissioners of the County of Muskegon, Michigan, ordains:

Article 1. Short Title

This Ordinance shall be known, and may be cited, as the "Muskegon County Storm Water Runoff and Post Construction Control Ordinance." All Articles, Sections, and other topical headings are for reference only and shall not be construed to be part of this Ordinance.

Article 2. Authority, Purpose, and Adoption of Rules

2.1. Authority

2.1.1. Applicable Statutes

The Storm water Ordinance is adopted in accordance with the Drain Code of 1956, as amended, being Act 40 of 1956, MCL 280.1, et seq.; the Land Division Act 288 of 1967, as amended, being MCL 560.101, et seq.; the Condominium Act 59 of 1978, as amended, being MCL 559.101, et. seq. the Revenue Bond Act of 1933, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123 and 124; and other applicable state and federal laws.

2.1.2. Jurisdictional Overlap

This Ordinance shall not apply to properties within a city, village, or township in the County provided that the local municipality adopts an ordinance that is consistent with this Ordinance. The legislative body of a city, village, or township may adopt a resolution authorizing the County to implement the Ordinance within their jurisdiction to facilitate administrative reporting for requirements associated with state permit requirements.

2.2. Purpose

The purpose of this Ordinance is to set forth the minimum requirements for storm water management and control to protect public health, safety, and welfare within Muskegon County by providing for the administration and enforcement of the Muskegon County Storm Water Runoff and Post Construction Ordinance. No person, corporation, or governmental entity shall maintain or undertake an activity or earth change that alters infiltration and is governed by this Ordinance, except in compliance with this Ordinance, and pursuant to a Storm Water Permit issued by the County Enforcing Agency, if required.

Article 3. Definitions

3.1. Definitions.

The County hereby adopts by reference the definitions herein. In addition, the following definitions shall apply in the interpretation and enforcement of this ordinance:

- 3.1.1. Cease and Desist Order** - An order that stops the work on a project due to a violation of this Ordinance or until said violation is corrected.
- 3.1.2. County Enforcing Agency (CEA)** - An agency designated by the Muskegon County Board of Commissioners pursuant to be responsible for the administration and enforcement of this Ordinance.
- 3.1.3. Design storm** - A rainfall event that has a specific statistical probability of occurring in any given year. For example, a 2-year design storm is a storm with a 50 percent chance of occurring during the year. Design storm figures are used to calculate the runoff volume and peak discharge rate through a detention or retention basin or other storm water management facility.
- 3.1.4. Detention** - A system which is designed to capture storm water and release it over a given time period through an outlet structure at a controlled rate.
- 3.1.5. Discharge** - The rate of flow of water through an outlet structure at a given point and time, measured in cubic feet per second (cfs).
- 3.1.6. Drain** - Any drain maintained by the County Road Commission and any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, et. seq., other than an established county or inter-county drain.
- 3.1.7. Earth Change** - A human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the State. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production.
- 3.1.8. Enforcing Agent** - A person designated by the County Enforcing Agency to carry out the provisions of this Ordinance.
- 3.1.9. Excess runoff** - Surface runoff that cannot be accommodated satisfactorily by the natural or planned drainage systems.
- 3.1.10. Illicit Connection** - Any method or means for conveying an illicit discharge into water bodies or the Community's storm water system whether enclosed or an open water ditch.
- 3.1.11. Impervious surface** - Impermeable surfaces, such as buildings, paved driveways, parking areas, or roads which prevent the infiltration of water into the soil.

3.1.12. Infiltration - the process by which water on the ground surface enters the soil. Infiltration rate in soil science is a measure of the rate at which soil is able to absorb rainfall or irrigation. It is measured in inches per hour or millimeters per hour. The rate decreases as the soil becomes saturated. If the precipitation rate exceeds the infiltration rate, runoff will usually occur unless there is some physical barrier. It is related to the saturated hydraulic conductivity of the near-surface soil.

3.1.12. Lake - Means the Great Lakes and all natural and artificial inland lakes or impoundments that have definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is equal to, or greater than, 1 acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of storm water retention, cooling water, or treating polluted water.

3.1.14. Mitigation - Actions taken or required by the County Enforcing Agency to temporarily or permanently bring a parcel of land into compliance with this Ordinance.

3.1.15. National Pollutant Discharge Elimination System (NPDES) Storm Water Permit – a permit issued by the Michigan Department of Environmental Quality 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 to an individual, group, or general area-wide basis.

3.1.16. Notice of Completion - Upon satisfactory execution of the approved plans, permit conditions and other requirements imposed under this Ordinance, the landowner shall provide notice of completion to the County Enforcing Agency.

3.1.17. Notice of Intent to File Lien - Written notice to the owner of a property of intent to file a property lien to secure repayment of mitigation expense, including legal expense associated with a particular mitigation effort. Outstanding liens on property will be collected according to Article 7, "for Expense".

3.1.18. Notice of Intent to Mitigate - Notice to the owner of a property in violation of this Ordinance of intent to conduct mitigation to bring the site into compliance with this Ordinance.

3.1.19. Notice of Taking Action - Legal notice to the owner of a property in violation of this Ordinance of action already taken to remove an immediate threat to natural resources, property or public safety.

3.1.20. Notice of Violation - Written notice to the owner of a property that activity at that site is in violation of this Ordinance. The Notice of Violation shall contain a description of the violation, what must be done to remedy the violation, and the time frame in which such corrective action must be taken.

3.1.21. Outfall - The point where water flows out from a conduit, drain, or stream.

3.1.22. Outlet - A stream or facility discharging the flow from a basin, drain, or other storm water management facility.

3.1.23. Peak Rate of Discharge (peak flow) - The maximum calculated rate of storm water flow at a given point in a channel, watercourse, or conduit resulting from a predetermined frequency storm or flood, measured in cubic feet per second (cfs).

3.1.24. Pollutant - A substance discharged which includes, but is not limited to the following: any dredged spoil, solid waste, vehicle fluids, paints, varnishes and solvents, cooking grease, detergents, degreasers, cleaning chemicals, herbicides, pesticides, floatables, fecal coliform and pathogens, concrete and cement, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.

3.1.25. Regional Detention Basin - A basin to detain water flow from a number of development sites or a small watershed.

3.1.26. Retention - A system which is designed to capture storm water and contain it until it infiltrates into the soil or evaporates.

3.1.27. State of Michigan Water Quality Standards - All applicable State rules, regulations, and laws pertaining to water quality, including the provision of Section 3106 of Part 31 of Public Act 451 of 1994, as amended.

3.1.28. Storm frequency - The average period of time during which a storm of a given duration and intensity can be expected to be equaled or exceeded.

3.1.29. Storm water management

- a. For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by human-made changes to the land; and
- b. For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

3.1.30. Storm water Runoff - The runoff and drainage of precipitation resulting from rainfall or snowmelt or other natural event or process.

3.1.31. Stream - A river, creek, or other surface watercourse which may or may not be serving as a drain, as defined in the drain code, and which has definite banks, a bed, and

visible evidence of the continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.

3.1.32. Wetland - Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh, and which is any of the following:

- i. Contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream.
- ii. Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size.
- iii. Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres or less in size if the Michigan Department of Environmental Quality (MDEQ) determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the MDEQ has so notified the owner.

Article 4. Administration and Enforcement

4.1. County Enforcing Agency - The Muskegon County Drain Commissioner is the County Enforcing Agency responsible for administering and enforcing this ordinance within Muskegon County, except for those areas of the county where a local (MS4) municipal program is in effect. The County may contract with another local unit of government, municipal department, or other experienced and qualified individuals, parties or entities that would assist the County in performing site reviews, surveys, inspections, or monitoring.

4.2. Relief from Personal Responsibility - The County Enforcing Agency, or any other county employee or officer charged with duties and responsibilities pursuant to this Ordinance, while acting within the scope of their authority, are hereby relieved from all personal liability for damages to persons or property resulting from the exercise or discharge of their duties. Any civil or criminal action brought against an officer or employee of the County, while acting within the scope of authority granted under this Ordinance, may be defended by the legal representative of the County until final termination of proceedings. If a judgment for damages is awarded against the above mentioned officers or employees as a result of a civil action for personal injury or property damage caused while acting within the scope of the individual's employment or while acting within the scope of authority of this Ordinance, the County of Muskegon may pay, or compromise, the judgment.

4.3. Duties of the County Enforcing Agency - It shall be the responsibility of the County Enforcing Agency to enforce the provisions of this Ordinance, and in doing so, to perform the following duties:

4.3.1. Review Storm Water Permit Applications and Plans

Applications for permits required by this Ordinance shall be submitted to the County Enforcing Agency on the forms provided by the County Enforcing Agency and shall contain all required and/or necessary information to allow the County Enforcing Agency to evaluate the application. The County Enforcing Agency is not required to evaluate incomplete applications or applications submitted without the required or necessary information or supporting documentation. Storm Water Permit applications and plans will be reviewed in accordance with the rules defined under 5.1.

4.3.2. Issue Permits and Certificates

The County Enforcing Agency shall issue Storm Water Permits when applicable provisions of this Ordinance have been fulfilled.

4.3.3. Maintain Records

Records for active Storm Water Permits shall be available for public inspection during regular business hours. Upon written request, copies of documents may be furnished at cost to any person consistent with policy of the Board of Commissioners.

4.3.4. Mitigation

The County Enforcing Agency may, but is not required to, conduct such activity as is deemed necessary to remove an immediate threat to environmental resources, property or public safety in accordance with the Drain Code of 1956, as amended, being Act 40 of 1956, MCL 280.1, et seq.; the Land Division Act 288 of 1967, as amended, being MCL 560.101, et seq.; the Condominium Act 59 of 1978, as amended, being MCL 559.101, et seq.; the Revenue Bond Act of 1933, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123 and 124; and other applicable state and federal laws.

4.3.5. Prepare Invoices and Record Liens

Invoices for mitigation expense shall be mailed by certified mail to the owner(s) of the land on which the violation occurred. Pursuant to MCL 324.9120, property liens against the land in violation shall be recorded at the Muskegon County Register of Deeds for all invoices remaining unpaid thirty (30) days after mailing. The owner of the land shall be responsible for all costs associated with the recording and subsequent release of a lien.

4.3.6. Legal Remedy

The County Enforcing Agency shall have all legal remedies available under this Ordinance which include, but are not limited, to the issuance of a Notice of Violation, a Cease and Desist Order, and/or a municipal civil infraction citation to the property owner, contractor, or individual who is not the property owner and who violates this Ordinance. The County Enforcing Agency may also take other legal action deemed appropriate against an individual or the owner of a property in violation.

4.3.7. Official Copies

The County Enforcing Agency shall maintain one official copy of this Ordinance, which shall be available for public inspection during regular office hours.

4.3.8. Inspections

The County Enforcing Agency is empowered to conduct inspections of property in order to properly carry out the enforcement of this Ordinance.

4.3.9. Document Retention

Permits, plans and associated documents for all projects, permitted under this ordinance, may be disposed of twenty-five years after filing the final construction certification and coinciding with termination of post construction maintenance responsibilities.

4.4. Interpretation

The County Enforcing Agency shall have full authority to make interpretations as to the scope and applicability of this Ordinance, including but not limited to determinations of violations, acceptability of plans and sureties, necessity for mitigation, and substantial completion. All such determinations by the County Enforcing Agency are considered final.

4.5. Fees, Fines and Sureties

4.5.1. Fees and Fines.

The County shall periodically adopt a schedule of fees and fines to cover the cost of administration and enforcement of this Ordinance. Adjustment of the schedule of fees and fines will not invalidate other provisions of this Ordinance. All permit fees shall be doubled if work starts without a permit.

4.5.2. Sureties.

Financial surety in a form acceptable to the County Enforcing Agency may be required as a condition of a Storm Water Permit. Surety is required for all commercial Storm Water Permits with disturbances of 3 acres or more. At the permittee's choosing, the surety shall be in the form of cash, bond, certified check or irrevocable bank letter of credit in forms acceptable to the County Enforcing Agency.

4.5.3. Return of Surety.

Unused portion of sureties shall be returned within sixty (60) days after filing the final construction certification with the County Enforcing Agency.

Article 5. Application, Plan, Approval Standards, and Post Construction Standards

5.1. Application

A person, corporation, or governmental entity shall not maintain or undertake an earth change governed by this Ordinance, except in compliance with this Ordinance. The Storm Water Permit Application form and Storm Water Permit form shall contain all information required by this Ordinance. An Application, together with instructive information as deemed appropriate, shall be provided at no cost to each applicant by the County Enforcing Agency. The County Enforcing Agency shall approve or deny an application for a Storm Water Permit within 30 days after the filing of a complete application for a Storm Water Permit and the payment of the appropriate fees and sureties.

5.2. Storm Water Plan, Approval Standards, Construction Certification, and Post Construction Maintenance

A person shall prepare a storm water control plan for any earth change identified under 5.3.1. A person shall design the plan in accordance with current Best Management Practices (BMPs) or Low Impact Design (LID) methods for storm water management to effectively reduce and control storm water flows, retain / detain waters on-site, and reduce peak discharge rates. The plan shall include, but not be limited to, all of the following:

5.2.1. Storm Water Plan

The plan shall include, but not be limited to, all of the following:

- i. A map(s) at a scale of not more than 200 feet to the inch or as otherwise determined by the County Enforcing Agency; including a legal description and site location sketch that includes the proximity (within 50 feet of the property boundary) of any proposed earth change to lakes, streams, regulated wetlands, drainage courses, or all; predominant land features; and contour intervals or slope description.
- ii. A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.
- iii. A description and the location of the physical limits of each proposed earth change.
- iv. A description and the location of all existing and proposed on-site drainage, storm water management, and dewatering facilities (e.g., rain gardens, swales, leach basins, recessed landscape islands, roof retention, cisterns, and detention or retention ponds).
- v. The timing and sequence of each proposed earth change.
- vi. A description and location of all storm water discharge points.

5.2.2. Approval Standards

The plan, or associated narrative, shall provide a description of how the storm water control measures to be implemented and outlined within the plan shall meet the published standards of the Municipal Storm Water Committee.

5.2.3. Construction Certification

A certification letter shall be submitted to the County Enforcement Agency after storm water control measures have been installed to affirm that construction has been completed in accordance with the Storm Water Permit and plan. This certification shall be prepared by a licensed civil engineer, land surveyor, architect, and/or landscape architect; unless a specified certification was required by the County Enforcement Agency.

5.2.3. Post Construction Maintenance

The plan, or associated narrative, shall provide a proposal for the continued maintenance of all storm water control measures that remain after project completion; including the designation of the person or entity responsible for the ongoing operation, inspections, and maintenance of storm water facilities and measures. Maintenance responsibilities shall be recorded with the property at the Muskegon County Register of Deeds, records kept in the county's GIS system; and shall:

- i. Be in effect in perpetuity from the date of the final construction certification.
- ii. Become a part of any sales or exchange agreement, and run with the property for the land on which the storm water control measures are located.
- iii. Include regular inspections (minimum of every five years) of the storm water control measures by a licensed civil engineer attesting to the capability of the system to manage and treat storm water as the system was original designed; and provide inspection reports to the County Enforcement Authority.
- iv. Specify responsibilities for financing maintenance and emergency repairs.
- v. Provide the County Enforcement Agency legal authority to enter the property, at reasonable times, for purposes of conducting on-site inspections; which may include water sampling and flow measurements.

5.3. Permit

5.3.1. Permits Required:

A landowner or designated agent who contracts for, allows, or engages in, an earth change within the jurisdiction of the County Enforcing Agency shall obtain a Storm Water Permit from the County Enforcing Agency before commencing an earth change which:

- i. Requires local site plan or plat approval; or
- ii. Creates more than ten thousand (10,000) square feet of impervious surface; or
- iii. Disturbs, changes, disrupts more than ten thousand (10,000) square feet of existing impervious surface; or
- iv. Disturbs 1 or more acres of land; or
- v. Is within 500 feet of the water's edge of a drainage course, wetland, lake or stream.

5.3.2. Permit Exemptions:

This ordinance shall not apply to:

- i. Existing roads under the control of the Muskegon County Road Commission or local municipality; including work related to maintenance and replacement.
- ii. Agricultural property (and buildings directly related to their operations) as designated under the definitions according to the Michigan Department of Agriculture and Rural Development and protected under Michigan's Right to Farm Act.

5.3.3. Permit Expiration, Extension, and Termination:

5.3.3.1 Expiration:

Storm Water Permits shall expire on the date indicated on the permit.

5.3.3.2 Extension:

The holder of a valid permit must request an extension of coverage, if necessary, no later than ten (10) days prior to the expiration date. Any such request must be in writing and must be accompanied by all supporting documentation and applicable extension fees, if any. The maximum allowable time extension will be one (1) year from the original expiration date. An extension does not release the owner or the surety on a bond, or the person furnishing an irrevocable letter of credit, or a person furnishing a cash bond from their responsibilities and/or liabilities thereunder.

5.3.3.3 Construction Not Begun:

Storm Water Permit coverage will automatically terminate if construction has not commenced within one (1) year of the date of issuance. A new plan and application, with fees, are required to obtain a Storm Water Permit for any site where a permit has been terminated for any reason.

5.3.3.4 Application After Termination:

A new plan and application, with fees, are required to obtain a Storm Water Permit for any site where a permit has been terminated for any reason.

5.3.4. Permit Suspension, Revocation and Reinstatement:

A Storm Water Permit issued under this Ordinance may be revoked or suspended at the discretion of the County Enforcing Agency and may not be the basis for any further work on a project until the permit is reinstated by the County Enforcing Agency following a determination that the reasons for the suspension or revocation have been resolved to the satisfaction of the County Enforcing Agency. Once one of the factors outlined below is established by the County Enforcing Agency, the decision whether to suspend or revoke a permit shall be within the discretion of the County Enforcing Agency. A Storm Water Permit may be suspended or revoked for any of the following reasons:

- i. A violation of a condition of the Storm Water Permit, including the approved Storm water plan.
- ii. Misrepresentation or failure to fully disclose relevant facts in the application or plan.
- iii. A change in land ownership without written notification to the County Enforcing Agency.
- iv. Permitted work already in progress is abandoned or suspended for a period beyond the permit expiration date.

5.3.5. Permit Transfers:

Whenever a property changes ownership, the permit and all responsibilities including conditions of issuance, fees, fines, and penalties owed, shall be transferred to the new landowner. Transfer of the permit shall be made by completing a form provided by the County Enforcing Agency, with signature of the new landowner, and then submitting the completed form to the County Enforcing Agency. The fee for the transfer shall be as listed on the schedule of fees.

5.3.6. Permit Waiver:

In lieu of on-site storm water facilities and measures, the use of regional or off-site storm water facilities and measures may be proposed. In such cases, the applicant may request a waiver of the requirements for on-site storm water runoff control. The waiver request shall be submitted to the County Enforcing Agency with a permit application for a Storm Water Permit. Waivers for on-site detention or retention may be considered for the following:

- i. Shared off-site storm water control areas may be proposed between two or more property owners or developments, provided that maintenance agreements have been approved by the County Enforcing Agency and storm water drainage easements have been obtained and recorded among the property owners also naming the authority in the easement.
- ii. Storm water harvesting/reuse or treatment plans may be considered by the County Enforcing Agency; especially in the case of a contaminated site.

Article 6. Enforcement

6.1. Enforcement

This Ordinance shall be enforced by the County Enforcing Agency. The County Enforcing Agency may use any enforcement method or technique allowed, including but not limited to the issuance of a letter providing Notice of Violation, that may or may not allow for time to correct the violation prior to any further or additional enforcement actions, citations, civil infractions, cease and desist orders, or may revoke a Storm Water Permit upon finding that there is a violation of this Ordinance, and may pursue such legal action as may be necessary to correct a violation including but not limited to seeking an injunction to restrain or prevent violations of the Ordinance.

6.2. Municipal Civil Infractions; Authorized Enforcement Officials; Violation Bureau

6.2.1. Municipal Civil Infractions.

Violation of this Ordinance shall be a municipal civil infraction, as authorized under Chapter 87 of 1961 PA 236, as amended, and other applicable laws. A violation includes any act that is prohibited or made or declared to be unlawful, and any omission or failure to act where the act is required by this Ordinance. Each day that a violation exists constitutes a separate infraction.

6.2.2. Authorized Enforcement Officials.

Muskegon County Storm Water Enforcing Agents and deputies of the Muskegon County Sheriff's Office are authorized to issue municipal civil infraction citations for violations of this Ordinance. Muskegon County Storm Water Enforcing Agents are authorized to issue notice of violations and cease and desist orders.

6.2.3. Municipal Civil Infractions Violations Bureau.

The Municipal Civil Infractions Violations Bureau, for disposition of violation notices issued under this Ordinance, shall be located at the Muskegon County Department of Public Works, 131 E. Apple Ave., Muskegon, MI 49442.

6.3. Violations and Penalties; Injunction

6.3.1.

A person who violates this Ordinance or any Notice of Violation or cease and desist order issued under this Ordinance is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not less than \$150.00, and not more than \$2,500.00, plus all costs of enforcement.

6.3.2.

A person who knowingly makes a false statement in an Application or in a Storm water plan is responsible for a civil fine of up to \$2,500.00 for each day of violation, plus all costs of enforcement.

6.3.3.

A person who knowingly continues to violate this Ordinance after receiving a Notice of Violation is responsible for payment of a civil fine for each day the violation continues to exist, plus all costs of enforcement.

6.3.4.

A default in payment of a civil fine or costs ordered under this section may be remedied by any means authorized under the Revised Judicature Act of 1961, 1961 PA 236, being sections 600.101 to 600.9948 of the Michigan Compiled Laws as amended.

6.3.5.

In addition to any fines and costs assessed under this section, a person who violates this Ordinance is liable to the State of Michigan for any damages for injury to, destruction of, or loss of natural resources resulting from the violation.

6.3.6.

Notwithstanding the existence or pursuit of any other remedy, the County may maintain an action in a court of competent jurisdiction for monetary damages and may request an injunction or other process against a person to restrain or prevent violations of this Ordinance.

6.4. Enforcement Costs and Fines

6.4.1. Costs of Enforcement.

The County Enforcing Agency shall maintain a record of all expenses relative to the enforcement of this Ordinance. Costs of Enforcement specifically include but are not limited to all investigative costs, court costs (including witness fees), and legal or attorney fees.

6.4.2. Fines.

Fines levied and paid pursuant to legal action undertaken by the County Enforcing Agency shall be deposited with the County, and shall be used for enforcement of this Ordinance. Landowners, authorized agents, on-site responsible persons, contractors and

other individuals undertaking an earth change in violation of this Ordinance are subject to the penalties prescribed herein.

6.4.3. Payment.

All persons that receive municipal civil infraction violation notices shall have thirty (30) days to pay the fine to the Muskegon County Department of Public Works office. If responsibility is denied or the fine is unpaid after thirty (30) days, a municipal civil infraction citation shall be filed with the District Court for resolution pursuant to Chapter 87 of the Revised Judicature Act, MCL 600.8701 *et seq.* Either party may request a formal hearing before a judge.

Article 7. Reimbursement for Expense

7.1. Reports.

It shall be the duty of the County Enforcing Agency to report to the Board of Commissioners, no later than the last Wednesday in September of each year, all unpaid property liens filed in conjunction with this Ordinance.

7.2. Assessment.

It shall be the duty of the County Treasurer to place on the winter tax statement of each property for which there is an amount outstanding the full amount of the outstanding lien.

Article 8. Severability

If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Article 9. Conflict of Authority

Nothing in this Ordinance shall be interpreted to conflict with present or future state or federal statutes in the same subject matter. Conflicting provisions of this Ordinance shall be abrogated to the extent of the conflict. The provisions of this Ordinance shall be construed, if possible, to be consistent with and in addition to relevant federal and state regulations and statutes. In their interpretation and application, the provisions of this Ordinance shall be liberally construed in favor of achieving the objectives of this Ordinance, and shall not be deemed a limitation or repeal of any other powers granted by state statutes. Where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. If there is another ordinance that is inconsistent, the terms of the Ordinance that promotes the objectives of this Ordinance to the greatest extent shall apply.

This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions.

Article 10. Savings Clause

This Ordinance shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this Ordinance takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent if this Ordinance had not been adopted.

Article 11. Effective Date

This Ordinance shall take effect 30 days following its acceptance by the Muskegon County Board of Commissioners and shall be published in a newspaper of general circulation in Muskegon County.

Moved by Commissioner Mahoney, seconded by Commissioner Hughes, to adopt the Post Construction Ordinance to improve storm water management in the county for those communities wishing to participate in the count-wide program as indicated by their resolution. Or zoning ordinances, as applicable.

Roll Call:

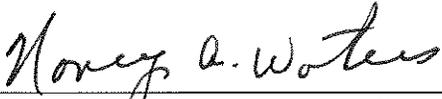
Yes: Gary Foster, Susie Hughes, kenneth Mahoney, Charles Nash, Robert Scolnik, I. John Snider II, Rillastine R. Wilkins, Benjamin E. Cross

No: None

Excused: Marvin Engle

Motion Carried

I, Nancy A. Waters, Muskegon County Clerk, Muskegon, Michigan, do hereby certify that the foregoing Ordinance was adopted by the Board of Commissioners at a regular meeting on Tuesday, August 8, 2017. In testimony whereof, I have hereunto set my hand and affixed the seal of the 14th Circuit Court this 30th day of August, 2017.



Nancy A. Waters, Muskegon County Clerk