

Stormwater Management Erosion and Sediment Control Regulations (SMSCR)



**Lawrence County & OTHERS
(Fayette, Perry, Rome, Union)**

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ARTICLE 1
Erosion & Sediment Control
Construction & Post Construction Storm Water Control

1.1 STATUTORY AUTHORITY AND TITLE

These Regulations have been adopted by the Board of County Commissioners, Lawrence County, Ohio (BOLCC) in accordance with and pursuant to the legal authority of Article XVIII, Section 3 of the Ohio Constitution, Section 307.79 of the Ohio Revised Code, and Rules of 1501: 15-1-01 and 02 of the Ohio Administrative Code to be determined by a BOLCC appointed agency (“Administrator).

The official title of these Regulations shall be known as the Lawrence County, Ohio Stormwater Management Erosion & Sediment Control Regulations.

1.2 PURPOSE

1.2.1 These Regulations are to establish stormwater management using Best Management Practices (BMPs) and conservation practices to minimize the impact to public waters from accelerated soil erosion and stormwater runoff caused by earth disturbing activities, subsurface drainage and land use changes connected with activities within a development area. These Regulations are intended to:

1.2.1.1 Allow development while minimizing increases in erosion and sedimentation.

1.2.1.2 Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

1.2.1.3 Reduce flooding, erosion, and sedimentation damages caused by land disturbance and development.

1.2.1 SCOPE

1.2.1 These Regulations shall apply to all earth-disturbing activities performed in the urbanized areas of Fayette, Perry, Union and Rome Townships of Lawrence County, Ohio. Exemptions are those activities as outlined in Chapter 307.79 of the Ohio Revised Code as follows:

1.2.1.1 No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the Board of Lawrence County Commissioners (BOLCC) or the chief of the Division of soil and water conservation in the department of agriculture.

1.2.1.2 Activities related to crop production or silviculture operations, or areas regulated by the Ohio Agricultural Sediment Pollution Abatement Rules.

1.2.1.3 Strip Mining operations regulated under Chapter 1514.01 of the Ohio Revised Code

1.2.1.4 Surface Mining operations regulated under Chapter 1514.01 of the Ohio Revised Code.

1.3 VARIANCE POLICY AND PROCEDURES

1.3.1 It is conceivable that earth-disturbing activities may have exceptional circumstances applicable to the site such that strict adherence to the provisions of these Regulations will result in unnecessary hardship and not fulfil the intent of these Regulations. Therefore, a variance request procedure is established as follows:

1.3.1.1 The owner of the property may submit a written request to the Lawrence County Planning Commission for a variance from a requirement. This written request shall State the reason for proposed variance and how the requirements pose and Unnecessary hardship and what measures are proposed to meet intent of these Regulations.

1.3.1.2 The BOLCC will grant or deny the variance or request a modification to the variance.

1.3.1.3 In the event a property owner, or their designee disagrees with the decision of the BOLCC they may appeal the BOLCC decision in accordance with these Regulations.

1.4 SEVERABILITY

1.4.1.1. If any article, clause, section, or provision of these Regulations is declared invalid or unconstitutional by a court jurisdiction, validity of the remaining provisions shall not be affected thereby.

1.5 DISCLAIMER OF LIABILITY

1.5.1 Neither submission of a plan under the provisions herein, nor compliance with the provisions of these Regulations shall relieve any person from responsibility for damage to any person or property otherwise imposed by law, nor impose any liability upon the BOLCC or its representatives for damage to any person or property.

1.6 COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS

1.6.1 All submittals are required to show proof of compliance with all state and federal regulations. Approval issued in accordance with this Chapter do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from 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 not limited to, those listed below:

1.6.1.1 Ohio EPA: NPDES Permits authorizing storm water discharges associated with activity or the current version thereof: Proof of compliance will consist of an Ohio

EPA approved Notice of Intent (NOI) including NPDES project permit number. Copies of the approved Notice of Intent (NOI) shall accompany the construction plans. NOTs shall be applied for in a timely manner a copy forwarded to the Lawrence Soil and Water Conservation District Office.

1.6.1.2 Section 401 of the Clean Water Act: Proof of compliance will consist of a copy of the Ohio EPA Water Quality Certification application, public notice, project approval or a letter from the site owner certifying that a qualified professional has surveyed the site and no waters of the United States were identified.

1.6.1.3 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.

1.6.1.4 USACE – Section 404 of the Clean Water Act: All proposed development sites must be checked for the existence of wetlands by a qualified professional. If no wetlands are on the site, a letter from the qualified professional stating so shall be included with the submittal of the project construction plan packet. If wetlands are found to be on the site one or all of the following may be required based on the determined extent of the impact:

- i. Proof of compliance shall be a copy of the Jurisdictional Determination from the USACE, confirming the findings of a qualified professionals survey and report.**
- ii. Proof of compliance shall be a copy of the USACE Individual Permit Application. Should an individual permit be required, public notification and meetings will be held. Should an individual permit not be required, proof of compliance shall be a copy of the USACE Nationwide Permit including a site plan indicating proposed fill areas in proximity to waters of the United States.**

1.6.1.5 Ohio Dam Safety Law: Proof of compliance will consist of a copy of the ODNR Division of Water permit application or a copy of the project approval letter for ODNR.

1.6.1.6 Federal Emergency Management Agency (FEMA): Proof of compliance will consist of a copy of the project site showing all one hundred (100) year flood elevation limits. Should the project have been granted a waiver, copies of the approved Letter of Map Revision shall be permitted.

1.6.1.7 All other local, state and federal requirements.

**ARTICLE 2
ADMINISTRATION**

2.1 DELEGATION OF PROGRAM RESPONSIBILITIES

2.1.1 The Board of Lawrence County Commissioners may delegate authority over the following components of the Lawrence County Stormwater Management & Sediment Control Regulations (SWSCR)

2.1.2 SWMP review and approval authority and collection of fees.

2.1.3 Inspection before, during, and after construction and maintenance reviews of temporary and permanent BMPs.

2.1.4 Enforcement: and,

2.1.5 Resource reviews of proposed development sites.

2.2 PLAN REVIEW AND APPROVAL

2.2.1 The Administrator may hire a Third-Party Consultant (if feasible) to help review the SWMP within thirty (30) days of receipt indicate approval or disapproval with the person who filed the plan. Indication of disapproval shall include the plan deficiencies and the procedure for filing a revised plan. No earth disturbing activities shall take place before preparation and approval of a SWMP and all permits are obtained.

2.2.2 During the plan review, the Administrator may request review and recommendations Pertaining to the proposed SWMP and SWP3 from the LSWCD. The Administrator or their designee shall be responsible for review and approval of all hydrologic and runoff calculations, as well as design and construction inspection for all stormwater Management Facilities.

2.3 PERMIT PROCESS

2.3.1 Permit Application Forms will be made available by the Administrator. Information required will be sufficient for the Administrator to determine if the SWMP is complete and that the developer and/or property owner intends to comply with these Regulations. During the permit process all responsible parties will be identified, and are to be consistent with the OEPA CGP Part V.G.1. signatory and reporting requirements.

When a permit and the SWMP are required, the permit will be issued upon approval of detail design, payment of required application, plan review and site inspection fees. All permits will expire twelve (12) months from the date of issuance of the permit. Permit holders who require an extension may make application for continuance of the permit contacting the Administrator within thirty (30) days of expiration. Failure to renew within this time period may result in a cessation of all construction activity and civil penalties as set forth in ORC 307.79 until a valid application for renewal is received by the Lawrence Soil

and Water District Office. The continuance of a permit may result in an additional fee to be determined by the Administrator. Construction activity may not resume until the application is approved and appropriate on-site measures have been implemented.

- 2.3.2 If the Responsible Party that applied for and signed the Stormwater Management and Sediment Control Permit changes, the Administrator must be notified of who the responsible party is. All contact information will be updated and a determination by the Administrator shall be made as to the applicability of the existing permit. The new permittee may be required to re-apply for a permit.
- 2.3.3 Ohio EPA NPDES permits authorizing stormwater 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) from Ohio EPA, a copy of the Ohio EPA Director’s Authorization letter for the NPDES Permit.

2.3.4 Deadlines for notification:

- i. **Initial Coverage:** Operators who intend to obtain initial coverage for a stormwater discharge associated with construction activity under this general permit must submit a complete and accurate NOI application form and appropriate fee at least twenty-one (21) days prior to the commencement of construction activity. If there is more than one operator under this general permit. Where one operator has already submitted an NOI prior to the other operator(s) being identified, the additional operator shall request modification of coverage to become a co-permittee.
- ii. **Individual lot transfer of coverage:** Operators must each submit an individual lot notice of intent (Individual Lot NOI) application form permittee.
- iii. **Failure to notify-** Operators who fail to notify the Administrator of their intent to be covered and who discharge pollutants to surface waters of the State without an NPDES permits are in violation of ORC Chapters 6111. In such instances, Ohio EPA may bring an enforcement action for any discharges of stormwater associated with construction with construction activity.

- 2.3.5 The Operator is required to have readily available on site the County permit NOI, SWP3 and weekly inspection reports.

2.4 APPLICATION, PERMITTING AND OTHER FEES

- 2.4.1 Pursuant to ORC Section 307.79 (A), the Storm Water Pollution Prevention Plan (SWP3) review, filing, and inspection fee is part of a complete submittal and shall be submitted to the Administrator before land disturbance of 1 (One) or more acres. All plan submittals required in Chapter 1 of this ordinance shall be accompanied by a fee payable in cash or by check to **“Lawrence County”** according to the following schedule at the time of initial submittal:

- i. For developments involving one or more acres shall be **\$500.00 per acre.**
- ii. For developments involving one (1) but less than five (5) acres the penalty shall be **\$450.00** for each day of noncompliance. (Days that work, or development is in operation.)
- iii. For developments involving five (5) or more acres the penalty shall be **\$1,000.00** for

each day of noncompliance.

2.5 REGULATED ACTIVITIES

2.5.1 This Chapter requires that a Storm Water Pollution Prevention (SWP3) be developed and implemented for all soil disturbing activities one or more acres of total land or will disturb less than an acre of land but are part of a larger common plan of development or sale that will ultimately disturb one or more acres of land in the unincorporated areas of the County of Lawrence and on which any regulated activity of Section 941.1 (c) is proposed. For parcels less than one acre in size a SWP3 may not be required; however, the owner shall comply with all other provisions of this Chapter.

2.6 APPLICATION PROCEDURES

Applicants must submit the following documentation to the permitting authority (the Lawrence Soil and Water Conservation District) prior to construction:

- **SITE PLAN REVIEW FEE: MUST BE PAID AT TIME OF SUBMITTAL (SEE FEE SCHEDULE BELOW**
- **COMPLETED LAWRENCE COUNTY EROSION & SEDIMENT CONTROL EARTH MOVING PERMIT APPLICATION.**
- **2 SITE LOCATION MAPS**
- **2 FULL SETS OF CONSTRUCTION PLANS MINIMUM OF (24"X36")**
- **1 COPY OF STORM DRAINAGE & WATER QUALITY CALCULATIONS**
- **1 COPY OF COMPLETED OHIO EPA SWP3 CHECKLIST**
- **1 COPY OF COMPLETED OHIO EPA GENERAL CONSTRUCTION STORM WATER PERMIT NOTICE OF INTENT FORM**
- **1 COPY OF BMP MAINTENANCE AGREEMENT W/LONG TERM MAINTENANCE PLAN.**
- **DIGITAL COPY OF ALL ITEMS SUBMITTED**

FEE SCHEDULE

\$500.00 PER ACRE DISTURBED PLUS

\$2,500.00 Which includes the following: Plan Review fees, approval and disapproval letters.

Pre-construction meeting with Contractor, owner, and SWCD representative

6 site inspections during the construction

Post Construction – final inspection for close out of the permit

\$200.00 – PER INSPECTION FOR ADDITIONAL (ABOVE THE INITIAL 6) TO BE BILLED SEPARATE.

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 30 calendar days of the receipt of all documentation, the permitting authority 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. Once final approval has been made and a permit number is issued, any subsequent changes shall be approved in writing by the authorized agency.

The permittee must also obtain coverage under the Ohio EPA General Construction Stormwater Permit before earth disturbance begins. A copy of the Ohio EPA coverage letter shall be mailed or emailed to

the MS4 permitting authority as evidence of coverage. If the operator of a project fails to obtain Ohio EPA General Construction Stormwater Permit coverage the project will be considered an Illicit Discharge.

2.7 DEVELOPMENT OF STORM WATER POLLUTION PREVENTION PLAN

- 2.7.1 A Storm Water Pollution Plan (SWP3) shall be developed and implemented for all parcels where disturbance of one (1) acre or more, or will disturb less than one (1) acre of land as part of a larger common plan of development or sale that will ultimately disturb one (1) or more acres of land for non-farm, commercial, industrial, residential or other non-farm purposes.
- 2.7.2 Storm Water Pollution Prevention Plan (SWP3) shall be developed and implemented for all parcels with soil disturbing activities as part of a redevelopment project that meets the disturbed area requirements.
- 2.7.3 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 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.
- (a) **NON-STRUCTURAL POST CONSTRUCTION EROSION & SEDIMENT CONTROL PRACTICES:** Non-structural post construction best management practices include preservation, planning, or procedures that direct development away from water resources or limit creation of impervious surfaces. Practices such as conservation easements, riparian and wetland setbacks, and conservation subdivision design are all non-structural controls.
- (1) All non-structural best management practices must be protected from disturbance through the construction phase of the project.
 - (2) All non-structural best management practices must be protected in perpetuity using appropriate legal tools. All easements or conservation areas must appear on the final plat and be disclosed to potential buyers.
- (b) **STRUCTURAL EROSION AND SEDIMENT CONTROL PRACTICES:** Structural post construction best management practices are permanent features constructed to provide treatment of storm water runoff either through storage, filtrations, or infiltration.
- (1) All structural water quality practices must be established prior to the completion of the project. Structural water quality practices shall be made functional once the disturbed areas on site are stabilized. If detention/retention facilities were used for sediment control during development, sediments must be removed prior to the basin being used for post construction storm water quality.
 - (2) **Maintenance:** The post construction best management practice must be maintained in perpetuity by those parties identified in the SWP3 or the Storm Water Management Maintenance Agreement.

2.8 APPEALS

2.8.1 An applicant receiving a denial of approval of the SWP3 may appeal the determination of the Administrator to the Board of Lawrence County Commissioners, or their designee. A Notice of Appeal must be filed to the Administrator within 14 days of the Notice of Denial. A hearing shall take place within 30 days of filing of the appeal. Written notice of the hearing will be provided to the Applicant.

2.9 ENFORCEMENT MEASURES AFTER APPEAL

2.9.1 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.

2.10 ENFORCEMENT

2.10.1 All development areas may be subject to external inspections by the Administrators or third parties to ensure compliance with the approved SWP3.

2.10.2 After each external inspection the Administrator shall prepare and distribute a status report to the applicant.

2.10.3 If the Administrator determines that a violation of the rules adopted under this code exists, Lawrence County or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity.

No stop work order shall be issued under this section against any public highway, transportation or drainage improvement maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the Chief of the Division of Soil and Water Resources in the Department of Natural Resources.

2.10.4 If the Administrator during an external inspection determines that a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the Administrator may authorize the issuance of a notice of violation and may take action as detailed in Section 3.3 of this regulation.

2.10.5 Failure to maintain and repair erosion and sediment controls per the approved SWP3 may result in the following escalation:

2.10.5.1 First Violation: The Administrator shall issue a Notice of Violation (NOV) to the owner or operator will include an administrative fee set in a fee schedule as approved by the Board of Lawrence County Commissioners. All controls are to be repaired or maintained per the SWP3 within thirty (30) days of the notification.

2.10.5.2 Second Violation: The Administrator shall issue a second Notice of Intent (NOV) via certified mail to the owner or operator which will include an administrative fee set in a

fee schedule as approved by the Board of Lawrence County Commissioners if the initial NOV was not rectified within the original thirty (30) days. All controls are to be repaired or maintained per the SWP3 within fifteen (15) days of the notification.

2.10.5.3 If, after fifteen (15) days have elapsed after the issuance of the second notice of violation, and the violation continues, the Administrator may issue a stop work order after first obtaining written approval of the Lawrence County Prosecutor's Office.

2.10.5.4 Once a stop work order is issued, the Administrator shall request, in writing, that the Lawrence County Prosecutor's Office is to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section.

2.11 PENALTIES

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

- i.** The Lawrence County Commissioners or (authorized enforcement agency) 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 authorized agency as the result of enforcing violations of this resolution.
- ii.** In addition to the above remedial measures, any person, firm or corporation guilty of violating any of the provisions of this resolution 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 resolution exists shall constitute a separate offense
- iii.** In addition to the remedies and civil penalties set forth above, The Lawrence County Commissioners, or (authorized enforcement agency) may bring legal action to enjoin the continuing violation of this resolution, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- iv.** 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.

2.12 COST OF ABATEMENT OF THE VIOLATION

2.12.1 Within 30 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 6 percent per annum shall be assessed on the balance beginning on the 1st day following discovery of the violation.

2.13 VIOLATIONS DEEMED A PUBLIC NUISANCE

2.13.1 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 resolution 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.

2.14 DISCLAIMER OF LIABILITY

2.14.1 Compliance with the provisions of this resolution shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation 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 parcel of property.

2.15 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY

2.15.1 Where any part of this resolution is in conflict with other provisions of law, or ordinance, or resolution, the most restrictive provisions shall prevail.

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

2.15.3 No part of this resolution 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.

2.15.4 Failure of the County of Lawrence 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 Community, its officers, employees, or agents being responsible for any condition or damage resulting there from.

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

ARTICLE 3
Illicit Discharge and Connection Elimination

3.1 PURPOSE / INTENT

3.1.1 The purpose of this resolution is to provide for the health, safety, and general welfare of the citizens of Lawrence County 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 resolution 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 resolution are:

- a. To regulate the contribution of pollutants to the (MS4) by stormwater discharges 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 resolution.

3.2 APPLICABILITY

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

3.3 DISCHARGE PROHIBITIONS

3.3.1 PROHIBITION OF ILLEGAL DISCHARGES

3.3.1.1 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:

3.3.1.2 Waterline flushing; landscape irrigation; diverted stream flows; rising 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.

3.4 PROHIBITION OF ILLICIT CONNECTIONS

3.4.2.1 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.

3.4.2.2 A person is in violation of this resolution if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

3.5 SUSPENSION OF MS4 ACCESS

3.5.1 Suspension due to Illicit Discharges in Emergency Situations the Lawrence County Commissioners or (authorized enforcement agency) 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.

3.5.2 Suspension due to the detection of illicit discharge
Any person discharging to the MS4 in violation of this resolution 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 petition the authorized enforcement agency for a reconsideration and hearing.

3.5.3 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.

3.6 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

3.6.1 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 Lawrence Soil and Water Conservation District prior to the allowing of discharges to the MS4.

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

3.7.1 The Lawrence Soil and Water Conservation District will require 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 using these structural and non-structural BMPs. Further, any person responsible for a property or premise, 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 compliance 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.

3.8 WATERCOURSE PROTECTION

3.8.1 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.

3.9 NOTIFICATION OF SPILLS

3.9.1 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 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: Lawrence Soil and Water Conservation District, Lawrence County EMA, Lawrence County Sheriff and Fire Department 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.

ARTICLE 4 DEFINITIONS

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

- A. **ACRE**: A measurement of area equaling 43,560 square feet.
- B. **ACT**: - means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amend 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.
- C. **BANK FULL CHANNEL** - means the channel flowing at channel capacity and conveying the bank full discharge. Delineated by the highest water level that has been maintained for a sufficient period of time to leave evidence on the landscape, such as the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial or the point at which the clearly scoured substrate of the stream ends and terrestrial vegetation begins.
- D. **BANKFULL DISCHARGE** - means the streamflow that fills the main channel and just begins to spill onto the floodplain, it is the discharge most effective at moving sediment and forming the channel.
- E. **BEST MANAGEMENT PRACTICES (BMPs): also, STORMWATER CONTROL MEASURE (SCM)**. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of surface waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plan and/or construction site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage
- F. **BYPASS** – means the intentional diversion of waste streams from any portion of a treatment facility.
- G. **CHANNELIZED STREAM** – means the definition set forth in Section 6111.01 (M) of the ORC.
- H. **COMMENCEMENT OF CONSTRUCTION** – means the initial disturbance of soils associated with clearing, grubbing, grading, placement of fill, or excavating activities or other construction activities.
- I. **CONCENTRATED STORM WATER RUNOFF** - means any storm water runoff which flows through a drainage pipe, ditch, diversion, or other discrete conveyance channel.
- J. **DIRECTOR** - means the Director of the Ohio Environmental Protection Agency.
- K. **DISCHARGE** – means this addition of any pollutant to the surface waters of the state from point source.
- L. **DISTURBANCE** - means any clearing, grading, excavation, filling, or other alternation of land surface where natural or man-made cover is destroyed in a manner that exposes the underlying soils.
- M. **DRAINAGE WATERSHED** -means for purposes of this permit the total contributing drainage area to a BMP, i.e., the “watershed” directed to the practice. This would also include any off-site drainage.
- N. **FINAL STABILIZATION** – means that either:

1. All soil disturbing activities at the site are complete and a uniform perennial vegetative cover (e.g., evenly distributed, without large bare areas) with a density of a least 70 percent cover for the area has been established on all unpaved areas and areas not covered by permanent structures or equivalent stabilization measures (such as the use of mulches, riprap, gabions, or geotextiles) have been employed. In addition, all temporary erosion and sediment control practices are removed and disposed of, and all trapped sediment is permanently stabilized to prevent further erosion; or
 2. For individual lots in residential construction by either:
 - a. The homebuilder completing final stabilization as specified above or
 - b. The homebuilder establishing including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for and benefits of, final stabilization. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways.): or
 3. For construction projects on land used for agriculture purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its pre-construction agriculture use. Areas disturbed that were previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters of the state and which are not being returned to their pre-construction agricultural use, must meet the final stabilization criteria in (1) or (2) above.
- O. **GENERAL CONTRACTOR** – for the purpose of this permit, the primary individual or company solely accountable to perform a contract. The general contractor typically supervises activities, coordinates the use of subcontractors, and is authorized to direct workers at a site to carry out activities required by the permit.
- P. **INDIVIDUAL LOT NOI** – means a Notice of Intent for an individual lot to be covered by this permit (see Part 1 of this permit).
- Q. **LARGER COMMON PLAN OF DEVELOPMENT OR SALE** - means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- R. **MS4** - means municipal separate storm sewer system which 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) that are:
 1. Owned or operated by the federal government, state, municipality, township, county, district, or other public body (created by or pursuant to state or federal law) including special district under state law such as a sewer district, flood control district or drainage districts, or similar entity, or a designated and approved management agency under section 208 of the act that discharges into surface waters of the state; and
 2. Designed or used for collecting or conveying solely storm water,
 3. Which is not a combined sewer, and
 4. Which is not a part of a publicly owned treatment works.
- S. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)** - Means the national program for issuing, modifying, revoking and reissuing, termination, monitoring and enforcing permits and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the CWA. The term includes an “approved program.”

T. NATURAL CHANNEL DESIGN- means an engineering technique that used knowledge of the natural process of a stream to create a stable stream that will maintain its form and function over time.

U. NOI – means notice of intent to be covered by this permit.

V. NOT – means notice of termination

W. OPERATOR – means any party associated with a construction project that meets either of the following two criteria:

1. The party has day-to-day operational control of all activities at a project which are necessary to ensure compliance with a SWP3 for the site and all permit conditions including the ability to authorize modifications to the SWP3 construction plans and site specification to ensure compliance with the General Permit, or
2. Property owner meets the definition of operator should the party which has day to operational control require additional authorization from the owner for modifications to the SWP3, construction plans, and/or site specification to ensure compliance with the permit or refuses to accept all responsibilities as listed above (Part VII.V.1).

Subcontractors generally are not considered operators for the purposes of this permit. As set forth in Part I.F.1, there can be more than one operator at a site and under these circumstances, the operators shall be co-permittees.

X. ORDINARY HIGH-WATER MARK – means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Y. OWNER OR OPERATOR- means the owner or operator of any “facility or activity” subject to regulation under the NPDES program.

Z. PERMANENT STABILIZATION – means the establishment of permanent vegetation, decorative landscape mulching, matting, sod, rip rap and landscaping techniques to provide permanent erosion control on areas where construction operations are complete or where no further disturbance is expected for at least one year.

AA. PERCENT IMPERVIOUS – means the impervious area created divided by the total area of the project site.

BB. POINT SOURCE – means any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or the floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

CC. QUALIFIED INSPECTION PERSONNEL – means a person knowledgeable in the principles and practice of erosion and sediment controls, who possesses 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 measures selected to control the quality of storm water discharges from the construction activity.

- RR. RAINWATER AND LAND DEVELOPMENT** – is a manual describing construction and post-construction best management practices and associated specifications. A copy of the manual may be obtained by contacting the Ohio Department of Agriculture Division of Soil and Water Conservation.
- SS. RIPARIAN AREA** – means the transition area between flowing water and terrestrial (land) ecosystems composed of trees, shrubs and surrounding vegetation which serve to stabilize erodible soil, improve both surface and ground water quality, increase stream shading and enhance wildlife habitat.
- TT. RUNOFF COEFFICIENT**– means the fraction of total rainfall that will appear at the convey as runoff.
- UU. SEDIMENT SETTLING POND** - means a sediment trap, sediment basin or permanent basin that has been temporarily modified for sediment control, as described in the latest edition of the Rainwater and Land Development Manual.
- VV. STATE ISOLATED WETLAND PERMIT REQUIREMENTS** – means the requirements set forth in Sections 6111.02 through 6111.029 of the Ohio Revised Code.
- WW. STORM WATER** – means storm water runoff, snow melt and surface runoff and drainage.
- XX. STEEP SLOPES** – means slopes that are 15 percent or greater in grade. Where a local government or industry technical manual had defined what is to be considered a “steep slope,” this permit’s definition automatically adopts that definition.
- YY. STREAM EDGE** – means the ordinary high-water mark.
- ZZ. SUBCONTRACTOR** – for the purposes of this permit, an individual or company that takes a portion of a contract from the general contractor or from another subcontractor.
- AAA. SURFACE WATERS OF THE STATE OR WATER BODIES** -means all streams, lakes, reservoirs, ponds, marshes, wetlands or other waterways which are suited wholly or partially within the boundaries of the state, except those private waters which do not combine or effect a junction with natural surface or underground waters. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the ORC are not included.
- BBB. SWP3** - means storm water pollution prevention plan.
- CCC. UPSET**– means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- DDD. TEMPORARY STABILIZATION** – means the establishment of temporary vegetation, mulching, geotextiles, sod, preservation of existing vegetation and other techniques capable of quick establishing cover over disturbed areas to provide erosion control between construction operations.
- EEE. WATER QUALITY VOLUME (WQV)** – means the volume of storm water runoff which must be captured and treated prior to discharge from the developed site after construction is complete.

**STORMWATER MANAGEMENT EROSION AND SEDIMENT CONTROL
REGULATIONS**

WHEREAS soil is most vulnerable to erosion by wind and water during construction activities and eroded soil necessitates repair of sewers and ditches and dredging of rivers, harbors, and lakes; accelerates downstream stream bank erosion and damage to public and private property; damages water resources and wetlands by reducing water quality; and causes the damage of aquatic habitat; and

WHEREAS communities throughout the watersheds encompassing Lawrence County have experienced and continue to experience costs associated with inadequate erosion and sediment control and increased state and federal regulation; and

WHEREAS there are watershed-wide efforts to reduce sedimentation and to protect and enhance the unique water resources and wetlands of the Symmes Creek, Ohio River and Indian-Guyan watersheds; and

WHEREAS 40 C.F.R. Parts 9, 122, 123 and 124, referred to as the National Pollutant Discharge Elimination System (NPDES) Storm Water Phase II Program, require designated communities, including Lawrence County, to develop and implement a Storm Water Management Program to address, among other components, erosion and sediment control during soil disturbing activities and post construction storm water quality.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of Lawrence County, State of Ohio, that:

ADOPTION OF RESOLUTION.

This resolution shall be in full force and effect 30 days after its final passage and adoption. All prior resolutions and parts of resolutions in conflict with this resolution are hereby repealed.

PASSED AND ADOPTED this 19th day of December 2008, by the following vote:

- Doug Malone, President ---- yes
- Tanner Heaberlin -----
- Jason C. Stephens, CFP ----- yes

AMENDED AND ADOPTED this 17th day of September 2009, by the following vote:

- Les Boggs, Th.M -----yes
- Jason C. Stephens, CFP, President -----yes
- Doug Malone -----yes

AMENDED AND ADOPTED this 17th day of February 2011, by the following vote:

- Les Boggs, Th.M ----yes
- Jason C. Stephens, CFP, President ---- yes
- Paul Herrell ---- yes

AMENDED AND ADOPTED this _____th day of _____ 2022, by the following vote:

- DeAnna Holliday, President
- Freddy Hayes, Jr.....
- Dr. Colton Copley.....