

# VILLAGE OF BENTLEYVILLE, OHIO

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ORDINANCE NO: 2022-53  
INTRODUCED BY: HALE

## AN ORDINANCE AMENDING CHAPTER 1448, EROSION AND SEDIMENT CONTROL AND DECLARING AN EMERGENCY

WHEREAS, Chapter 1448 of the Codified Ordinances established 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 will promote and maintain the health and safety of the citizens of the Village of Bentleyville; and

WHEREAS, the Village Engineer that Chapter 1448 must be amended to meet the current requirements of the Village of Bentleyville's Ohio EPA NPDES Permit; and

WHEREAS, it is the desire of Council to amend Chapter 1448.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Bentleyville, County of Cuyahoga, State of Ohio, that:

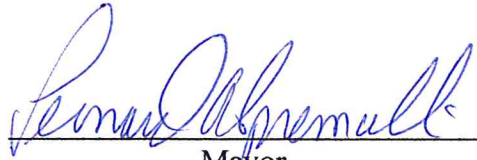
**Section 1:** Chapter 1448 is hereby amended as set forth on Exhibit A attached hereto and incorporated by reference herein.

**Section 2:** All other Village Codified Ordinances shall remain in full force and effect, unless inconsistent with this Ordinance.

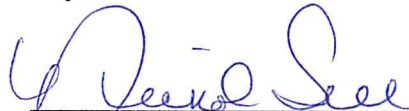
**Section 4:** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including the applicable sections of the Ohio Revised Code.

**Section 5.** This Ordinance is hereby declared to be an emergency measure immediately necessary for the public peace, health, or safety of the inhabitants of the Village and for the further reason that the Village of Bentleyville wants to immediately amend Chapter 1448 of the Codified Ordinances of the Village of Bentleyville. This Ordinance shall, therefore, take effect and be in full force immediately from and after the date of its passage and approval.

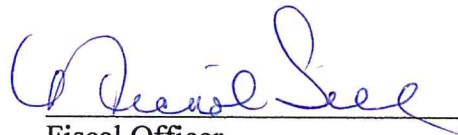
Passed: December 21, 2022

  
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Mayor

I, the undersigned, Fiscal Officer of the Village of Bentleyville, hereby certify that there is no newspaper published or having an office of publication in the same Village and that I published the foregoing Ordinance by posting the same in five (5) of the most public places of said Village, as defined by Resolution of Council, for a period of fifteen (15) days, beginning the date following passage and signature by the Mayor.

  
Fiscal Officer

I, the undersigned, Fiscal Officer of the Village of Bentleyville, hereby certify that the foregoing is a true copy of Ordinance 2022-53 duly enacted by the Council of said Village on December, 2022.

  
Fiscal Officer

## CHAPTER 1448

### Erosion and Sediment Control

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- 1448.01 Purpose and scope.
- 1448.02 Definitions.
- 1448.03 Disclaimer of liability.
- 1448.04 Conflicts, severability, nuisances and responsibility.
- 1448.05 Development of stormwater pollution prevention plans.
- 1448.06 Application procedures.
- 1448.07 Compliance with State and Federal regulations.
- 1448.08 Stormwater pollution prevention plan.
- 1448.09 Performance standards.
- 1448.10 Abbreviated stormwater pollution prevention plan (SWP3).
- 1448.11 Fees.
- 1448.12 Bond.
- 1448.13 Enforcement.
- 1448.14 Violations.
- 1448.15 Appeals.
- 1448.99 Penalty.

#### CROSS REFERENCES

Flood damage reduction - See P & Z Ch. 1273

#### 1448.01 PURPOSE AND SCOPE.

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources, and will promote and maintain the health and safety of the citizens of the Village.

(b) This regulation will:

(1) Allow development while minimizing increases in erosion and sedimentation.

(2) Reduce water quality impacts to receiving water resources that may be caused by new development or redevelopment activities.

(c) This regulation applies 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; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in division (d) of this section.

(d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### 1448.02 DEFINITIONS.

The definitions contained in Ohio Environmental Protection Agency ("Ohio EPA")'s Construction General Permit entitled "Authorization for Storm Water Discharges Associated with Construction Activity under the National Pollutant Discharge Elimination System" in effect at the time a permit is applied for under this chapter shall apply to this chapter, and the following definitions shall also apply:

(a) "Abbreviated stormwater pollution prevention plan (abbreviated SWP3)." The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.



- (b) "Acre." A measurement of area equaling 43,560 square feet.
- (c) "Administrator." The person or entity having the responsibility and duty of administering and ensuring compliance with this regulation.
- (d) "Commencement of construction." The initial disturbance of soils associated with clearing, grubbing, grading, placement of fill, or excavating activities or other construction activities.
- (e) "Community." Throughout this regulation, this shall refer to Village, its designated representatives, boards, or commissions.
- (f) "Concentrated stormwater runoff." Any stormwater runoff that flows through a drainage pipe, ditch, diversion, or other discrete conveyance channel.
- (g) "Construction entrance." The permitted points of ingress and egress to development areas regulated under this regulation.
- (h) Construction General Permit: The most recent General National Pollutant Discharge Elimination System (NPDES) permit for authorization of stormwater discharges associated with construction activities issued by Ohio EPA (Ohio EPA Permit #OHC000005 and its successors)
- (i) "Development area." A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.
- (j) "Dewatering volume." See current *Ohio Rainwater and Land Development Manual*.
- (k) "Discharge." The addition of any pollutant to surface waters of the state from a point source.
- (l) "Disturbance." Any clearing, grading, excavating, filling, or other alteration of land surface where natural or man-made cover is destroyed in a manner that exposes the underlying soils.
- (m) "Disturbed area." An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities such as grading, excavating, or filling.
- (n) "Drainage."
  - (1) The area of land contributing surface water to a specific point.
  - (2) The removal of excess surface water or groundwater from land by surface or subsurface drains.
- (o) "Drainage watershed." For the purpose of this regulation the total contributing drainage area to a SCM, i.e., the "watershed" directed to the practice. This includes offsite contributing drainage.
- (p) "Drainage way." A natural or manmade channel, ditch, or waterway that conveys surface water in a concentrated manner by gravity.
- (q) "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.
- (r) "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.
- (s) "Final stabilization." All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least eighty percent coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed. In addition, all temporary erosion and sediment control practices are removed and disposed of, and all trapped sediment is permanently stabilized to prevent further erosion. Final stabilization also requires the installation of permanent (post-construction) stormwater control measures (SCMs) where applicable.
- (t) "Grading." The excavating, filling, or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
- (u) "Grubbing." Removing or grinding of roots, stumps and other unwanted material below existing grade.
- (v) "Impervious." That which does not allow infiltration.
- (w) "Landscape architect." A registered professional landscape architect who is registered in the State of Ohio.
- (x) "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.
- (y) "Maximum extent practicable (MEP)." The technology-based discharge standard for municipal separate storm sewer



systems to reduce pollutants in stormwater discharges that was established by the Clean Water Act §402(p). A discussion of MEP as it applies to small MS4s is found in 40 CFR 122.34.

(z) "Municipal separate storm sewer system (MS4)." A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are:

(1) Owned or operated by the Federal government, State, municipality, township, county, district, or other public body (created by or pursuant to State or Federal law) including a special district under State law such as a sewer district, flood control district or drainage districts, or similar entity, or a designated and approved management agency under Section 208 of the Federal Water Pollution Control Act that discharges into surface waters of the State;

(2) Designed or used for collecting or conveying solely stormwater;

(3) Which is not a combined sewer; and

(4) Which is not a part of a publicly owned treatment works.

(aa) "National Pollutant Discharge Elimination System (NPDES)." The national program for issuing, modifying, revoking and reissuing, termination, monitoring and enforcing permits and enforcing pretreatment requirements, under sections 307, 402, 318, 405 under the Clean Water Act.

(aa) "Operator." Any party associated with a construction project that meets either of the following two criteria:

(1) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

(2) The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a stormwater pollution prevention plan (SWP3) for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions.

(bb) "Owner or operator." The owner or operator of any "facility or activity" subject to regulation under the NPDES program.

(1) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

(2) The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a stormwater pollution prevention plan (SWP3) for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions.)

(cc) "Parcel." 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 permanent parcel number assigned by the Cuyahoga County Auditor's Office.

(dd) "Percent imperviousness." The impervious area created divided by the total area of the project site.

(ee) "Permanent stabilization." Establishment of permanent vegetation, decorative landscape mulching, matting, sod, rip rap, and landscaping techniques to provide permanent erosion control on areas where construction operations are complete or where no further disturbance is expected for at least one year.

(ff) "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.

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

(hh) "Point source." Any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or the floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

(ii) "Pre-construction meeting." A meeting between the Village and all principle parties, prior to the start of any construction, at a site that requires a stormwater pollution prevention plan.

(jj) "Pre-winter stabilization meeting." A meeting between the Village of and all principal parties, prior to October 1, to plan winter erosion and sediment controls for a site that requires a stormwater pollution prevention plan.

(kk) "Professional engineer." A registered professional engineer registered in the State of Ohio.

(ll) "Professional wetland consultant." Individuals competent in botany, hydric soils and wetland hydrology that provide professional services or advice and meet the education and professional experience requirements as required by the



Society of Professional Wetland Scientists.

(mm) "Qualified inspection personnel." A person knowledgeable in the principles and practice of erosion and sediment controls, who possess the skills to assess all conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measure selected to control the quality of stormwater discharges from the construction activity.

(nn) "Rainwater and Land Development." Ohio's standards for stormwater management, land development, and stream protection. The most current edition of these standards shall be used with this regulation.

(oo) "Riparian area." The transition area between flowing water and terrestrial (land) ecosystems composed of trees, shrubs and surrounding vegetation which serve to stabilize erodible soil, improve both surface and ground water quality, increase stream shading and enhance wildlife habitat.

(pp) "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.

(qq) "Runoff coefficient." The fraction of rainfall that will appear at the conveyance as runoff.

(rr) "Sediment." The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.

(ss) "Sedimentation." The deposition or settling of sediment.

(tt) "Sediment settling pond." A sediment trap, sediment basin or permanent basin that has been temporarily modified for sediment control, as described in the latest edition of *Rainwater and Land Development*.

(uu) "Sediment storage volume." See current edition of *Rainwater and Land Development*.

(vv) "Setback." A designated transition area around water resources that is left in a natural, usually vegetated, state so as to protect the water resources from runoff pollution. Soil disturbing activities in this area are restricted by this regulation.

(ww) "Soil disturbing activity." Clearing, grading, excavating, filling, grubbing or stump removal that occurs during clearing or timber activities, 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.

(xx) "Soil & Water Conservation District." An entity organized under R.C. Chapter 1515 referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Cuyahoga SWCD.

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

(zz) "Steep slopes." Slopes that are fifteen percent or greater in grade. NOTE: If otherwise defined in Village zoning, use Village definition.

(aaa) "Stormwater pollution prevention plan (SWP3)." The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

(bbb) "Stormwater control measure (SCM)." 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. SCMs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.

(ccc) "Stormwater." Stormwater runoff, snow melt and surface runoff and drainage.

(ddd) "Subdivisions, major and minor." See Ohio Administrative Code 711.001 for definition.

(eee) "Surface outlet." A dewatering device that only draws water from the surface of the water.

(fff) "Surface water of the State" also "water resource or water body." Any stream, lake, reservoir, pond, marsh, wetland, or other waterway situated wholly or partly within the boundaries of the State, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in R.C. § 6111.01 are not included.

(ggg) "Temporary stabilization." The establishment of temporary vegetation, mulching, geotextiles, sod, preservation of existing vegetation, and other techniques capable of quickly establishing cover over disturbed areas to provide erosion control between construction operations.

(hhh) "Topsoil." The upper layer of the soil that is usually darker in color and richer in organic matter and nutrients than subsoil.

(iii) "Total maximum daily load (TMDL)." The sum of the existing and/or projected point source, nonpoint source, and background loads for a pollutant to a specified watershed, water resource or wetland, or water resource or wetland



segment. A TMDL sets and allocates the maximum amount of a pollutant that may be introduced into the water and still ensure attainment and maintenance of water quality standard.

(jjj) "Unstable soils." A portion of land that is identified by the Village Engineer as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.

(kkk) "Water quality volume (WQv)." The volume of stormwater runoff which must be captured and treated prior to discharge from the developed site after construction is complete. WQv is based on the expected runoff generated by the mean storm precipitation volume from post-construction site conditions at which rapidly diminishing returns in the number of runoff events captured begins to occur.

(lll) "Water resource" also "surface water of the State." Any stream, lake, reservoir, pond, marsh, wetland, or waterway situated wholly or partly within the boundaries of the State, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in R.C. § 6111.01 are not included.

(mmm) "Watershed." The total drainage area contributing runoff to a single point.

(nnn) "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).

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.03 DISCLAIMER OF LIABILITY.**

(a) Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any 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 of property.

(b) By approving an SWP3 under this regulation, the Village does not accept responsibility for the design, installation, and operation and maintenance of stormwater management practices.

(c) Performance Liability. No provision of this chapter shall limit, increase or otherwise affect the liabilities of the owner nor impose any liability upon the Village not otherwise imposed by law.

(d) No Release from Other Requirements. No condition of this permit shall release the owner from any responsibility or requirements under other Federal, State, or local environmental chapters. If requirements vary, the most restrictive requirements shall prevail.

(e) Proceeding with Activity. Soil-disturbing activities regulated under this chapter shall not begin until all necessary Village, State and Federal permits and appropriate approvals of the SWP3 have been granted to the site owner.

(f) Performance Responsibility. The owner is responsible for carrying out all provisions of the approved SWP3 and for meeting all the standards and requirements of this chapter.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.**

(a) Where this regulation conflicts with other provisions of law or ordinance or requirements in the Construction General Permit, the most restrictive provisions shall prevail.

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

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

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

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.05 DEVELOPMENT OF STORMWATER POLLUTION PREVENTION PLANS.**

(a) This regulation requires that a stormwater pollution prevention plan (SWP3) be developed and implemented for all development projects disturbing one acre or more and on which any regulated activity of Section 1448.01(c) is proposed.  
{01804928-1}



The Village Engineer has the discretion to require a SWP3 for projects on sites of any size.

(b) The following activities shall submit an abbreviated SWP3:

(1) New single-family residential construction regardless of parcel size. If such activities disturb one acre or more, or are part of a larger common plan of development or sale disturbing one acre or more, a full SWP3 and compliance with the Ohio EPA Construction General Permit may be required.

(2) Additions, accessory buildings, pads, landscaping or driveways. If such activities disturb one acre or more, or are part of a larger common plan of development or sale disturbing one acre or more, a full SWP3 and compliance with the Ohio EPA Construction Site General Permit is required.

(3) General clearing activities not related to construction. If such activities disturb one acre or more, or are part of a larger common plan of development or sale disturbing one acre or more, compliance with the Ohio EPA Construction Site General Permit and a full SWP3 is required.

(c) Activities disturbing one tenth or less of an acre are not required to submit a SWP3 or an abbreviated SWP3, unless required by the Village Engineer. These activities must comply with all other provisions of this regulation.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.06 APPLICATION PROCEDURES.**

(a) Soil Disturbing Activities Submitting a Stormwater Pollution Prevention Plan. The owner shall submit two sets of the SWP3 and the applicable fees to the Village as follows:

(1) For subdivisions. After the approval of the preliminary plans and with submittal of the improvement plans.

(2) For other construction projects. Prior to issuance of a building permit.

(3) For general clearing projects. Prior to issuance of a building permit.

(b) Soil Disturbing Activities Submitting an Abbreviated Stormwater Pollution Prevention Plan. The owner shall submit two sets of the abbreviated SWP3 and the applicable fees to the Village:

(1) For other construction projects. Prior to issuance of a building permit.

(2) For general clearing projects. Prior to issuance of a building permit.

(c) Soil disturbing activities shall not begin, and zoning permits shall not be issued without an approved SWP3 or abbreviated SWP3 and installation of perimeter sediment controls.

(d) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the subplot is in compliance with this regulation.

(e) The developer, engineer and contractor, and other principal parties, shall meet with the Village Engineer for a SWP3 pre-construction meeting no less than seven days prior to soil-disturbing activity at the site to ensure that erosion and sediment control devices are properly installed, limits of disturbance and buffer areas are properly delineated and construction personnel are aware of such devices and areas.

(f) Approvals issued in accordance with this regulation shall remain valid for one year from the date of approval. Owners may file for extensions of their approval with the Planning and Zoning Commission.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.**

Approvals issued in accordance with this regulation do not relieve the owner of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the U.S. Army Corps of Engineers, and other Federal, State, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these State and Federal regulations shall be submitted with stormwater pollution prevention plans or abbreviated stormwater pollution prevention plans.

(a) Ohio EPA Construction General Permit: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI), a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit including the NPDES Facility Permit number assigned by Ohio EPA, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable. Please note that when a separate SWP3 shall be prepared for a Permit number must be provided.

(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 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 Engineer's Nationwide Permit Program. This shall include one of the following:

(1) A letter from a qualified professional who has evaluated the site and determined that Section 404 of the Clean Water Act is not applicable.

(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 regulation.

(e) Ohio Dam Safety Law. Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.08 STORMWATER POLLUTION PREVENTION PLAN.**

(a) The applicant shall submit a SWP3 that meets the requirements of the Construction General Permit and the following additional requirements. The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect. The SWP3 shall include control measures to ensure that discharges from the construction site and construction support activities comply with the non-numeric effluent limitations contained in the Construction General Permit.

In addition to all information required by the Construction General Permit, the SWP3 shall also include completed design tools found on the Ohio EPA's website such as the Sediment Basin Compliance Spreadsheet.

(b) The SWP3 shall incorporate measures as recommended by the most current online edition of *Rainwater and Land Development* as published by the Ohio Environmental Protection Agency and shall include the following information:

(1) A cover page or title identifying the name and location of the site, the name and contact information of all construction site operators, the name and contact information for the person responsible for authorizing and amending the SWP3, preparation date, and the estimated start and completion dates for construction.

(2) A copy of the permit requirements (attaching a copy of the current Ohio EPA NPDES Construction General Permit is acceptable).

(3) Site description. The SWP3 shall provide:

A. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).

B. 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).

C. An estimate of the impervious area and percent of imperviousness created by the land disturbance.

D. Existing data describing the soil and, if available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.

E. A description of prior land uses at the site.

F. An implementation schedule which describes the sequence of major soil-disturbing operations (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation of the sequence.

G. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s) and the aerial extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed, or which will receive discharges from undisturbed areas of the project. For discharges to a municipal separate storm sewer system (MS4), the point of discharge to the MS4 and the location where the MS4 ultimately discharges to a water resource shall be indicated.

H. List TMDLs applicable for the site and demonstrate that appropriate SCMs have been selected to address these {01804928-1}

TMDLs. The TMDL information for all watersheds in the State of Ohio can be found on the Ohio EPA Nonpoint Source Pollution Control Program Website.

I. A log documenting grading and stabilization activities as well as amendments to the full SWP3, which occur after construction activities commence.

J. Each temporary and permanent stormwater practice shall be designated with an individual identification number.

K. Site map showing:

1. Limits of soil-disturbing activity of the site, including off site spoil and borrow areas.
2. Soil types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.
3. Existing and proposed one-foot contours. This must include a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed in acres.
4. Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the owner intends to fill or relocate for which the owner is seeking approval from the Army Corps of Engineers and/or Ohio EPA.
5. Existing and planned locations of buildings, roads, parking facilities, and utilities.
6. The location of all erosion and sediment control practices, including the location of areas likely to require temporary stabilization during the course of site development.
7. Sediment and stormwater management basins including their sediment settling volume and the maximum expected disturbed area that will be directed to the sediment pond during construction. The plan should include a summary of the following:
  - a. The required sediment storage and dewatering volumes;
  - b. The provided sediment storage and dewatering volumes;
  - c. The weir length or skimmer size, as applicable;
  - d. The weir length or skimmer size provided.
8. Data sheets for all sediment traps, sediment basins, and SCMs that identify contributing drainage area, disturbed area, water quality volume, sedimentation volume, dewatering volume, practice surface area, facility discharge and dewatering time, outlet type and dimensions, and any other relevant parameters for each practice.
9. A separate plan and profile view of each individual sediment settling pond and its outlet structure. Detail drawings of the outlet structure shall indicate the following elevations:
  - a. Pond bottom;
  - b. Elevation required to store the required sediment storage volume;
  - c. For sediment basins, the elevation at which the skimmer is attached;
  - d. For sediment traps, the top and bottom of the stone outlet section;
  - e. Elevation required to store the dewatering volume, exclusive of the sediment storage volume;
  - f. Elevation of the top of embankment;
  - g. Crest of the emergency spillway.
10. Where used as a sediment-settling pond during construction, the plan shall include a detail drawing of the temporary outlet configuration of the permanent stormwater basin with the following information specified:
  - a. Storage volume provided below the elevation at which the skimmer or other surface dewatering device is attached.
  - b. Elevation at which the skimmer or other surface dewatering device is attached.
  - c. Elevation at which the full dewatering zone is stored above the skimmer invert.
  - d. Any temporary modification to permanent outlet orifices or weirs required to ensure no discharge below the skimmer invert and only the skimmer controls the discharge up to the top of the dewatering volume.
  - e. Calculations of the sediment storage volume, dewatering volume and skimmer drawdown time shall also be provided.



11. The location of permanent SCMs to be used to control pollutants in stormwater after construction operations have been completed.
12. Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including dumpster areas, areas designated for cement truck washout, and vehicle fueling.
13. Methods to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, and sanitary waste to precipitation, stormwater runoff, and snow melt.
14. Measures to prevent and respond to chemical spills and leaks. Owners may also reference the existence of other plans (i.e., spill prevention control and countermeasure (SPCC) plans, spill control programs, safety response plans, etc.) provided that such plan addresses this requirement, and a copy of such plan is maintained on site.
15. Methods to minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. No detergents may be used to wash vehicles. Wash waters shall be treated in a sediment basin or alternative control that provides equivalent treatment prior to discharge.
16. The location of designated stoned construction entrances where the vehicles will ingress and egress the construction site.
17. The location of any in-stream activities including stream crossings.

(4) A soils engineering report. The Village Engineer may require the SWP3 to include a soils engineering report based upon his/her 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. Recommendations included in the report and approved by the Village Engineer shall be incorporated in the grading plans and/or other specifications for site development.

- A. Data regarding the nature, distribution, strength, and erodibility of existing soils.
- B. If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.
- C. Conclusions and recommendations for grading procedures.
- D. Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.
- E. Design criteria for corrective measures when necessary.
- F. Opinions and recommendations covering the stability of the site.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### 1448.09 PERFORMANCE STANDARDS.

The SWP3 must contain a description of the controls appropriate for each stage of construction operation and the applicant must implement such controls. BMP selection and design must meet the criteria established within the current Construction General Permit. BMP's must be designed, constructed, and installed to meet the specifications in the *Rainwater and Land Development* or another design manual acceptable to the Village of Bentleyville. The approved SWP3, and the sediment and erosion controls, and non-sediment pollution controls contained therein, shall be implemented, and maintained according to the requirements in the Construction General Permit. Site operators must conduct site inspections as described in the construction General Permit.

(a) Maintenance. The SWP3 shall be designed to minimize maintenance requirements. All SCMs shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment SCMs must be maintained in a functional condition until all up-slope areas they control reach final stabilization. The owner shall provide a description of maintenance procedures needed to ensure the continued performance of SCMs and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the Village Engineer.

When inspections reveal the need for repair, replacement, or installation of erosion and sediment control SCMs, the following procedures shall be followed:

(1) When SCMs require repair or maintenance. If an internal inspection reveals that a SCM is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three days of the inspection. Sediment settling ponds must be repaired or maintained within ten days of the inspection.

(2) When SCMs fail to provide their intended function. If an internal inspection reveals that a SCM fails to perform its intended function as detailed in the SWP3 and that another, more appropriate control practice is required, the SWP3

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must be amended and the new control practice must be installed within three to ten days of the inspection as determined by the Village Engineer or his/her designated site inspector.

(3) When SCMs depicted on the SWP3 are not installed. If an internal inspection reveals that a SCM has not been implemented in accordance with the schedule, the control practice must be implemented within ten days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(b) Final Stabilization. Final stabilization shall be determined by the Village Engineer. Once a definable area has achieved final stabilization, the owner may note this on the SWP3 and no further inspection requirement applies to that portion of the site. Final stabilization also requires the installation of permanent (post-construction) stormwater control measures (SCMs). Obligations under this chapter shall not be completed until installation of post-construction SCM is verified.

(c) Disposition of Temporary Practices. All temporary and permanent erosion and sediment control practices shall be disposed of within thirty days after final site stabilization is achieved or after the temporary practices are no longer needed, unless otherwise authorized by the Village Engineering Department. Trapped sediment shall be permanently stabilized or removed to prevent further erosion.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### 1448.10 ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN.

(a) In order to control sediment pollution of water resources, the owner shall submit an abbreviated SWP3 in accordance with the requirements of this regulation.

(b) The abbreviated SWP3 shall be certified by a registered professional engineer, a registered professional surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The abbreviated SWP3 shall include a minimum of the following SCMs. The Village may require other SCMs as site conditions warrant.

(1) Construction entrances. Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete, or cement sized greater than two inches in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of the *Rainwater and Land Development*.

(2) 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 washout shall be indicated on the plan. Use for other waste and wastewater is prohibited.

(3) Street sweeping. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall be cleaned weekly.

(4) Stabilization. The development area shall be stabilized as detailed in Table 1.

Table 1: Permanent Stabilization

<b>Area requiring stabilization</b>	<b>Time frame to apply erosion controls</b>
Any disturbed area within 50 feet of a surface water of the State and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 14 days
For all construction activities, any disturbed area, including soil stockpiles, that will be dormant for more than 14 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area
Disturbed areas that will be idle over winter	Prior to November 1.
Areas at final grade	Within 7 days of reaching final grade or within 2 days of reaching final grade for areas within 50 feet of a surface water of the state.
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

(5) Inlet protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize  
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sediment-laden water entering active storm drain systems, including rear yard inlets. Straw, hay bales, and filter socks around an inlet are not acceptable forms of inlet protection.

(6) Silt Fence and other Perimeter Controls: Silt fence and other perimeter controls approved by the Village of Bentleyville shall be used to protect adjacent properties and water resources from sediment discharged via sheet (diffused) flow. Silt fence shall be paced along level contours and the permissible drainage area is limited to those indicated in the Construction General Permit.

(7) Internal inspection and maintenance. All controls on the development area shall be inspected at least once every seven calendar days and within twenty-four hours after any storm event greater than one-half inch of rain per twenty-four-hour period. Maintenance shall occur as detailed below:

A. When SCMs require repair or maintenance. If the internal inspection reveals that a SCM needs repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three days of the inspection. Sediment settling ponds must be repaired or maintained within ten days of the inspection.

B. When SCMs fail to provide their intended function. If the internal inspection reveals that a SCM fails to perform its intended function and that another, more appropriate control practice is required, the abbreviated SWP3 must be amended and the new control practice must be installed within ten days of the inspection.

C. When SCMs depicted on the abbreviated SWP3 are not installed. If the internal inspection reveals that a SCM has not been implemented in accordance with the schedule, the control practice must be implemented within ten days from the date of the inspection. If the inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(8) Final stabilization. Final stabilization shall be determined by the Village Engineer.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.11 FEES.**

(a) The SWP3 and abbreviated SWP3 review is part of a complete submittal and is required to be submitted to the Village before the review process begins. Please consult with Village Engineer for current fee schedule.

(b) For residential construction, an inspection deposit of one thousand dollars (\$1,000.00) is required prior to issuance of a building permit. Inspection cost performed by the Village of the SCMs will be deducted from this amount.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.12 BOND.**

(a) If a SWP3 or abbreviated SWP3 is required by this regulation, soil disturbing activities shall not be permitted until a cash bond of two thousand five hundred dollars (\$2,500) for a single-family residential lot, or two thousand five hundred dollars (\$2,500) per acre for subdivisions, has been deposited with the Village Finance Department. The bond will be used for the Village to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed if the owner fails to comply with the provisions of this regulation. The cash bond shall be returned, less Village administrative fees as detailed in this chapter, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the Village Engineer.

(b) The bond will be retained until all areas disturbed by construction activity are permanently stabilized. Where vegetative growth is used to achieve permanent stabilization, the area shall comply with final stabilization requirements of the Construction General Permit.

(c) No project subject to this regulation shall commence without a SWP3 or abbreviated SWP3 approved by the Village Engineer.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.13 ENFORCEMENT.**

(a) If the Village or its duly authorized representative determines that a violation of the rules adopted under this code exist, the Village or representative may issue an immediate stop work order if the violator failed to obtain any Federal, State, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity.

(b) All development areas are subject to external inspections by the Village to ensure compliance with the approved SWP3 or abbreviated SWP3.

(c) After each external inspection, the Village shall prepare and distribute a status report to the owner.

(d) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or abbreviated SWP3 the Village may act as detailed in Section 1448.14.

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(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.14 VIOLATIONS.**

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

(b) Upon notice, the Mayor and/or Village Engineer may suspend any active soil disturbing activity for a period not to exceed ninety days and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this regulation. Such notice shall be in writing, shall be given to the owner, and shall state the conditions under which work may be resumed. In instances, however, where the Mayor and/or Village Engineer 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.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.15 APPEALS.**

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the Village in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made in conformity with R.C. Chapter 2506. Written notice of appeal shall be served on the Village.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)

#### **1448.99 PENALTY.**

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars (\$500.00) or imprisoned for no more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The imposition of any other penalties provided herein shall not preclude the Village 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 regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the Village.

(Ord. 2011-30. Passed 7-20-11; Ord. 2016-40. Passed 11-16-16.)