

ORDINANCE NO. 2025.03

**AN ORDINANCE ENACTING EROSION AND SEDIMENT CONTROL
STANDARDS**

WHEREAS, the Council for the City of Sunbury ("Sunbury") has determined a need to establish standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and promote and maintain the health and safety of the citizens of the City of Sunbury; and

WHEREAS, Council now wishes to approve erosion and sediment control standards to be effective immediately.

NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Sunbury, Ohio, Delaware County, State of Ohio as follows:

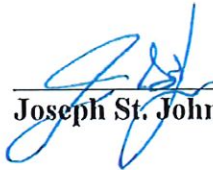
SECTION I: Council hereby approves erosion and sediment control standards attached hereto as Exhibit "A".

SECTION II: It is found and determined that all formal actions of this Council concerning and related to the adoption of this Ordinance were adopted in open meetings of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public, and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code

WHEREFORE, this Ordinance shall be in effect and in force immediately from and after its passage.

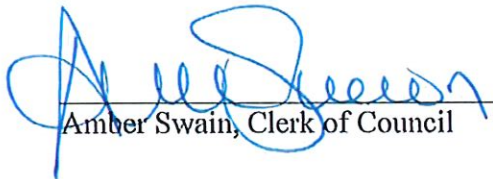
VOTE ON REMOVING EMERGENCY LANGUAGE	YEAS	NAYS
	<u>7</u>	<u>0</u>
VOTE ON ORDINANCE 2025.03	YEAS	NAYS
	<u>7</u>	<u>0</u>

PASSED: January 29, 2025



Joseph St. John, Mayor

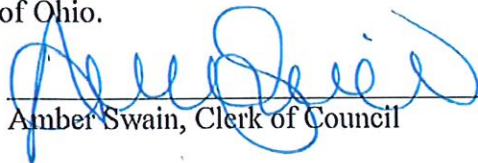
ATTEST:



Amber Swain, Clerk of Council

CERTIFICATION

I hereby certify on this 29 day of January, 2025, that the foregoing is a true and accurate copy of the Ordinance passed at the meeting held on January 29, 2025 of the City of Sunbury, County of Delaware, State of Ohio.



Amber Swain, Clerk of Council

Chapter 935
Erosion and Sediment Control Standards

- 935.01 Purpose and scope.
- 935.02 Definitions.
- 935.03 Disclaimer of liability.
- 935.04 Conflicts, severability, nuisances, and responsibility.
- 935.05 Development of Storm Water Pollution Prevention Plans.
- 935.06 Compliance with local, state and federal regulations.
- 935.07 Application procedures.
- 935.08 Storm Water Pollution Prevention Plan.
- 935.09 Performance standards.
- 935.10 Inspection requirements.
- 935.11 Post construction stormwater best management practices, operation and maintenance.
- 935.12 Completion of SWP3.
- 935.13 Review fees.
- 935.14 Management fees.
- 935.15 Enforcement.
- 935.16 Violations.
- 935.17 Appeals.
- 935.99 Penalty.

935.01 PURPOSE AND SCOPE.

(a) To establish and regulate 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 promote and maintain the health and safety of the citizens of the City of Sunbury.

(b) These standards will:

- (1) allow development while minimizing increases in erosion and sedimentation; and
- (2) reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

(c) The standards apply to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section 935.01(d) and (e).

(d) The standards do not apply to activities regulated by, and in compliance with, the Ohio Sediment Pollution Abatement Program, OAC Chapter 901:13-1 and OAC 1501:3-12-02.

(e) This Chapter does not require a Storm Water Pollution Prevention Plan (SWP3) for linear construction projects, such as pipeline or utility line installation on private property and approved by the Public Utilities Commission of Ohio or the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), that do not result in the installation of impervious surface as determined by the City engineer. Such projects must be designed to minimize the number of stream crossings and the width of disturbance. Linear construction projects must comply with USEPA requirements regarding erosion and sediment control.

935.02 DEFINITIONS.

The following terms shall have the meaning herein indicated:

(a) Acre. A measurement of area equaling 43,560 square feet.

(b) Best Management Practices (BMPs). Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control or prevent facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.

(c) City. This shall refer to the City of Sunbury, or its designated representatives.

(d) Construction Entrance. The permitted points of ingress and egress to development areas regulated under this Chapter.

(e) Development Area. A parcel or contiguous parcels owned by one person or persons, or operates as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

(f) Disturbed Area. An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

(g) Drainage. The tributary area of land contributing surface water to a specific point or the removal of excess surface water or groundwater from land by surface or subsurface drains.

(h) 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.

(i) 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.

(j) Final Stabilization. All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 70% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.

(k) 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.

(l) Maximum Extent Practicable. The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 CFR Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

(m) National Pollutant Discharge Elimination System (NPDES). 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.

(n) Parcel. Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Parcel Number' assigned by the Delaware County Auditor's Office.

(o) Person. Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.

(p) Phasing. Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

(q) Professional Engineer. An engineer registered in the State of Ohio.

(r) Rainwater and Land Development Manual. A manual describing construction and post-construction best management practices and associated specifications.

(s) 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.

(t) Sediment. The soil 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.

(u) Sedimentation. The deposition or settling of sediment.

(v) 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.

(w) Soil Disturbing Activity. Clearing, grading, excavating, filling, grubbing, 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.

(x) Stabilization. The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.

(y) Storm Water Pollution Prevention Plan (SWP3). A written document that sets forth the plans and practices to be used to meet the requirements of this Chapter.

(z) Unstable Soils. A portion of land that is identified by the City Engineer and/or a qualified geotechnical professional, as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having low soil strength.

(aa) Wetland. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

935.03 DISCLAIMER OF LIABILITY.

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

935.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

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

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

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

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

935.05 DEVELOPMENT OF STORM WATER POLLUTION PREVENTION PLANS.

(a) This Chapter requires that a Storm Water Pollution Prevention Plan (SWP3) be developed and implemented for all parcels disturbing one or more contiguous acres of land owned by one person or operated as one development unit on which any regulated activity of Section 935.01 is proposed.

(b) A SWP3 shall be applicable to land disturbance activities on areas less than one acre, if those area(s) are part of a Larger Common Plan of Development or Sale, defined in 935.02(k).

(c) The City shall administer this Chapter, but the applicant/operator shall be responsible for compliance with Section 935.05(a).

935.06 COMPLIANCE WITH LOCAL, STATE AND FEDERAL REGULATIONS.

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. Such permits shall be identified, and the applicant shall attest to compliance with the identified state and federal permits or regulations. The City may require additional proof of compliance for the following:

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

(b) Section 401 of the Clean Water Act. Proof of compliance shall be a copy of the Ohio EPA water quality certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(c) Ohio EPA Isolated Wetland Permit. Proof of compliance shall be a copy of the Ohio EPA's isolated wetland permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's isolated wetlands permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(d) Section 404 of the Clean Water Act. Proof of compliance shall be a copy of the U. S. Army Corps of Engineers' individual permit application, public notice, or project approval, if an individual permit is required for the development project. If an individual permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineers' Nationwide Permit Program. This shall include one of the following:

- (1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable; or
- (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Chapter.

935.07 APPLICATION PROCEDURES.

(a) In order to control volume, quality, sediment pollution of water resources and wetlands, and minimize property damage, the applicant shall submit a SWP3 to the City in accordance with the requirements of this Chapter.

(b) SWP3 required. The applicant shall develop a SWP3 conforming to all the requirements contained in the latest version of the Ohio EPA Construction General Permit. The SWP3 will illustrate the type, location, and dimensions of every non-structural and structural storm water Best Management Practice (BMP) incorporated into the site design.

(c) The SWP3 shall show the proposed property boundaries, setbacks, dedicated open space, public roads, water resources, storm water control facilities, and easements.

(d) The SWP3 shall be prepared by a registered Professional Engineer and include supporting calculations, plan sheets, and design details. The City engineer shall make the final determination of whether the practices proposed in the SWP3 meet the requirements of this regulation.

(e) The SWP3 shall meet the requirements of Chapter 935 herein and shall be on record with the City prior to any land clearing or soil disturbing activity, approval of the final plat or before issuance of a zoning certificate.

(f) The City, or qualified designee, shall review the Plans submitted for completeness and may issue comments and recommendations for revisions. A SWP3 rejected because of deficiencies shall be resubmitted when deficiencies have been corrected.

(g) Land clearing or soil disturbing activities shall not begin, and zoning or building permits shall not be issued without prior approval of a SWP3, when required.

(h) A SWP3 for individual sub lots in a subdivision will not be approved unless the Larger Common Plan of Development or Sale containing the sub lot complies with this Chapter.

(i) The applicant shall attach a "SWP3 Review Submittal Coversheet" and upload this and all associated documents, to the permit application. The "Contractor Contact Sheet and Certification Form" shall also be submitted to the City as soon as the contractor is identified who will perform and be responsible for any earth disturbing activities.

(j) Format. The SWP3 shall contain an application, narrative report, construction site plan sheets, a numbered list of notes, a completed SWP3 review checklist using the latest template from the Ohio EPA, a long-term Inspection and Maintenance Agreement, if applicable, prescribed in Section 935.11(d) and a site description conforming to Section 935.08(b). The SWP3 shall be submitted in 8.5 x 11-inch format in a separate binder with drawings submitted as either: i) 11x17 inch size; or ii) full size drawings folded in the binder; and iii) digital pdf format.

(k) A SWP3 approved under this Chapter shall remain valid until the effective date of a Notice of Termination, although in no case shall the approval extend longer than two years from the date of approval.

935.08 STORM WATER POLLUTION PREVENTION PLAN.

(a) Guidance Documents. The latest version of the OEPA Rainwater and Land Development Manual shall be used to assist in choosing procedures for specific criteria and guidance when designing the storm water management system for the site. These procedures may be updated from time to time, based on improvements in engineering, science, monitoring, and local maintenance experience.

(b) Site Description. The site description shall include the following information:

- (1) A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).
- (2) Total area of the site and the area of the site that is expected to be disturbed (i.e. grubbing, clearing, excavation, filling or grading, including off-site borrow areas).
- (3) A description of pre-development conditions at the site, including prior land uses.
- (4) An estimate of the impervious cover and areas affected by the soil disturbing activity at the beginning and conclusion of the project.
- (5) Existing data describing the soils throughout the site, including the soil series and association, Hydrologic Unit Code, hydrologic soil group, porosity, infiltration characteristics, depth to groundwater, depth to bedrock, and any impermeable layers.
- (6) If available, information about any illicit discharge.
- (7) The location and name of the immediate water resource(s) that will receive discharge, and the first subsequent water resource(s).
- (8) An implementation schedule which describes the sequence of major soil disturbing activity (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation.
- (9) The SWP3 submitted for approval shall comply with all requirements included in the latest version of the Ohio EPA Construction General Permit, whether referenced in this Chapter or not.
- (10) In the case of residential subdivisions, the SWP3 shall include a typical single lot SWP3 detail. Multi-lot concurrent construction under the same applicant may also be requested under the same SWP3, therefore eliminating requirements for perimeter protection along lot property lines.
- (11) The SWP3 shall include drawing details for any proposed BMPs intended to be used during the construction phase.
- (12) All BMPs must be consistent with the latest version of the Ohio EPA Construction General Permit and the Ohio Rainwater and Land Development Manual.
- (13) The SWP3 shall include a log to record any changes made to the SWP3 during construction.
- (14) The SWP3 shall include a log to document grading and stabilization activities during construction.
- (15) The SWP3 shall include a corrective action log to record corrections made to BMPs during the course of the project.
- (16) If possible, the entire site shall be shown on one plan sheet to allow for a complete view of the site during plan review. If a smaller scale is used to accomplish this, separate sheets providing an enlarged view of areas on individual sheets shall be provided.

(c) Site Plan. The site plan shall include the following information:

- (1) Limits of soil disturbing activity on the site.
- (2) Soil types for the entire site, including locations of unstable or highly erodible soils.

- (3) Existing and proposed one-foot (1') contours. This must include a delineation of drainage watersheds expected before, during, and after major grading activities as well as the size of each drainage watershed in acres.
- (4) Water resource locations including springs, wetlands, streams, lakes, water wells, flood hazard zone(s), and associated setbacks on or within 200 feet of the site, including the boundaries of wetlands or streams and the first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers, FEMA, and/or the Ohio EPA.
- (5) Pre-development and post-development locations of buildings, roads, parking facilities, and utilities.
- (6) The location of any in-stream activities including stream crossings.
- (7) The locations of all erosion and sediment controls for each contributing drainage watershed area.
- (8) Areas designated for the storage or disposal of solid, hazardous or toxic wastes, including dumpster areas, areas designated for truck washout and vehicle fueling.
- (9) The location of designated construction entrances.
- (10) The location of each construction and post-development structural storm water management practice, and identification of the drainage area served by each storm water management practice.
- (11) Ultimate outfall labeled with latitude and longitude and the Ohio North State Plain Coordinates.

(d) Contact information. Attach the standard City Stormwater Pollution Prevention Plan (SWP3) Contact List including the company name and contact information as well as contact name, addresses, and phone numbers and email for the Professional Engineer who prepared the SWP3, and the site owner.

(e) Phase, if applicable, of the overall development plan.

(f) Sublot numbers if project is a subdivision.

(g) Ohio EPA NPDES Permit Number and other applicable state and federal permit numbers, if available, or status of various permitting requirements if final approvals have not been received.

(h) Location, including complete site address and subplot number if applicable.

(i) Location of any easements or other restrictions placed on the use or maintenance of the property. Include volume and page for recorded document.

(j) The SWP3 shall require the applicant to certify at the close of construction "fertilizer application rates were not applied in excess of the phosphorus loading rate necessary to establish a new lawn".

(k) One year after completion of construction, the landscaping maintenance provider is required to certify that fertilizer application rates did not exceed the phosphorus loading rate necessary to establish new lawn and landscaping, except that individual subdivision lots are exempted from this requirement.

(l) The City Engineer may require the SWP3 to include a Soils Engineering Report based upon their determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings and shall contain all the information listed below:

- (1) Data regarding the nature, distribution, strength, and erodibility of existing soils.
- (2) If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.
- (3) Conclusions and recommendations for grading procedures.
- (4) Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.
- (5) Design criteria for corrective measures when necessary.
- (6) Opinions and recommendations covering the stability of the site.

Recommendations included in the report may be incorporated in the grading plans and/or other specifications for site development.

935.09 PERFORMANCE STANDARDS.

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

- (b) At a minimum, the SWP3 shall include controls and performance measures describing:
- (1) Non-structural Preservation Measures. The SWP3 must make use of practices that preserve the existing natural condition to the maximum extent practicable.
 - (2) Erosion Control Practices. The SWP3 must make use of erosion controls that are capable of providing cover over disturbed soils. A description of control practices designed to re-stabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year.

- (3) Runoff Control Practices. The SWP3 shall incorporate measures that control the flow of runoff from disturbed areas so as to prevent erosion.
- (4) Sediment Control Practices. The SWP3 shall include a description of, and detailed drawings for, all structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond. Sediment control practices shall be functional throughout the course of earth disturbing activity. Sediment basins and perimeter sediment barriers shall be implemented prior to grading and within seven (7) days from start of grubbing and shall continue to function until the up slope development area is restabilized.
- (5) Non-sediment Pollutant Controls. No solid or liquid waste, including building materials, shall be discharged in storm water runoff. The applicant must implement site BMPs to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands. These practices shall include but are not limited to the following:
 - A. Waste Materials. A covered dumpster shall be made available for the proper disposal of garbage, plaster, drywall, grout, gypsum, and other waste materials. Disposal practices for construction demolition and debris (C&DD) wastes shall be outlined in the SWP3.
 - B. Concrete Truck Wash Out. The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washouts shall be made available.
 - C. Fuel/Liquid Tank Storage. All fuel/liquid tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of all containers in the storage area.
 - D. Spill Prevention, Control and Countermeasure (SPCC) and/or Fuel Spill. Provisions for an SPCC plan must be included in the SWP3. Notification requirements in the event of fuel spills less than 25 gallons and in excess of 35 gallons must be included.
 - E. Toxic or Hazardous Waste Disposal. Any toxic or hazardous waste shall be disposed of properly.
 - F. Contaminated Soils Disposal and Runoff. Contaminated soils from redevelopment sites shall be disposed of properly. Runoff from contaminated soils shall not be discharged from the site. Proper permits shall be obtained for development projects on solid waste landfill sites or redevelopment sites.
- (6) Compliance with Other Requirements. The SWP3 shall be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.

- (7) Trench and Ground Water Control. There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Trench and groundwater control must comply with applicable provisions in the latest version of the Ohio EPA Construction General Permit.
- (8) The applicant shall maintain current records pertaining to the approval and implementation of the SWP3 on site and make them available for inspection by authorized City or State personnel.

935.10 INSPECTION REQUIREMENTS.

- (a) All controls on the site shall be inspected at least once every seven (7) calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24-hour period.
- (b) The inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized or runoff is unlikely due to weather conditions (e.g., site is covered with snow, ice, or the ground is frozen).
- (c) The applicant shall assure that qualified inspection personnel conduct inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required.
- (d) The City shall hire and assign qualified third-party inspectors to conduct the weekly and post-rainfall inspections, with the City reimbursed from the applicant's deposited funds.
- (f) These inspections shall meet the following requirements:
 - (1) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for, pollutants entering the drainage system.
 - (2) Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly.
 - (3) The applicant shall utilize an inspection form provided by Ohio EPA or an alternate form acceptable to the City Engineer. The inspection form shall include:
 - A. The inspection date.
 - B. Names, titles, qualifications and signatures of personnel making the inspection.
 - C. General weather information for the period since the last inspection, or in the case of a large storm/discharge, a best estimate of the beginning of each storm event, duration of each storm event and approximate amount of rainfall for each storm event in inches, and whether any discharges occurred.
 - D. Description of any discharges occurring at the time of inspection.
 - E. A reduced size site plan marked up to show current status of SWP3 erosion and sediment controls.

- F. Locations of:
- i. Discharges of sediment or other pollutants from site.
 - ii. BMPs that need to be maintained.
 - iii. BMPs that failed to operate as designed or proved inadequate for a particular location.
 - iv. Where additional BMPs are needed that did not exist at the time of inspection.
- G. Corrective actions required including any necessary changes to the SWP3 and implementation dates.

(g) Discharge locations shall be inspected to determine whether erosion and sediment control measures are effective in preventing significant impacts to the receiving water resource or wetlands.

(h) Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.

(i) The applicant shall maintain for three (3) years following final stabilization the results of these inspections, the names and qualifications of personnel making the inspections, the dates of inspections, major observations relating to the implementation of the SWP3, a certification as to whether the facility is in compliance with the SWP3, and information on any incidents of non-compliance determined by these inspections.

(j) Final Stabilization. Final stabilization shall be determined by a certified inspector and notice given to the City.

935.11 POST CONSTRUCTION STORMWATER BEST MANAGEMENT PRACTICES, OPERATION AND MAINTENANCE.

(a) Operation and Maintenance Plan. If the SWP3 includes structural post-construction BMPs, the developer/property owner shall prepare an Operation and Maintenance Plan meeting the minimum requirements of the latest version of the Ohio EPA NPDES Construction General Permit for redevelopment and new development projects wherein construction activities will result in the disturbance of one or more acres.

(b) The Operation and Maintenance Plan shall be submitted by the applicant/property owner to the City for review and approval prior to the City issuing the final building permit.

(c) The Operation and Maintenance Plan must be a stand-alone document which includes the following:

- (1) The name of the entity responsible for providing the BMPs inspection and maintenance.
- (2) A table listing the routine and non-routine maintenance tasks to be undertaken.
- (3) The schedule for inspection and maintenance tasks.
- (4) Any necessary legally binding maintenance easements and agreements required to properly inspect and maintain the BMPs.

- (5) A map showing the location of the BMPs on the City approved SWP3 and all access and maintenance easements.
- (6) Detailed BMP drawings and inspection and maintenance procedures.
- (7) An assurance from the developer/property owner that the collected pollutants from structural post-construction practices will be disposed of in accordance with local, state and federal regulations.
- (8) Annual reporting at the end of the year for inspection and maintenance practices on BMPs is required to the City. These documents may be provided to the OEPA.
- (9) The plan will be tied to the property and therefore the owner(s) will be responsible for all compliance, including any financial responsibility.

(d) Inspection and Maintenance Agreement. An Inspection and Maintenance Agreement shall be made between the Owner and the City, using a format acceptable to the City, ensuring that the BMPs shall be properly inspected and maintained. The agreement shall include a waiver of liability and a release excepting the City of Sunbury from all damages, accidents, casualties, occurrences, or claims that might arise or be asserted against the City of Sunbury from the construction, presence, existence, or maintenance of the post-construction BMPs. Once the Inspection and Maintenance Agreement is signed, it shall be appended to the Operation and Maintenance Plan.

(e) Inspection. Personnel identified within the Operation and Maintenance Plan shall inspect the BMPs to ensure proper functionality and determine if maintenance is necessary.

- (1) At a minimum, inspections are to be conducted annually, or more frequently as specified within the Operation and Maintenance Plan.
- (2) Written inspection reports summarizing the BMPs inspection observations and maintenance requirements are to be submitted to the City within thirty days after each inspection or annually with year end.

(f) Maintenance. All BMPs are to be maintained according to the measures outlined within the Operation and Maintenance Plan.

- (1) The Owner shall make necessary repairs within thirty days of their discovery as identified within the inspection reports or through a request from the City resulting from inspections conducted by the City.
- (2) Completed maintenance activities shall be documented in a written report submitted to the City.
- (3) In addition to any applicable provisions of Sections 935.11, 935.16 and 935.99, the Owner shall grant permission to the City to enter the property and inspect the BMPs whenever the City deems necessary. In any default or failure by the Owner to properly maintain the BMPs, or should an emergency occur, the City, in its sole discretion, after providing reasonable notice to the Owner, may enter the property and take whatever steps necessary to correct deficiencies and charge the cost of such repairs to the Owner. Nothing herein shall obligate the City to maintain the BMPs.

(g) The applicant must provide an Inspection and Maintenance Agreement as part of the Storm Water Pollution Prevention Plan submittal. A recorded copy of the Agreement must be submitted before deposit for erosion control is released by the City.

935.12 COMPLETION OF SWP3.

The applicant shall schedule a site inspection with the City within ten (10) days of reaching final stabilization and prior to removing perimeter sediment controls at the site. The site inspection with the City shall occur prior to filing a Notice of Termination (NOT) with Ohio EPA under the Construction General Permit. Failure to conduct a final site inspection with the City may result in enforcement and/or imposition of penalties under Section 935.16 and 935.99.

935.13 REVIEW FEES.

The Storm Water Pollution Prevention Plan shall be submitted to the City for review. Filing a review fee is part of a complete submittal and is required to be submitted to the City of Sunbury before the review process begins. Review fees shall be \$1000 minimum for sites up to two (2) acres, plus \$250 per each subsequent acre and rounding up to the nearest whole acre.

935.14 MANAGEMENT FEES.

(a) If a Storm Water Pollution Prevention Plan is required by this Chapter, soil disturbing activities shall not be permitted until payment with the City of Sunbury Planning and Zoning Office for management services. The non-refundable deposit payment for soil disturbing activities shall be a \$2,500 minimum on the first acre, and an additional \$2,000 paid for each subsequent acre rounding up to the nearest whole acreage. Individual lots that are part of a larger common development will have an additional flat fee of \$500 for review and inspection of each lot plan. The soil disturbing payment will be used by the City of Sunbury to perform the obligations of the MS4 (Municipal Separate Storm Sewer System) management including inspections, compliance, and audit preparations. The City may use the fee to perform any work as a public service outside of the requirements in the SWP3 and/or approved design plans or to comply with the provisions of this Chapter.

(b) No project subject to this regulation shall commence without a SWP3 approved by the City Engineer.

935.15 ENFORCEMENT.

(a) All qualified development areas may be subject to inspections by the City of Sunbury to ensure compliance with the submitted SWP3. Any duly authorized representative of the City may, upon identification to the site owner or person in charge present at the property, enter upon any part of the property deemed or described as relevant to the successful implementation of the SWP3, in order to determine whether there is compliance with this Chapter. If access is denied, the City may apply for an appropriate search warrant as necessary to achieve the purposes of this Chapter.

(b) After any inspection, the City of Sunbury may prepare and distribute a status report to the site owner.

(c) If an external inspection determines that operations are being conducted in violation of the approved SWP3 the City of Sunbury may take action as detailed in Section 935.16 and 935.99.

935.16 VIOLATIONS.

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

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

(c) In addition to all other remedies including cost of remedial action, criminal and civil penalties set forth in this Chapter, upon notice as set forth within the applicable SWP3 or elsewhere in this Chapter any person, firm, entity or corporation violating any provisions of this Chapter may be subject to a civil fine of \$500.00 per violation per day each day the violation persists until the violation is corrected. The City of Sunbury may also recover all reasonable expenses incurred in investigating violations, rectifying violations and damages caused by violations, and attorney fees incurred as a result of enforcing violations of this Chapter.

935.17 APPEALS.

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City of Sunbury in relation to this Chapter may appeal to the Court of Common Pleas. Such an appeal shall be made in conformity with Chapter 2506 of the Ohio Revised Code and written notice of appeal shall be served on the Administrator of the City of Sunbury.

935.99 PENALTY.

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, applicant, agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this Chapter is guilty of a misdemeanor of the fourth degree where any violation exists and an order to correct any such violation has been served on such person, firm, entity or corporation; and such person, firm, entity or corporation shall fail to comply with such order. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Subsequent offenses and/or the failure to cure a noticed violation within 45 days shall be a misdemeanor of the first degree

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