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ENROLLED ORDINANCE

No. 2021-526a

INTRODUCED BY COMMISSIONER(S): MARECKI

AN ORDINANCE TO AMEND CHAPTER 95 OF THE WAYNE COUNTY CODE OF ORDINANCES, STORMWATER MANAGEMENT, TO AMEND SECTIONS 95-1; 95-2; 95-3; 95-4; 95-5; 95-6; 95-7; 95-9; 95-21; 95-31; 95-32; 95-41; 95-42; 95-43; 95-51; 95-52; 95-61; 95-71; 95-72; 95-81; 95-91; 95-92; 95-93; 95-95; 95-96; 95-97; 95-98; AND 95-111; TO ADD SECTIONS 95-73; 95-74; AND 95-75; AND TO DELETE SECTIONS 95-94 AND 95-112, IN ORDER TO SIMPLIFY AND STREAMLINE THE CONSTRUCTION PERMIT REVIEW, APPROVAL, COMPLIANCE AND APPEAL PROCESS, TO IMPROVE WATER QUALITY AND PREVENT FLOODING, TO ENSURE THAT WAYNE COUNTY’S STORMWATER CONTROL PROGRAM IS REFLECTIVE OF CURRENT CONDITIONS AND TECHNOLOGY, TO GUARANTEE THAT STORMWATER CONTROL SYSTEMS ARE PROPERLY AND PERPETUALLY MAINTAINED AND TO CREATE CONSISTENCY BETWEEN COUNTIES WITHIN SOUTHEASTERN MICHIGAN.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CHARTER COUNTY OF WAYNE:

SECTION 1: CODE OF ORDINANCES AMENDED

Chapter 95 of the Wayne County Code of Ordinances is amended to read as follows:

WAYNE COUNTY STORMWATER CONTROL ORDINANCE

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1 **ARTICLE I. GENERAL PROVISIONS**

2 **Sec. 95-1. AUTHORITY**

3 This Ordinance is enacted in accordance with the Federal Water Pollution Control Act of
4 1972, 33 U.S.C. 1251 et seq., as amended; Part 31 of the Natural Resources and
5 Environmental Protection Act of 1994 (“Part 31”), MCL 324.3101 et seq., as amended;
6 the “Storm Water Discharges from Municipal Separate Storm Sewer Systems (MS4s)”
7 issued by the Michigan Department of Environment, Great Lakes, and Energy pursuant
8 to Part 31, as amended; Act 288 of 1967 (Subdivision Control Act), MCL 560.101 et seq.,
9 as amended by the Land Division Act, MCL 560.101 et seq.; Act 283 of 1909 (County
10 Road Law), MCL 224.1 et seq., as amended; Act 40 of 1956 (Drain Code), MCL 280.1 et
11 seq., as amended; and Act 96 of 1987 (Mobile Home Commission Act), MCL 125.2301
12 et seq., as amended; the Charter County Law, MCL 45.515 et seq., and the Home Rule
13 Charter of Wayne County, Michigan (1981), as amended.

14 **Sec. 95-2. PURPOSE**

15 Prevention of pollution from stormwater runoff and the protection of the quality of the
16 waters of the state of Michigan is of utmost importance to the People of the Charter
17 County of Wayne. It is the purpose of this Ordinance and any rules promulgated pursuant
18 to this Ordinance:

- 19 A. To protect the environment against pollution and other effects from
20 stormwater runoff, and to protect the public health and safety;
- 21 B. To provide for the implementation of a stormwater control program in
22 Wayne County to protect public and private property by minimizing and

- 1 preventing flooding, streambank erosion, pollution, and other negative
2 impacts from uncontrolled, excess stormwater runoff;
- 3 C. To establish standards and criteria for the design and construction of
4 stormwater control systems subject to the requirements of this Ordinance;
- 5 D. To establish best management practices for the design, construction,
6 maintenance, and operation of stormwater control systems subject to the
7 requirements of this Ordinance;
- 8 E. To provide for the issuance of stormwater construction approvals for
9 construction activities subject to the requirements of this Ordinance;
- 10 F. To provide for the long-term preservation and maintenance of stormwater
11 control systems subject to the requirements of the Ordinance;
- 12 G. To authorize the inspection of stormwater control systems subject to the
13 requirements of this Ordinance; and
- 14 H. To provide for the administration, implementation, and enforcement of this
15 Ordinance.

16 **Sec. 95-3. TITLE**

17 This Ordinance shall be known and may be cited as the "Wayne County Stormwater
18 Control Ordinance."

19 **Sec. 95-4. ADMINISTRATION**

20 This Ordinance shall be administered by the Wayne County Department of Public
21 Services, or its designee.

22 **Sec. 95-5. EFFECTIVE DATE**

23

1 The Wayne County Stormwater Control Ordinance, formerly known as the Wayne County
2 Stormwater Management Ordinance, became effective October 23, 2000.

3 **Sec. 95-6. STATE RULES**

4
5 Unless otherwise specifically provided in this Ordinance, the provisions of this Ordinance
6 shall control over less stringent rules of the Michigan Department of Environment, Great
7 Lakes, and Energy, unless contrary to law.

8 **Sec. 95-7. NO WAIVER OF OTHER OBLIGATIONS**

9 Nothing in this Ordinance or any rule promulgated pursuant to this Ordinance shall be
10 construed to reduce, abate, alter, modify, amend, or affect any duty or obligation to
11 preserve and protect the environment, including the Rouge River, Ecorse Creek, and
12 Huron River watersheds or other waters of the state; to control soil erosion and
13 sedimentation; to protect wetlands; or to prevent air, water, or other pollution.

14 **Sec. 95-8. INCORPORATION BY REFERENCE**

15
16 Rules, regulations, other regulatory standards or statutory provisions incorporated or
17 adopted by reference in this Ordinance or any rules promulgated pursuant to this
18 Ordinance shall have the same force and effect given to any provision of this Ordinance.

19 **Sec. 95-9. SEVERABILITY AND CONFLICT**

20
21 The provisions of this Ordinance shall be severable. If any provision of this Ordinance is
22 declared by a Court of competent jurisdiction to be unconstitutional or otherwise invalid,
23 the remaining provisions of this Ordinance shall remain valid and enforceable. To the
24 extent the terms and requirements of this Ordinance conflict with other County rules or
25 regulations concerning stormwater control, the terms and requirements of this Ordinance
26 shall control.

1 Secs. 95-10 – 95-20. – Reserved.

2 **ARTICLE II. DEFINITIONS**

3

4 **Sec. 95-21. DEFINITIONS**

5

6 As used in this Ordinance, the following terms have the following meanings, whether

7 capitalized or not herein:

8 (A) *Applicant* - A property owner, or the property owner's authorized agent or
9 representative, responsible for regulated construction activity on a
10 development site and who is seeking to obtain stormwater construction
11 approval.

12 (B) *Best management practice, or BMP* - A practice or combination of practices
13 that have been determined by the County to be the preferred method of
14 preventing, minimizing, or reducing pollution and other effects of stormwater
15 and stormwater runoff.

16 (C) *Bioretention area* - A component of a stormwater control system that is
17 comprised of a depressed land area that contains specific soil, plant
18 materials, and other features and is used for channel protection and/or
19 water quality control.

20 (D) *Bridge* - A structure, including supports, built to carry a feature over surface
21 water or watercourse, with a clear span of more than 20 feet measured
22 along the center of the feature being carried.

23 (E) *Buffer strip* - A zone that is used for filtering stormwater and to direct
24 stormwater runoff into a stormwater control system and/or for providing
25 maintenance access to a stormwater control system.

- 1 (F) *Catch basin* - A structure designed to collect water from the surface and
2 convey it into a closed conduit.
- 3 (G) *Closed conduit* - An enclosed conveyance designed to carry stormwater
4 runoff such that the surface of the water is not exposed to the atmosphere,
5 including without limitation storm sewers, culverts, closed County drains,
6 and pipes.
- 7 (H) *Construction activity* - A manmade activity, including without limitation,
8 clearing, grading, excavating, construction and paving, that results in an
9 earth change or disturbance in the existing cover or topography of land,
10 including any modification or alteration of a site or the “footprint” of a building
11 that results in an earth change or disturbance in the existing cover or
12 topography of land.
- 13 (I) *Construction Permit or “C Permit”* – A construction permit issued by the
14 County after the issuance of a stormwater construction approval in
15 accordance with this Ordinance and the rules promulgated hereunder.
- 16 (J) *Conveyance* - Any structure or other means of safely conveying stormwater
17 and stormwater runoff within a stormwater control system, including without
18 limitation a watercourse, closed conduit, culvert, or bridge.
- 19 (K) *County* - The Charter County of Wayne, Michigan.
- 20 (L) *County drains* - Drains established pursuant to the Michigan Drain Code of
21 1956, MCL 280.1 et seq., as amended.
- 22 (M) *County road* – Shall include roads and road rights-of-way within the
23 jurisdiction of the County.

- 1 (N) *Culvert* - A structure, including supports, built to carry a feature (i.e.
2 roadway) over a surface water or watercourse, with a clear span of less
3 than 20 feet measured along the center of the feature being carried.
- 4 (O) *Design storm* - A rainfall event of specified size and return interval that is
5 used to calculate the water volume and peak flow rate that must be handled
6 by a stormwater control system.
- 7 (P) *Detention or Detain* - The temporary storage of stormwater and stormwater
8 runoff to control peak flow rates and/or provide pollutant removal before
9 discharging the water to a surface water or closed conduit.
- 10 (Q) *Detention system* - A component of a stormwater control system, either
11 aboveground or belowground, that detains stormwater and stormwater
12 runoff. Detention systems may include, without limitation, open detention
13 basins and underground detention systems.
- 14 (R) *Development site* -The property on which regulated construction activity will
15 occur or is occurring or has occurred.
- 16 (S) *Director* - The Director of the Wayne County Department of Public Services
17 or his or her designee.
- 18 (T) *Drainage area* - The entire upstream land area from which stormwater
19 runoff drains to a particular location, including any off-site drainage area.
- 20 (U) *Extended detention* - The storage and gradual release of stormwater from
21 a detention system over a period of not less than 48 hours.
- 22 (V) *Flood control* - Methods used to reduce or prevent negative impacts of
23 stormwater runoff.

- 1 (W) *Forebay* - A component of a stormwater control system that is comprised of
2 surface water that is used as a pretreatment system.
- 3 (X) *Long-Term Maintenance Agreement* – Long-Term Maintenance Permit fully
4 executed by the County, Property Owner and the local unit(s) of government
5 in which the stormwater control system is located or other public entity
6 approved by the County, together with a resolution issued by the local
7 unit(s) of government or other public entity approved by the County.
- 8 (Y) *Long-Term Maintenance Permit or “M Permit”* – A Long-Term Maintenance
9 Permit issued by the County, including the long-term maintenance plan
10 approved by the County, pursuant to this Ordinance and the rules
11 promulgated pursuant to this Ordinance.
- 12 (Z) *Long-Term Maintenance Plan* - A written document submitted as part of
13 the construction permit (C-Permit) application that identifies all of the
14 stormwater control system components, maintenance responsibilities and
15 schedule, and is included in the Long-Term Maintenance Permit executed
16 by the County, the Property Owner and the local unit(s) of government or
17 other public entity approved by the County.
- 18 (AA) *Manufactured treatment system* - A component of a stormwater control
19 system that is comprised of a manmade device or structure that is used as
20 a pretreatment system.
- 21 (BB) *MS4* - Municipal Separate Storm Sewer System is a system of drainage
22 (including, but not limited to, roads, storm drains, pipes and ditches) that is
23 publicly owned, not a combined sewer or part of a sewage treatment plant.

1 During wet weather, pollutants are transported through MS4s to local water
2 bodies.

3 (CC) *MS4 Permit* - A permit under Section 402 of the Federal Water Pollution
4 Control Act of 1972, as amended, and under Part 31 of the Michigan Natural
5 Resources and Environmental Protection Act of 1994, as amended, that is
6 required by regulated communities with MS4s that discharge to waters of
7 the state.

8 (DD) *Open detention basin* - A component of a stormwater control system that is
9 comprised of a surface water that is used as a detention system.

10 (EE) *Ordinance* - The Wayne County Stormwater Control Ordinance.

11 (FF) *Peak flow rate* - The maximum instantaneous rate of flow at a particular
12 location within a stormwater control system, usually in reference to a
13 specific design storm event.

14 (GG) *Permit* – A construction permit or long-term maintenance permit, as
15 applicable, issued by the County pursuant to this Ordinance.

16 (HH) *Permit Office* - The Permit Office of the Wayne County Department of Public
17 Services, Engineering Division.

18 (II) *Permit Holder* – A person granted a permit pursuant to this Ordinance.

19 (JJ) *Person* - A natural person, trustee, court-appointed representative,
20 syndicate, association, partnership, firm, club, limited company, limited
21 liability company, s corporation, c corporation, partnership, limited liability
22 partnership, business trust, institution, agency, government corporation,
23 municipal corporation, city, county, municipality, district, or other political

1 subdivision, department, bureau, agency or instrumentality of federal, state,
2 or local government, or other entity recognized by law as the subject of
3 rights and duties, whether organized in the State of Michigan or another
4 state, country or territory.

5 (KK) *Pollutant* - Any substance introduced into the environment that may
6 adversely affect the public health, safety, welfare, or the environment, or the
7 usefulness of a resource.

8 (LL) *Pretreatment system* - A structure, feature, or appurtenance, or combination
9 thereof, either aboveground or belowground, that is used as a component
10 of a stormwater control system to remove incoming pollutants from
11 stormwater and stormwater runoff. Pretreatment systems may include,
12 without limitation, forebays, manufactured treatment systems, and
13 bioretention areas.

14 (MM) *Property Owner*- A person with legal title to real property on which a
15 stormwater control system is constructed pursuant to this Ordinance.

16 (NN) *Regulated construction activity* - Construction activity that is subject to the
17 provisions of this Ordinance or a rule promulgated pursuant to this
18 Ordinance.

19 (OO) *Retention or Retain* - The storage of stormwater and stormwater runoff to
20 provide gravity settling of pollutants and to promote infiltration into the soil,
21 rather than to discharge the stormwater or stormwater runoff to a surface
22 water or closed conduit.

- 1 (PP) *Retention basin* - A component of a stormwater control system that retains
2 stormwater and stormwater runoff with no outlet to the receiving drainage
3 system. Retention basins discharge via infiltration and evaporation.
- 4 (QQ) *Rules* – The Administrative Rules promulgated pursuant to this Ordinance,
5 known as the Wayne County Stormwater Control Administrative Rules.
- 6 (RR) *Stormwater* - Water resulting from precipitation, including without limitation
7 rain, snow, and snowmelt.
- 8 (SS) *Stormwater construction approval* - An approval issued pursuant to this
9 Ordinance and rules promulgated pursuant to this Ordinance.
- 10 (TT) *Stormwater control program* - The ordinances, orders, rules, regulations,
11 and other mechanisms that provide for the control of stormwater and
12 stormwater runoff to prevent and reduce flooding and to ensure the
13 restoration and/or protection of surface waters in Wayne County. With
14 respect to the County, stormwater control program consists of the
15 requirements of this Ordinance and any rules or regulations promulgated
16 under this Ordinance, the Stormwater Standards Manual, and activities
17 mandated by the Wayne County Municipal Separate Storm Sewer System
18 (MS4) Permit as issued by the Michigan Department of Environment, Great
19 Lakes, and Energy to the County.
- 20 (UU) *Stormwater control system* - Any structure, feature or appurtenance subject
21 to this Ordinance or a rule promulgated pursuant to this Ordinance that is
22 designed to collect, detain, retain, treat, or convey stormwater or stormwater
23 runoff, including without limitation buffer strips, swales, gutters, catch

1 basins, closed conduits, detention systems, pretreatment systems,
2 wetlands, pavement, unpaved surfaces, structures, watercourses, or
3 surface waters.

4 (VV) *Stormwater Standards Manual* – A manual published separately by the
5 Department of Public Services and updated periodically that outlines key
6 elements of this Ordinance and the Rules and assists with their
7 implementation. Specifically, the manual describes: performance standards
8 for stormwater control systems, design criteria for the various components
9 of stormwater control systems, and design and maintenance information for
10 various BMPs.

11 (WW) *Stormwater runoff* - The excess portion of precipitation that does not
12 infiltrate the ground, but “runs off” and reaches a conveyance, surface
13 water, or watercourse.

14 (XX) *Surface water* - A body of water, including without limitation seasonal and
15 intermittent waters, in which the surface of the water is exposed to the
16 atmosphere, including without limitation lakes, open detention basins,
17 forebays, watercourses, bioretention areas, retention basins, wetlands, and
18 impoundments.

19 (YY) *Underground detention system* - One or more underground pipes and/or
20 other structures that are utilized as a detention system.

21 (ZZ) *Watercourse* - A natural or artificial channel through which water flows,
22 including without limitation rivers, streams, vegetated swales, open
23 channels, and open County Drains.

1 (AAA) *Watershed* - The complete area or region draining into a watercourse,
2 surface water, or closed conduit.

3 (BBB) *Wetland* - Land characterized by the presence of water at a frequency and
4 duration sufficient to support, and that under normal circumstances does
5 support, wetland vegetation or aquatic life, and is commonly referred to as
6 a bog, swamp, or marsh.

7 **Secs. 95-22 – 95-30. – Reserved**

8 **ARTICLE III. APPLICABILITY**

9 **Sec. 95-31. GENERAL**

10 A. This Ordinance and rules promulgated pursuant to this Ordinance shall
11 apply to all of the following:

12 (i) construction activity that negatively impacts or may negatively impact
13 stormwater runoff into or around new or existing road rights-of-way
14 within the jurisdiction of the County;

15 (ii) construction activity that negatively impacts or may negatively impact
16 stormwater runoff into or around County drains;

17 (iii) construction activity that negatively impacts or may negatively impact
18 stormwater runoff in projects that are subject to the requirements of
19 Act 288 of 1967 (Subdivision Control Act), MCL 560.101 et seq., as
20 amended;

21 (iv) construction activity that negatively impacts or may negatively impact
22 stormwater runoff from projects that are subject to Act 96 of 1987
23 (Mobile Home Commission Act), MCL 125.2301 et seq., as
24 amended;

1 (v) construction activity that negatively impacts or may negatively impact
2 stormwater runoff into, on, or through property owned by the County;

3 (vi) construction activity that negatively impacts or may negatively impact
4 new or existing storm sewer systems owned, operated, or controlled
5 by the County; and

6 (vii) construction activity that occurs within and negatively impacts or may
7 negatively impact water quality or water resources in watersheds or
8 sub-watersheds impacted by discharges authorized by the Michigan
9 Department of Environment, Great Lakes, and Energy pursuant to
10 the Wayne County Municipal Separate Storm Sewer Systems (MS4)
11 Permit.

12 Construction activity that negatively impacts or may negatively
13 impact stormwater runoff or water quality includes, without limitation,
14 construction activity that: increases stormwater runoff rates,
15 velocities, or volumes; increases water pollution or transports
16 pollutants; causes erosion and/or sedimentation of waterways;
17 causes a lack of ground infiltration; increases water temperatures;
18 exceeds the safe receiving capacities of storm sewer systems
19 owned, operated, or controlled by the County; or endangers public
20 health or safety.

21 B. Notwithstanding the foregoing Section 95-31A, this Ordinance shall not
22 apply to emergency repairs within a County right-of-way.

23 **Sec. 95-32. LOCAL REQUIREMENTS**
24

1 (A) Nothing in this Ordinance, or in any rule promulgated pursuant to this
2 Ordinance, invalidates any rule, regulation, or ordinance enacted by a local
3 unit of government within Wayne County prior to the Effective Date of this
4 Ordinance, or prevents any local unit of government from adopting or
5 enacting a stormwater control program applicable to activities within its
6 jurisdiction.

7 (B) Nothing in this Ordinance or in any rule promulgated pursuant to this
8 Ordinance shall apply to construction activity that is subject to a stormwater
9 control program enacted by a local unit of government within Wayne County
10 that imposes requirements equal to or more stringent than the minimum
11 applicable requirements of this Ordinance.

12 (C) The County, in its sole discretion, and to the extent permitted by law, may
13 enter into an agreement with any local unit of government within Wayne
14 County for the purpose of implementing, in whole or in part, this Ordinance
15 and/or any rule promulgated pursuant to this Ordinance, with respect to
16 construction activity within the jurisdiction of the local unit of government.

17
18 **Secs. 95-33 – 95-40-. – Reserved.**

19 **ARTICLE IV. STORMWATER CONSTRUCTION APPROVALS**

20 **Sec. 95-41. GENERAL REQUIREMENTS**

21
22 It shall be a violation of this Ordinance to engage in regulated construction activity except
23 in accordance with this Ordinance and rules promulgated pursuant to this Ordinance, and
24 pursuant to a valid stormwater construction approval and construction permit issued by
25 the County. A stormwater construction approval shall be issued in a form and manner

1 approved by the County and may be incorporated into a construction permit or other
2 approval issued under or required by another ordinance, statute or regulation.

3 **Sec. 95-42. APPLICATION FOR STORMWATER CONSTRUCTION**

4 **APPROVAL**

- 5 (A) Applicants shall submit a written application for a stormwater construction
6 approval to the County. The application shall be made in a form and manner
7 approved by the County and shall include all information and documentation
8 required by the County pursuant to this Ordinance or rules promulgated
9 pursuant to this Ordinance. While an application for stormwater construction
10 approval and a construction permit may be executed by an authorized
11 representative or agent of the property owner on whose land the stormwater
12 control system is or will be located, a long-term maintenance permit (M-
13 Permit) shall be executed by the property owner itself, the County and the
14 local unit(s) of government or other public entity approved by the County.
- 15 (B) After issuance of a stormwater construction approval, but prior to
16 commencement of construction activity, the Applicant shall obtain a
17 construction permit (C-Permit) from the County.
- 18 (C) All proposed modifications to a stormwater control system shall be
19 submitted to the County in writing, together with all information and all
20 supporting documentation required by the County pursuant to this
21 Ordinance or rules promulgated pursuant to this Ordinance to support the
22 proposed modification. A person shall not commence regulated

1 construction activity associated with a proposed modification without a
2 stormwater construction approval and construction permit from the County.

3 (D) All construction permits issued by the Permit Office shall expire not
4 later than two (2) years after the date of issuance, unless extended in
5 writing by the Permit Office for good cause shown by the Permit
6 Holder.

7 **Sec. 95-43. FINANCIAL ASSURANCE FOR REGULATED CONSTRUCTION**
8 **ACTIVITY**

9 (A) The County may require an Applicant to provide financial assurance for
10 regulated construction activity.

11 (B) Financial assurance provided pursuant to this section shall be in the form
12 of a performance bond, cashier's or certified check, or unconditional
13 irrevocable letter of credit. The County may accept, with prior approval, an
14 equivalent instrument as financial assurance for regulated construction
15 activity.

16 (C) The County may establish the form and amount of financial assurance to
17 be provided; the events, circumstances, or occurrences that will cause the
18 County to release the financial assurance; and other requirements for
19 financial assurance to satisfy the purposes of this Ordinance.

20 (D) The County will only release the construction permit and financial assurance
21 after the County receives a recorded copy of the resolution and fully
22 executed long-term maintenance permit, including the maintenance
23 plan and schedule, pursuant to Article VII of this Ordinance, and all

1 fees assessed pursuant to this Ordinance have been paid, in
2 accordance with this Ordinance and the rules promulgated pursuant to this
3 Ordinance.

4 **Secs. 95-44 – 95-50. – Reserved.**

5 **ARTICLE V. DESIGN AND CONSTRUCTION REQUIREMENTS FOR**
6 **STORMWATER CONTROL SYSTEMS**

7 **Sec. 95-51. GENERAL**

- 8 (A) Except as provided below, stormwater control systems shall be designed in
9 accordance with the minimum requirements for performance and design
10 that are set forth in this Ordinance and in rules promulgated pursuant to this
11 Ordinance.
- 12 (B) The County encourages the development and use of innovative stormwater
13 control system designs and construction techniques, including without
14 limitation the use of non-structural practices to reduce stormwater runoff
15 and/or its water quality impacts, to achieve the flood control and water
16 quality objectives of this Ordinance and the rules promulgated hereunder.
- 17 (C) Notwithstanding any provision in this Ordinance or a rule promulgated
18 pursuant to this Ordinance, the County may require stormwater control
19 systems to satisfy performance and/or design standards more stringent
20 than the minimum requirements for performance and design set forth in this
21 Ordinance and in rules promulgated pursuant to this Ordinance when
22 necessary to address unique flood control or water resources protection
23 issues at a development site that negatively impacts or may negatively
24 impact adjacent properties or downstream of a development site.

1 **Sec. 95-52. REQUIREMENTS FOR DESIGN OF STORMWATER CONTROL**
2 **SYSTEMS**

3
4 (A) Selecting and designing stormwater control systems to meet the
5 requirements of this Ordinance and the rules promulgated pursuant to this
6 Ordinance shall be the responsibility of the Applicant or its designee, subject
7 to the approval of the County pursuant to this Ordinance and rules
8 promulgated pursuant to this Ordinance. The County may deny a
9 stormwater construction approval for a system design that is not in
10 compliance with these requirements.

11 (B) In designing a stormwater control system, the Applicant shall consider all
12 relevant and appropriate factors, including without limitation the following:

- 13 (1) the public health, safety, welfare, and the environment;
- 14 (2) the inconvenience caused by stormwater runoff on the subject
15 property;
- 16 (3) the long-term impact of regulated construction activity on stormwater
17 runoff on, from, and beyond the property;
- 18 (4) the natural drainage pattern of the land;
- 19 (5) the impact of the regulated construction activity on the affected
20 watershed(s);
- 21 (6) the effect of complete upstream development on the subject property
22 as determined by applicable master plans and/or stormwater plans;
23 and;
- 24 (7) the extent of downstream improvements necessary for proper
25 stormwater drainage.

1 Secs. 95-53 – 95-60. – Reserved.

2 **ARTICLE VI. FEES FOR STORMWATER CONSTRUCTION APPROVALS**

3

4 **Sec. 95-61. [Generally]**

5

6 A County agency may recommend to the County Commission a written schedule to be
7 adopted by the County to establish a fee system for administering and implementing the
8 stormwater control program. The fee system may include fees for application submittal
9 and review, permit issuance, project overview, compliance inspections, and any other
10 task or service performed by the County to administer or implement the requirements of
11 this Ordinance or rules promulgated hereunder. Fees may be refundable or
12 nonrefundable, as determined appropriate by the County, and may include charges for
13 time and materials utilized by the County in implementing and administering the
14 requirements of this Ordinance or rules promulgated pursuant to this Ordinance. The
15 fees described in this Article are separate and distinct from the financial assurance that
16 may be required pursuant to Section 95-43 of this Ordinance. The schedule of fees shall
17 be incorporated into Chapter 129 (Fees) of the Code of Ordinances of the Charter County
18 of Wayne, as amended.

19 **Secs. 95-62 – 95-70. – Reserved.**

20 **ARTICLE VII. LONG-TERM MAINTENANCE**

21 **Sec. 95-71. DEMONSTRATION OF LONG-TERM MAINTENANCE**

22 The applicant for a stormwater construction approval shall demonstrate to the County in
23 the application or during the application review process, as determined appropriate by the
24 County, that the stormwater control system shall be maintained in perpetuity. This
25 demonstration shall be made in the manner specified in this Ordinance and in rules
26 promulgated pursuant to this Ordinance.

1 **Sec. 95-72. SCOPE OF LONG-TERM MAINTENANCE**

2 For purposes of this Ordinance and rules promulgated pursuant to this Ordinance, long-
3 term maintenance shall include: site monitoring, inspection and preventative
4 maintenance activities necessary to ensure that a stormwater control system functions
5 properly as designed; maintenance of structural and vegetative BMPs installed and
6 implemented to meet the performance standards; remedial actions necessary to repair,
7 modify, or reconstruct the system in the event the system does not function properly as
8 designed at any time; notification to subsequent owners of limitations or restrictions on
9 the property; actions necessary to enforce the terms of restrictive covenants or other
10 instruments applicable to the property pursuant to this Ordinance and rules promulgated
11 pursuant to this Ordinance; and such other actions as may be set forth in rules
12 promulgated hereto, all such actions to be performed in perpetuity.

13 **Sec. 95-73. LONG-TERM MAINTENANCE PERMIT PROCESS**

14 The Permit Holder under the long-term maintenance permit shall be the owner of the property
15 on which the stormwater control system is constructed. The County will issue a long-term
16 maintenance permit for the project pursuant to this Ordinance that identifies, among other
17 things, the limits of the stormwater control system, the party responsible for maintenance, and
18 the activities required to ensure that the system functions effectively. Long-term maintenance
19 shall begin after construction of the stormwater control system has been completed, the County
20 has performed a final inspection of the completed stormwater control system which it approves,
21 and the County has received the engineer's certificate of construction for the completed
22 stormwater control system. After the County's approval of the final inspection of the stormwater
23 system and the County receives the engineer's certificate of construction for the completed

1 stormwater system and prior to the expiration date of the construction permit, the Property
2 Owner shall obtain a resolution issued by the local unit(s) of government in which the
3 stormwater control system is located or other public entity approved by the County to
4 authorize a community official of the local unit(s) of government to execute the long-
5 term maintenance permit on behalf of the local unit(s) of government or other approved
6 public entity in accordance with this Ordinance and the rules promulgated pursuant to
7 this Ordinance. The County will not release the construction permit and financial
8 assurance until all of the above are completed.

9 **Sec. 95-74. LONG-TERM MAINTENANCE ASSURANCE**

10 The Property Owner is responsible for its long-term maintenance and shall be the Permit
11 Holder under the long-term maintenance permit. The local unit(s) of government in which
12 the stormwater control system is located, or other public entity approved by the
13 County, guarantees it will assume jurisdiction over and accept responsibility for the long-
14 term maintenance of stormwater control systems that require a County stormwater
15 construction approval in accordance with a long-term maintenance plan and schedule
16 approved by the County if the Property Owner fails to maintain the stormwater control
17 system. This perpetual maintenance guarantee by the local unit(s) of government or other
18 approved public entity shall be made by a resolution or equivalent instrument, the form of
19 which resolution or equivalent instrument shall be as provided by the County and issued
20 without change, unless otherwise agreed to and approved by the County.

21 **Sec. 95-75. RECORDING**

22 After the County's approval of the long-term maintenance permit, the long-term
23 maintenance permit together with the resolution shall be recorded at the Wayne County,

1 Michigan Register of Deeds. No long-term maintenance permit shall be recorded prior to
2 the County's approval. The long-term maintenance permit shall run with the land and be
3 binding on the Property Owner and any successors or assigns.

4 **Secs. 95-76 – 95-80. – Reserved.**

5 **ARTICLE VIII. AUTHORITY AND DUTIES OF INSPECTORS**

6 **Sec. 95-81. AUTHORITY**

7 Upon presentation of proper credentials and identification, and after stating the authority
8 and purpose of the inspection, County inspectors shall be promptly permitted to enter and
9 inspect a development site. The inspection shall be for the purpose of investigating the
10 development site's stormwater control systems or components of the stormwater control
11 systems, to determine compliance or non-compliance with this Ordinance, rules or
12 regulations promulgated pursuant to this Ordinance, stormwater construction approvals
13 and permits issued pursuant to this Ordinance.

14 **Sec. 95-82. DUTIES OF INSPECTORS**

15 While entering and performing an inspection on private property pursuant to Section 95-
16 81 above, a County inspector shall observe and comply with all safety rules applicable to
17 the premises.

18 **Secs. 95-83 – 95-90. – Reserved.**

19 **ARTICLE IX. COMPLIANCE AND ENFORCEMENT**

20 **Sec. 95-91. IN GENERAL.**

21 All persons subject to the requirements of this Ordinance shall fully cooperate with the
22 County to ensure that the requirements of this Ordinance, rules promulgated pursuant to
23 this Ordinance, stormwater construction approvals and permits issued hereunder are
24 satisfied. Whenever possible, the County shall attempt to enter into voluntary

1 agreements to resolve violations of this Ordinance, rules promulgated pursuant to this
2 Ordinance, stormwater construction approvals and permits issued hereunder.

3 **Sec. 95-92. INVESTIGATIONS, NOTICES OF VIOLATION, INFORMAL**
4 **CONFERENCES, AND VOLUNTARY AGREEMENTS**

5 (A) If the County believes that a violation of this Ordinance, a rule promulgated
6 pursuant to this Ordinance, a stormwater construction approval or permit
7 issued hereunder may have occurred or exists, the County shall, as soon
8 as practicable, initiate an investigation.

9 (B) Based upon the findings of the investigation, the County shall informally
10 attempt to verbally counsel the Permit Holder or violator on proper methods
11 of remediation.

12 (C) If, after the investigation and informal attempt at obtaining compliance, the
13 County determines that a violation still exists, the County shall provide
14 written notice of the violation or violations to the Permit Holder or violator,
15 such notice to be given by US mail to the Permit Holder or violator at the
16 address on file with the Permit Office or to the Permit Holder or violator by
17 email to the email address on file with the Permit Office. A written notice of
18 violation shall include a statement of facts upon which the violation is based.

19 1. Permit Holder or violator shall have fourteen (14) days after notice of
20 violation is given to enter into a Consent Agreement with the County that
21 resolves or corrects the violation to the County's satisfaction.

1 2. Within seven (7) days after notice of violation is given, the Permit Holder
2 or violator may request an informal conference be held within the
3 fourteen (14) day period after notice of violation is given.

4 3. All notices hereunder shall be deemed given on the day of mailing (if by
5 US Mail) or on the day of transmission (if by email).

6 (D) The County shall provide an opportunity for Permit Holder or violator to
7 enter into a voluntary agreement (Consent Agreement) designed to bring
8 the Permit Holder or violator into compliance. If a Consent Agreement is
9 not entered into, the County shall take appropriate enforcement action
10 pursuant to this Ordinance and other applicable provisions of law.

11 **Sec. 95-93. ADMINISTRATIVE COMPLIANCE ORDERS**

12 (A) If the County determines that a violation of this Ordinance, a rule
13 promulgated pursuant to this Ordinance, a stormwater construction
14 approval or permit issued hereunder has occurred or exists, the County may
15 issue an Administrative Compliance Order pursuant to this Section 95-93.

16 (B) Except as provided in Section 95-94, the County may issue an
17 Administrative Compliance Order in the following circumstances:

18 (i) the County determines that a person has violated a Consent
19 Agreement entered into with the County; or

20 (ii) the County determines that a person has violated or continues to
21 violate this Ordinance, a rule promulgated pursuant to this
22 Ordinance, a stormwater construction approval or permit issued
23 hereunder, and the County has attempted to resolve the violation

1 pursuant to Section 95-92, but no Consent Agreement has been
2 entered into.

3 (C) The Administrative Compliance Order shall contain a statement of facts
4 upon which the order is based, a description of the actions that must be
5 taken to correct the non-compliance, a compliance schedule, and other
6 requirements as might be reasonably necessary to address the non-
7 compliance. Administrative Compliance Orders also may contain
8 administrative fines and penalties, and such other monetary relief for the
9 non-compliance, including without limitation, amounts necessary to
10 compensate the County for costs incurred investigating, administering and
11 enforcing this Ordinance or rules promulgated hereto.

12 (D) Within twenty eight (28) days after the issuance of an Administrative
13 Compliance Order, the person or persons receiving the order may appeal
14 the issuance of the order by providing notice to the Director of Wayne
15 County's Department of Public Services or its designee, such notice
16 specifically identifying the matter being appealed and the basis for the
17 appeal. The Director shall address the appeal within 56 days of receiving
18 the same. The Director shall consider the appeal and make a decision
19 whereby it affirms, rejects or modifies the action being appealed. In
20 considering such appeal, the Director may consider the recommendations
21 of its staff and the comments of other persons having knowledge of the
22 matter. Any person dissatisfied with the Director's decision may exercise
23 his or her appeal rights outlined in Article XI of this Ordinance.

1 **Sec. 95-94. EMERGENCY ADMINISTRATIVE ORDERS**
2

3 (A) The County may issue an emergency administrative order (Emergency
4 Order) without attempting to resolve a violation by using the enforcement
5 procedures described in Section 95-92 and 95-93 if the County finds that a
6 violation of this Ordinance, a rule promulgated pursuant to this Ordinance,
7 or a stormwater construction approval issued hereunder constitutes or
8 causes, or will constitute or cause, a substantial injury to the public health,
9 safety, welfare, or the environment, and that it would be prejudicial to the
10 interests of the people of the County to delay action.

11 (B) Emergency Orders issued pursuant to this Section 95-94 shall contain a
12 statement of facts upon which the order is based and notification to the
13 person that it must immediately take action to discontinue, abate, correct,
14 or otherwise address the imminent and substantial injury caused or likely to
15 be caused by the non-compliance.

16 (C) Within seven (7) days after issuance of an Emergency Order, the County
17 shall provide the person an opportunity to be heard and to present any proof
18 that the non-compliance does not or will not constitute imminent and
19 substantial injury to the public health, safety, welfare or the environment.

20 (D) An Emergency Order issued pursuant to this Section 95-94 is effective on
21 issuance and shall remain in effect until Permit Holder or violator remedies
22 the condition which required the Emergency Order or until an order of the
23 Wayne County Circuit Court is issued. To the extent the Permit Holder or
24 violator does not remedy the condition, the County has the option of taking

1 any action deemed necessary, in the County's discretion, to remedy the
2 condition and assess the costs associated with the same against the Permit
3 Holder or violator, as outlined in Section 95-95.

4 **Sec. 95-95. ASSESSMENT OF EXPENSES AND ATTORNEY FEES**

5 To the extent the County is required to expend resources, including but not limited to,
6 expenses, labor, administrative time or attorney fees to enforce this or any other provision
7 of this Ordinance, a rule promulgated pursuant to this Ordinance or a stormwater
8 construction approval, the County shall be entitled to assess the same against the Permit
9 Holder or violator and deduct or assess the same from any bond or other financial
10 assurance.

11 **Sec. 95-96. MUNICIPAL CIVIL INFRACTIONS**

12 (A) Violation; Municipal Civil Infraction

13 A person who violates any provision of this Ordinance or rules promulgated
14 hereunder, including without limitation any notice, order, stormwater
15 construction approval, agreement, decision, or determination promulgated,
16 issued, made, or entered by the County under this Ordinance or rules
17 promulgated hereunder, is responsible for a municipal civil infraction for
18 which the County may issue a citation, with the violator subject to payment
19 of a civil fine of One Thousand Dollars (\$1,000.00) for each infraction, plus
20 costs and other sanctions outlined in this Ordinance or otherwise provided
21 by law. The County may issue such infraction or infractions against
22 individual members, shareholders, directors, managers, officers or other
23 officials of entities, incorporated or not, such as, but not limited to, limited

1 liability companies, limited companies, s corporations, c corporations,
2 partnerships and limited liability partnerships, whether organized in the
3 State of Michigan or another state or country. Nothing provided for in this
4 section shall impede the County's ability to secure compliance as otherwise
5 outlined in this Article or institute a civil action as provided by Section 95-97
6 or elsewhere in this Ordinance, rules promulgated pursuant to this
7 Ordinance or as otherwise provided by local or State law.

8 (B) Repeat Offenses; Increased Fines.

9 (i) Increased fines may be imposed for repeat offenses. As used in this
10 section, "repeat offense" means a second (or any subsequent)
11 municipal civil infraction violation of the same requirement or
12 provision of this Ordinance or rule promulgated hereunder that is
13 committed by a person within a 12-month period from a prior finding
14 or admission of responsibility.

15 (ii) The increased fine for a repeat offense under this section shall be as
16 follows:

17 (a) The fine for any offense that is a first repeat offense shall be
18 not less than \$2,500, plus costs.

19 (b) The fine for any offense that is a second repeat offense or any
20 subsequent repeat offense shall be not less than \$5,000, plus
21 costs.

1 (C) Unpaid Fines and Costs. Any fines and costs assessed pursuant to this
2 section that are not paid in full within twenty eight (28) days after
3 adjudication of the same, the outstanding balance shall double.

4 (D) Authorized County Officials.

5 The Director of the Department of Public Services or her or his respective
6 designees and authorized representatives are authorized County Officials
7 for purposes of issuing municipal civil infraction citations (directing alleged
8 violators to appear in district court) for violations of this Ordinance.

9 (E) Procedures.

10 Except as otherwise provided by this section, the procedures for municipal
11 civil infraction citation actions shall be as set forth in Chapter 2 (Municipal
12 Civil Infractions) of the Code of Ordinances of the Charter County of Wayne,
13 Enrolled Ordinance 2000-404.

14 (F) Remedy Not Exclusive.

15 The County need not exhaust the remedies otherwise outlined in this
16 Ordinance prior to issuing a municipal civil infraction citation, nor must the
17 County exhaust any other remedies prior to issuing a municipal civil
18 infraction.

19 **Sec. 95-97. CIVIL ACTIONS**

20 The County, by and through Corporation Counsel or its designee, may bring a civil action
21 in the name of the County to enforce the provisions of this Ordinance and rules
22 promulgated pursuant to this Ordinance. Nothing in this Ordinance shall preclude the
23 County from instituting an action for appropriate legal and/or equitable relief in Wayne

1 County Circuit Court to restrain, correct, or abate a violation of this Ordinance, a rule or
2 regulation promulgated pursuant to this Ordinance, or a stormwater construction approval
3 issued hereunder; or to stop an illegal act; or to abate a nuisance; or to prevent pollution
4 or flooding.

5 **Sec. 95-98. CRIMINAL PENALTIES; IMPRISONMENT**

6 Any person who:

7 (A) Violates this Ordinance, or any notice, order, stormwater construction
8 approval, or decision or determination promulgated, issued or made by the
9 County under this Ordinance; or

10 (B) Intentionally makes a false statement, representation, or certification in any
11 application for, or form pertaining to, a stormwater construction approval, or
12 in any other correspondence or communication, written or oral, with the
13 County regarding matters regulated by this Ordinance;

14 shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500 per
15 violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

16 **Sec. 95-99. SEPARATE OFFENSES**

17 Each act of violation, and each day that a violation of this Ordinance, rules or regulations
18 promulgated pursuant to this Ordinance, stormwater construction approval, order, notice,
19 or determination issued, made or entered into under this Ordinance is permitted to exist
20 or occur, constitutes a separate offense and shall be punishable as provided by this
21 Ordinance.

1 **ARTICLE X. [RESERVED]**

2 **Secs. 95-100 – 95-110. – Reserved.**

3 **ARTICLE XI. APPEAL.**

4 **Sec. 95-111. APPEAL.**

5 Any person whose legal rights, duties, or privileges are determined by the County
6 pursuant to this Ordinance or a rule promulgated pursuant to this Ordinance, and who is
7 aggrieved by the County's determination, may file an action at the Wayne County Circuit
8 Court to challenge the same no later than twenty eight (28) days after such determination.

9 **SECTION 2: PREEMPTION**

10 If any section, clause, or provision of this Chapter conflicts with any state law then the
11 section, clause, or provision of state law shall be read to supersede the conflicting
12 provisions of this Chapter to the extent necessary to give the state law full force and effect.

13 **SECTION 3: EFFECTIVE DATE**

14 This Ordinance shall be effective on September 3, 2021.

15 **ADOPTED BY THE WAYNE COUNTY COMMISSION AUGUST 19, 2021.**

16 (2021-526a)