

TITLE

AN ORDINANCE FOR THE PURPOSE OF REPEALING CHAPTER 938 ("EROSION AND SEDIMENT CONTROL") OF THE CODIFIED ORDINANCES OF THE CITY OF WARREN, OHIO IN ITS ENTIRETY AND REPLACING AND REENACTING CHAPTER 938 ("EROSION AND SEDIMENT CONTROL") OF THE CODIFIED ORDINANCES OF THE CITY OF WARREN, OHIO, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 13158/2022

WHEREAS, communities throughout the watershed(s) in which the City of Warren is located have experienced and continue to experience costs associated with inadequate erosion and sediment control and increased State and Federal regulation; and

WHEREAS, the City of Warren recognizes its obligation as a part of the lower Mahoning River Watershed to reduce sedimentation and to protect water quality by controlling soil disturbing activities within its borders; and

WHEREAS, 40 C.F.R. Parts 122, 123, and 124, and Ohio Administrative Code 3745-39 require designated communities, including the City of Warren to develop a Stormwater Management Program that, among other components, requires the City of Warren to address, among other components, erosion and sediment control during soil disturbing activities; and

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to adopt rules to abate soil erosion and water pollution by soil sediments; NOW THEREFORE

BE IT ORDAINED by the Council of the City of Warren, State of Ohio:

Section 1: That Chapter 938 ("Erosion and Sediment Control") of the Codified Ordinances of the City of Warren, Ohio, and each and every section of said Chapter 938, be, and the same hereby are, repealed in their entirety.

Section 2: That Chapter 938 ("Erosion and Sediment Control"), and the various sections thereof, be, and the same hereby are, replaced and reenacted within the Codified Ordinances of the City of Warren are as follows:

"CHAPTER 938"

EROSION AND SEDIMENT CONTROL

938.01 PURPOSE AND SCOPE

- A. The purpose of the regulations of this chapter 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 City of Warren.
- 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, redevelopment, grading, or clearing 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.

938.02 DEFINITIONS

The Ohio Environmental Protection Agency ("Ohio EPA") produces a Construction General Permit entitled "Authorization for Storm Water Discharges Associated with Construction Activity under the National Pollutant Discharge Elimination System". The definitions in that permit shall

apply to this chapter. When that permit is updated, the definitions in the most current version of the permit shall apply to this chapter. 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 for sites disturbing 0.2 (two-tenths) to one (1) acre of land.
- 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. **BEST MANAGEMENT PRACTICES (BMPs):** Schedules of activities, prohibitions of practices, maintenance procedures and other management practices (both structural and non-structural) to prevent or reduce the pollution of surface waters of the state. BMPs also include treatment requirements, operating procedures and practices to control plant and/or construction site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.
- E. **COMMUNITY:** Throughout this regulation, this shall refer to the City of Warren, its designated representatives, boards, or commissions.
- F. **CONSTRUCTION ENTRANCE:** The permitted points of ingress and egress to development areas regulated under this regulation.
- G. **CONSTRUCTION GENERAL PERMIT:** The most recent General National Pollutant Discharge Elimination System (NPDES) permit for authorization of storm water discharges associated with construction activities issued by Ohio EPA (Ohio EPA Permit #OHC000005 and its successors).
- H. **CRITICAL AREA:** Any area the disturbance of which would cause soil erosion and sediment runoff and damage to private properties, water courses, storm sewers or public lands due to topography, soil type, hydrology, or proximity to a water course. These areas include, but are not limited to, riparian areas, wetlands, and highly erodible soils.
- 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. **DISCHARGE:** The addition of any pollutant to surface waters of the state from a point source.
- K. **DISTURBANCE:** Any clearing, grading, grubbing, excavating, filling, or other alteration of land surface where natural or man-made cover is destroyed in a manner that exposes the underlying soils.
- L. **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.
- M. **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.
- N. **DRAINAGE WAY:** A natural or manmade channel, ditch, or waterway that conveys surface water in a concentrated manner by gravity.
- O. **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.

- P. **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.
- Q. **GRADING:** The excavating, filling, or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
- R. **GRUBBING:** removing or grinding of roots, stumps and other unwanted material below existing grade.
- S. **IMPERVIOUS:** That which does not allow infiltration.
- T. **LANDSCAPE ARCHITECT:** A Professional Landscape Architect registered in the State of Ohio.
- U. **SUBDIVISIONS, MAJOR AND MINOR:** (1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding general tax list and duplicate of real and public utility property, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the following are exempt: (a) A division or partition of land into parcels of more than five acres not involving any new streets or easements of access; (b) The sale or exchange of parcels between adjoining lot owners, where that sale or exchange does not create additional building sites; (c) If the planning authority adopts a rule in accordance with section 711.133 of the Revised Code that exempts from division (B)(1) of this section any parcel of land that is four acres or more, parcels in the size range delineated in that rule. (2) The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any public or private street or streets, except private streets serving industrial structures, or involving the division or allocation of land as open spaces for common use by owners, occupants, or leaseholders or as easements for the extension and maintenance of public or private sewer, water, storm drainage, or other similar facilities.
- V. **PARCEL:** Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the Trumbull County Auditor's Office.
- W. **PERCENT IMPERVIOUSNESS:** The impervious area created divided by the total area of the project site.
- X. **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.
- Y. **PHASING:** Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
- Z. **PRE-CONSTRUCTION MEETING:** A meeting between the City of Warren and all principal parties, prior to the start of any construction, at a site that requires a Stormwater Pollution Prevention Plan.
- AA. **PRE-WINTER STABILIZATION MEETING:** A meeting between the City of Warren and all principal parties, prior to October 1, in order to plan winter erosion and sediment controls for a site that is stopping construction during the winter and requires a Stormwater Pollution Prevention Plan.
- BB. **RAINWATER AND LAND DEVELOPMENT (RLDM):** A manual produced by the Ohio Environmental Protection Agency and the Ohio Department of Natural Resources which defines Ohio's standards and specifications for stormwater management practices implemented during land development. The purpose of this manual is to provide professionals involved in the planning, design, and implementation of land development

projects with guidance on how to select, design, and locate stormwater management practices that minimize the adverse impacts of stormwater runoff during and after construction. The most up-to-date version of this manual must be consulted where specified in this chapter. Hereafter referred to as RLDM.

- CC. 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.
- DD. 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.
- EE. SEDIMENTATION: The deposition or settling of sediment.
- FF. 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.
- GG. SOIL & WATER CONSERVATION DISTRICT: An entity organized under Chapter 940 of the Ohio Revised Code referring to either the Trumbull County Soil and Water Conservation District Board or its designated employee(s). One of the managing bodies of the Trumbull County Storm Water District, which does not include the City of Warren, but does include Bazetta Twp., Brookfield Twp., Champion Twp., Howland Twp., Hubbard Twp., Liberty Twp., Newton Twp., Vienna Twp., Warren Twp., Weathersfield Twp., Cortland City, Girard City, Hubbard City, Newton Falls City, Niles City, and the Village of McDonald and all unincorporated areas of the County. Hereafter referred to as Trumbull County SWCD.
- HH. STABILIZATION: The use of best management practices, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.
- II. 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.
- JJ. STORMWATER: Stormwater runoff, snow melt and surface runoff and drainage.
- KK. SURFACE OUTLET: A dewatering device that only draws water from the surface of the water.
- LL. 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.
- MM. TOPSOIL: The upper layer of the soil that is usually darker in color and richer in organic matter and nutrients than subsoil.
- NN. UNSTABLE SOILS: A portion of land that is identified by the project 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.
- OO. WATER POLLUTION CONTROL DEPARTMENT: The City of Warren Department responsible for the management of NPDES Permit No. OHQ000004, Authorization for Small Municipal Separate Storm Sewer Systems (MS4) to Discharge Stormwater under the National Pollutant Discharge Elimination System (NPDES). Hereafter referred to as Warren WPC.
- PP. 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 Section 6111.01 of the Ohio Revised Code are not included.

- QQ. WATERSHED: The total drainage area contributing runoff to a single point.
- RR. 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).

938.03 DISCLAIMER OF LIABILITY

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.

938.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY

- A. Where this regulation is in conflict 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 City of Warren 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 City of Warren, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

938.05 DEVELOPMENT OF STORMWATER POLLUTION PREVENTION PLANS

- A. This regulation requires that a Storm Water Pollution Prevention Plan (SWP3) be developed and implemented for all soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land. The City of Warren WPC may require a SWP3 for sites disturbing less than one (1) acre.
- B. All soil disturbing activities that disturb 0.2 (two-tenths) up to one (1) acre of land shall submit an Abbreviated SWP3.
- C. Activities disturbing less than 0.2 (two tenths) of an acre are not required to submit a SWP3, unless requested by the City of Warren WPC. These activities must comply with all other provisions of this regulation.

938.06 APPLICATION PROCEDURES

- A. Soil Disturbing Activities Submitting a Stormwater Pollution Prevention Plan (SWP3) or an Abbreviated Stormwater Pollution Prevention Plan (SWP3):
The applicant shall submit one physical copy (including physical copies of half-scale minimum plans) and one electronic copy in .pdf format of the SWP3 or abbreviated SWP3 and the applicable fees to the City of Warren WPC. This shall include plans,

reports, hydraulic calculations, and other documentation as requested. The SWP3 or abbreviated SWP3 shall be submitted as follows:

1. For subdivisions: In conjunction with the submission of the final plat for the proposed subdivision.
 2. For all other projects: In conjunction with application for a building permit.
- B. The City of Warren WPC shall review the plans submitted under Section 938.06(A) for conformance with this regulation and approve or return for revisions with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a checklist or narrative report stating specific problems and the procedures for filing a revised plan.
- C. Soil disturbing activities (including mechanized clearing) shall not begin and zoning, building, or grading permits shall not be issued without:
1. Approved SWP3 or Abbreviated SWP3
 2. NOI submittal to Ohio EPA and NPDES permit covered issued
 3. Submittal of Post-Construction Stormwater Control Plan, if it is required under Chapter 936 Comprehensive Stormwater Management
 4. Physical marking in the field of protected areas or critical areas, including wetlands and riparian areas
 5. Installation of construction entrances, perimeter sediment barriers and other erosion and sediment controls that must be in place to address initial site conditions.
- 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 City of Warren WPC for a Pre-Construction Meeting no less than seven (7) 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. Pre-Construction Meetings for Abbreviated SWP3s may be waived at the discretion of the City of Warren WPC.
- F. Plan approvals issued in accordance with this regulation shall remain valid for two (2) years from the date of approval.

938.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these state and federal regulations shall be submitted with SWP3s or Abbreviated SWP3s.

- 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 separate phase or stage of development, a separate NOI or NPDES Facility 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 because there are no wetlands on site. 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 or Ephemeral Stream Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit or Ephemeral Stream 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 or Ephemeral Stream Permit is not applicable because there are no wetlands or ephemeral streams on the site. 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 the site owner certifying that a qualified professional has evaluated the site and determined that Section 404 of the Clean Water Act is not applicable because there are no wetlands on site.
 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.

938.08 STORMWATER POLLUTION PREVENTION PLAN (SWP3)

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 nonnumeric 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 Ohio EPA's website such as the Sediment Basin Compliance Spreadsheet.

Before any off-site support areas such as borrow or spoil areas, concrete or asphalt batch plants, equipment staging yards or material storage areas are utilized, a SWP3 for the off-site support area must be submitted and approved by the City of Warren WPC. The applicant shall ensure appropriate permits have been obtained to operate the off-site support area. Failure to do so can lead to enforcement action under Sections 938.13 and 938.14 of this code.

The City of Warren WPC may require the SWP3 to include a Soils Engineering Report based upon their determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings and shall contain all the information listed below. Recommendations included in the report and approved by the City of Warren WPC 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.
- G. Delineations of surface waters of the state located on the site. Affirmation by the U.S. Army Corps of Engineers may be required.

938.09 STORMWATER POLLUTION PREVENTION PLAN
 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 criteria established within the current Construction General Permit. BMPs must be designed, constructed and installed to meet the specifications in RLDM or another design manual acceptable to the City of Warren. 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.

Certified inspection reports shall be submitted to the City of Warren WPC within seven (7) working days from the inspection and retained at the development site.

The following standards will also apply:

- A. BMPs must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These BMPs must include, but are not limited to, the following:
 - 1. 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 2" in diameter placed over a geotextile. Culverts shall be provided where construction entrances cross drainage ditches and water bars shall be provided to divert sediment-laden runoff away from connected roadways.
 - 2. Streets and catch basins adjacent to construction entrances shall be kept free of sediment tracked off site. 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 also be cleaned weekly and protected from sediment-laden runoff, if feasible without posing a public safety hazard.
 - 3. Based on site conditions, the City of Warren WPC Department may require additional best management practices to control off site tracking and dust. These additional BMPs may include:
 - a. Fencing shall be installed around the perimeter of the development area to ensure that all vehicle traffic adheres to designated construction entrances.
 - b. Applicants shall take all necessary measures to comply with applicable regulations regarding fugitive dust emissions, including obtaining necessary permits for such emissions. The City of Warren WPC may require dust controls including the use of water trucks to wet disturbed areas, tarping stockpiles, temporary stabilization of disturbed areas, and regulation of the speed of vehicles on the site.

- B. Construction vehicles shall avoid water resources. If it is infeasible to provide and maintain an undisturbed natural buffer around water resources, the SWP3 shall comply with all the following additional requirements:
1. All stream crossings shall be designed as specified in the most recent edition of RLDM.
 2. Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.
 3. Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.
 4. Protected areas or critical areas, including wetlands and riparian areas shall be physically marked in the field prior to earth disturbing activities.
- C. For sites that will not be completed by October 1 that plan to pause work during the winter months, a Pre-Winter Stabilization Meeting shall be held by the landowner and the developer, engineer and contractor of the project and the City of Warren WPC prior to October 1, unless this requirement is waived by the City of Warren WPC. This meeting's purpose is to plan and approve winter erosion and sediment controls as defined in the most current online edition of RLDM.

938.10 ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN
 (SWP3)

- A. In order to control sediment pollution of water resources, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this regulation.
- B. The Abbreviated SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.
- C. The Abbreviated SWP3 shall include a minimum of the following BMPs. The City of Warren may require other BMPs 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 2" in diameter and placed over a geotextile fabric.
 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 the Construction General Permit. The current table is provided in Table 1. When the Construction General Permit is updated, stabilization requirements in the most up-to-date version of the permit must be followed.

Area requiring stabilization	Time frame to apply erosion controls
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 on storm water catch basins located on the subject property and, if there is no threat to public safety, on curb inlets closest to the construction entrance, to minimize sediment-laden water entering active storm drain systems, including rear yard inlets.
6. Silt Fence and Other Perimeter Controls: Silt fence and other perimeter controls approved by the City of Warren shall be used to protect adjacent properties and water resources from sediment discharged via sheet (diffused) flow. Silt fence shall be placed along level contours and the permissible drainage area is limited to those indicated in 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 24 hours after any storm event greater than one-half inch of rain per 24-hour period. Maintenance shall occur as detailed below:
 - a. When BMPs require repair or maintenance. If the internal inspection reveals that a BMP needs repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.
 - b. When BMPs fail to provide their intended function. If the internal inspection reveals that a BMP 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 (10) days of the inspection.
 - c. When BMPs depicted on the Abbreviated SWP3 are not installed. If the internal inspection reveals that a BMP has not been implemented in accordance with the schedule, the BMP must be implemented within ten (10) 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.
5. Final Stabilization: Final stabilization is achieved when the site has reached 70% cover and when the City of Warren WPC approves the site condition.

938.11 FEES

The SWP3 and Abbreviated SWP3 review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City of Warren WPC before the review process begins. The current fee schedule is available on the City of Warren WPC website: <https://www.warren.org/index.php/water-pollution-con/wpc-program-information>. Applicants

may be charged \$250 for each additional inspection that the City of Warren WPC must conduct if a site has one of the following compliance issues:

- A. Construction activities have started at the site with no SWP3 completed;
- B. Failure to install sediment basin(s) when the SWP3 and/or site drainage clearly indicate as a first step (within 7 days prior to grading and within 7 days of grubbing);
- C. Failure to implement any sediment/erosion controls; or
- D. Dewatering activities resulting in turbid discharges.

938.12 BOND

- A. For projects that require a SWP3 and disturb more than 5 total acres of land, soil-disturbing activities shall not be permitted until a cash bond or deposit has been deposited with the City of Warren WPC, unless the project is specifically exempted by WPC. The amount shall be a percentage of the total project cost as determined by the City of Warren. This bond may also be required for any project disturbing more than 1 acre of land. The bond will be used for the City of Warren 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 in the event that the applicant fails to comply with the provisions of this regulation. The cash bond shall be returned after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the City of Warren WPC.
- B. A portion of bond (equivalent of cost to apply final stabilization) will be retained until all areas disturbed by construction activity are permanently stabilized and a Notice of Termination has been submitted to Ohio EPA. 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 City of Warren WPC.

938.13 ENFORCEMENT

- A. If the City of Warren WPC determines that a violation of the rules adopted under this code exist, the City of Warren or its 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 may be subject to external inspections by the City of Warren WPC to ensure compliance with the approved SWP3 or Abbreviated SWP3.
- C. After each external inspection, the City of Warren WPC may prepare and distribute a status report to the applicant.
- D. If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the City of Warren WPC may take action as detailed in Sections 938.13 (E) and 938.14 of this regulation.
- E. Failure to maintain and repair erosion and sediment controls per the approved SWP3 plan may result in the following escalation. The penalty is determined by the total number of violations per site even if the violations are for different BMPs.
 - 1. First Violation: The City of Warren WPC will issue a Notice of Deficiency to the owner or operator. All controls are to be repaired or maintained per the SWP3 plan within three (3) days of the notification. If controls have not been corrected after this time, the City of Warren WPC may issue a Stop Work Order for all activities until corrections have been made.

2. Second Violation: The City of Warren WPC may issue a formal Notice of Violation which may include an administrative fee as described in Section 938.99(D) of this regulation. All controls are to be repaired or maintained per the approved SWP3 plan within three (3) days of the Notice of Violation. If controls have not been corrected after this time, the City of Warren WPC may issue a Stop Work Order for all activities until corrections have been made.
 3. Third and subsequent violations: The City of Warren WPC may issue a Stop Work Order for all construction activities which may include an administrative fee as detailed in Section 938.99(D) of this regulation. The Stop Work Order will be lifted once all controls are in compliance with the approved SWP3 plan.
- F. The City of Warren WPC shall have the authority to make immediate on-site adjustments to the SWP3 in order to achieve compliance with this ordinance.
- G. A final inspection will be made to determine if the criteria of this code has been satisfied and a report will be presented to the City of Warren WPC and the site operator on the site's compliance status.
- H. The City of Warren WPC may monitor soil-disturbing activities for non-farm residential, commercial, industrial, or other non-farm purposes on land of less than one contiguous acre to ensure compliance required by these Rules.
- I. The City of Warren WPC shall notify the U.S. Army Corps of Engineers when a violation on a development project covered by an Individual or Nationwide Permit is identified. The City of Warren WPC shall notify the Ohio Environmental Protection Agency when a violation on a development project covered by a Section 401 Water Quality Certification and/or Isolated Wetland Permit is identified.
- J. The City of Warren shall not issue building permits for projects regulated under this code without approved SWP3s.

938.14 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 City of Warren WPC and/or designee may suspend any active soil disturbing activity for a period not to exceed ninety (90) days, and may require immediate erosion and sediment control measures 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 applicant, and shall state the conditions under which work may be resumed. In instances, however, where the WPC and/or their designee finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

938.15 APPEALS

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City of Warren in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made in conformity with applicable local, state, and/or federal law. Written notice of appeal shall be served on the City of Warren.

938.99 PENALTY

- A. Civil Penalties. Whoever violates an order of the City or fails to comply with any provisions of this chapter shall be subject to the imposition of a civil penalty. The City of Warren WPC may assess these penalties in accordance with the tier system below at their discretion. Such civil penalties shall be determined by the City of Warren WPC based on the severity of the violation and the number of times the legal entity was in violation of the same limit. The tier system shall be as follows:

1. Tier 1. One thousand dollars (\$1,000) per violation; each day constitutes a separate violation.
2. Tier 2. Five thousand dollars (\$5,000) per violation; each day constitutes a separate violation.
3. Tier 3. Ten thousand dollars (\$10,000) per violation; each day constitutes a separate violation.

B. Criminal Penalties. Any willful or negligent violation of this chapter will be subject to criminal prosecution when the City has evidence of noncompliance which shows criminal intent, and such Discharger shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six (6) months, or by both. Each day in which any such violation continues shall constitute a separate offense.

C. Falsifying Information. Any person who knowingly makes false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six (6) months, or by both.

D. Administrative Penalties. The City may assess penalties ranging in the amount of one hundred dollars (\$100.00) to three hundred dollars (\$300.00) per day upon anyone who fails to comply with the numerical value or administrative orders issued by the City or other regulatory agencies. Such administrative penalties shall be determined by the City based on the severity of the violation. The Tier structure shall be as follows:

1. Tier 1. One hundred dollars (\$100.00) per violation; each day constitutes a separate violation.
2. Tier 2. Two hundred dollars (\$200.00) per day violation; each day constitutes a separate violation.
3. Tier 3. Three hundred dollars (\$300.00) per day violation; each day constitutes a separate violation.

E. The imposition of any other penalties provided herein shall not preclude the City of Warren 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 City of Warren.

Section 3: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare and safety, and for the further reason that the integrity of the environment of the City of Warren, Ohio may be more fully insured at the earliest possible time without undue delay. WHEREFORE, this Ordinance shall go into immediate effect.

Passed in Council this 28TH day of September, 2022.

SIGNED: [Signature]
PRESIDENT OF COUNCIL

ATTEST: [Signature]
CLERK

FILED WITH THE MAYOR: 9-28-2022

DATE APPROVED: 9-28-2022

[Signature]
MAYOR, CITY OF WARREN, OHIO