

# Post-Construction Stormwater Ordinance

**Developers creating or replacing one-half acre or more of hard surfaces in Detroit are required to meet stormwater performance standards by designing, constructing and maintaining stormwater management practices on the site.**

*Ordinance was approved by the Detroit Board of Water Commissioners on August 15, 2018 and unanimously approved by Detroit City Council on November 13, 2018.*



**Water & Sewerage  
Department**

## S U M M A R Y

AN ORDINANCE to amend Chapter 56, of the 1984 Detroit City Code, *Utilities*, Article III, *Sewers and Drains*, by adding Division 4, *Stormwater Management*; to include Section 56-3-101, *Applicability*; Section 56-3-102, *Definitions*; Section 56-3-103, *Exemptions*; Section 56-3-104, *Stormwater Management Design Manual*; Section 56-3-105, *Post Construction Stormwater Management Plan required*; Section 56-3-106, *Post construction stormwater management requirements*; Section 56-3-107, *Alternative compliance*; Section 56-3-108, *Performance bond*; Section 56-3-109, *Maintenance required*; Section 56-3-110, *Operations and Maintenance Plan*; Section 56-3-111, *Easements*; Section 56-3-112, *Record drawings and final approval*; Section 56-3-113, *Right of entry for compliance inspections*; Section 56-3-114, *Period self-inspections required*; Section 56-3-115, *Right of appeal*; Section 56-3-116, *Notice*; Section 56-3-117, *Civil penalty*; Section 56-3-118, *Fines*; Section 56-3-119, *Additional remedies*, and to provide for stormwater management at certain construction sites within the City of Detroit.

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1 **BY COUNCIL MEMBER \_\_\_\_\_** :

2 **AN ORDINANCE** to amend Chapter 56, of the 1984 Detroit City Code, *Utilities*, Article  
3 **III, Sewers and Drains**, by adding Division 4, *Stormwater Management*; to include Section 56-3-  
4 101, *Applicability*; Section 56-3-102, *Definitions*; Section 56-3-103, *Exemptions*; Section 56-3-  
5 104, *Stormwater Management Design Manual*; Section 56-3-105, *Post Construction Stormwater*  
6 *Management Plan required*; Section 56-3-106, *Post construction stormwater management*  
7 *requirements*; Section 56-3-107, *Alternative compliance*; Section 56-3-108, *Performance bond*;  
8 Section 56-3-109, *Maintenance required*; Section 56-3-110, *Operations and Maintenance Plan*;  
9 Section 56-3-111, *Easements*; Section 56-3-112, *Record drawings and final approval*; Section 56-  
10 3-113, *Right of entry for compliance inspections*; Section 56-3-114, *Period self-inspections*  
11 *required*; Section 56-3-115, *Right of appeal*; Section 56-3-116, *Notice*; Section 56-3-117, *Civil*  
12 *penalty*; Section 56-3-118, *Fines*; Section 56-3-119, *Additional remedies*, and to provide for  
13 stormwater management at certain construction sites within the City of Detroit.

14 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**  
15 **THAT:**

16 **Section 1.** Chapter 56, *Utilities*, Article III, *Sewers and Drains*, of the 1984 Detroit City  
17 Code, be amended by adding Sections 56-3-101 through 56-3-119, to read as follows:

18 **CHAPTER 56. UTILITIES**

19 **ARTICLE III. SEWERS AND DRAINS**

20 **DIVISION 4. STORMWATER MANAGEMENT**

21

1 **Sec. 56-3-101. Applicability.**

2 (a) Subject to Section 56-3-103 of this Code, this division applies to all construction  
3 activities that involve the replacement or creation of 21,780 square feet or more of impervious  
4 surface.

5 (b) This division shall also apply to any construction activity that is not subject to  
6 Subsection (a) of this section, but may create a condition that would result in runoff that would:

7 (1) Exceed the safe capacity of the receiving public sewer or body of water as  
8 determined by the Department;

9 (2) Cause undue channel erosion;

10 (3) Increase water pollution by scouring or transport of particulate matter;

11 (4) Endanger property; or

12 (5) Endanger public safety.

13 (c) Notwithstanding Subsection (a) or Subsection (b) of this section, the discharge from  
14 a regulated construction activity may be determined by the Department to have previously been  
15 authorized and to have incorporated stormwater control measures that are sufficient to satisfy the  
16 performance standards in this division. In such cases, the applicant may request a review by the  
17 Department for a determination of whether additional stormwater management is required for the  
18 development site.

19 **Sec. 56-3-102. Definitions.**

20 For the purposes of this division, the following words and phrases shall have the meanings  
21 respectively ascribed to them by this section:

22 *Alternative compliance measure* means a stormwater control measure that treats  
23 stormwater runoff from impervious surfaces that:

1           (1) Were in existence as of the effective date of this division, and

2           (2) Whose construction or reconstruction is not subject to the provisions of this  
3           division.

4           Applicant means a person or persons acting as owners or operators of a regulated  
5           construction activity on a development site who is seeking approval of a Post Construction  
6           Stormwater Management Plan under this division.

7           Buffer strip means a zone that is used for filtering direct stormwater and stormwater runoff  
8           into a stormwater control measure, or watercourse and for providing maintenance access to a  
9           stormwater control measure.

10          Common plan of development means a regulated construction activity, that is completed in  
11          phases or stages when such phases or stages share:

12           (1) One or more common City permits related to the regulation of land use, the  
13           discharge of wastewater or a discharge to surface waters or groundwater, or

14           (2) Common infrastructure such as, but not limited to, roadway access or utilities.

15          Construction activity means a human-made activity including, but not limited to, clearing,  
16          grading, excavating, construction and paving, that results in a change in the existing cover or  
17          topography of land, including any external demolition, modification, or alteration of a site or the  
18          footprint of a building, but does not include re-surfacing of an asphalt, concrete or similar parking  
19          lot that does not expose the subgrade.

20          Conveyance means any structure or other means of safely conveying stormwater within a  
21          stormwater management system including, but not limited to, a watercourse, closed conduit,  
22          culvert, or bridge.

1 Demolition means the razing or destruction, in whole or in part, of an existing structure, or  
2 the removal of existing impervious surfaces.

3 Department means the Detroit Water and Sewerage Department and its authorized agents.

4 Development site means the property on which a regulated construction activity takes  
5 place. A development site may include, but is not limited to, a component of a Common Plan of  
6 Development, an individual lot as defined in the City Zoning Ordinance, or an aggregation of one  
7 or more lots subject to a unified plan for land use.

8 Disturbance means an activity, including a regulated construction activity, that disturbs the  
9 surface of land or underlying soils, including but not limited to, stripping, grading, grubbing,  
10 trenching, excavating, transporting, and filling of land, but does not include the activities of  
11 clearing, plowing, tilling soil, or harvesting for the purpose of crop production.

12 Drainage area means the land area from which stormwater runoff drains to a common  
13 point, including any area lying beyond the boundaries of a development site as defined in this  
14 division.

15 Equivalent volume means the quantity of stormwater runoff that is presumed to be managed  
16 through a fee-in-lieu payment, an alternative compliance measure, or any combination thereof,  
17 including any adjustments or modifications set forth in this division and the Stormwater  
18 Management Design Manual created pursuant to Section 56-3-104 of this code.

19 Extraordinarily difficult site conditions means those conditions present at a development  
20 site that prevent or preclude the construction of stormwater control measures in any portion of a  
21 development site.

22 Impervious surface means any surface area that prevents or substantially impedes the entry  
23 of water into the soil in the manner that such water entered the soil under natural conditions pre-

1 existent to development, or which cause water to run off the surface in greater quantities or at an  
2 increased rate of flow than that present under natural conditions pre-existent of development,  
3 including but not limited to roofs, parking lots, compacted gravel and dirt, driveways, sidewalks,  
4 and storage areas.

5 \_\_\_\_\_ *Infiltration rate* means a measure of the speed at which water enters into the soil at the  
6 surface.

7 \_\_\_\_\_ *Natural condition* means the condition of land that is predominantly covered in vegetation  
8 that is sustainable without regular human maintenance, such as irrigation, mowing, or fertilization,  
9 examples of which include natural cover, woodland, meadow, grassland, or shrubland.

10 \_\_\_\_\_ *Operation and Maintenance Plan* means a document which outlines the required  
11 maintenance activities and measures associated with an approved Post Construction Stormwater  
12 Management Plan.

13 \_\_\_\_\_ *Pervious surfacing* means a material or materials and accompanying subsurface treatment  
14 designed and installed specifically to allow stormwater to penetrate into the material, thereby  
15 reducing the volume of stormwater runoff from the surfaced area.

16 \_\_\_\_\_ *Post Construction Stormwater Management Plan* means a document set forth by the  
17 Department that identifies all actions to be taken by an applicant in conjunction with a regulated  
18 construction activity to comply with the requirements and standards set forth in this division.

19 \_\_\_\_\_ *Regulated area* means the portion of a development site used as the basis to determine  
20 compliance with the performance standards set forth in this division.

21 \_\_\_\_\_ *Regulated construction activity* means construction activity that is subject to the provisions  
22 of this division, a regulated construction activity may occupy all or part of a development site.

1 Regulatory volume means the total quantity of stormwater runoff that must be retained in  
2 a stormwater control measure in order for a regulated construction activity to comply with the  
3 performance standards in this division.

4 Stormwater control measure means any structure, feature, or appurtenance that is designed,  
5 constructed, operated, practiced, or adopted, to reduce the quantity, lower the rate, improve the  
6 quality, or otherwise control stormwater runoff through retention, detention, infiltration, reuse, or  
7 other stormwater management techniques.

8 Stormwater Management Design Manual means a document or documents promulgated  
9 by the Department, which may be amended, specifying criteria, standards, and procedures by  
10 which an applicant may comply with the provisions of this division.

11 Water quality volume means the volume of stormwater runoff generated by the 90th  
12 percentile storm over the regulated area of a development site.

13 **Section 56-3-103. Exemptions.**

14 Notwithstanding Section 56-3-101 of this Code, the following activities shall be exempt  
15 from the requirements of this division:

16 (1) The improvement or construction of an individual single family detached dwelling  
17 as defined in this Code;

18 (2) Emergency maintenance work performed for the protection of public health and  
19 safety. A written description of the scope and extent of any such emergency  
20 maintenance work performed shall be submitted to the Department within two  
21 calendar days following its commencement. If the Department finds that the work  
22 is not an emergency or if a written description is not timely submitted to the

1           Department, then the work shall cease immediately and the requirements of this  
2           division shall be addressed as applicable; or

3           (3) A regulated construction activity that discharges stormwater directly to the Detroit  
4           River or Rouge River via any conveyance not owned by the City and is in  
5           compliance with state and federal regulations governing such discharges.

6           **Section 56-3-104. Stormwater Management Design Manual.**

7           The Department shall implement, and may amend, a Stormwater Management Design  
8           Manual which shall set forth specific procedures, criteria, minimum standards, methods and other  
9           technical information to be utilized in determining compliance with the provisions of this division.

10          **Section 56-3-105. Post Construction Stormwater Management Plan required.**

11          (a) No regulated construction activity may obtain site plan approval until the  
12          Department has approved a Post Construction Stormwater Management Plan.

13          (b) Prior to the approval of a Post Construction Stormwater Management Plan, the  
14          applicant shall certify to the Department that the applicant has met or will meet all requirements  
15          of this division and all other City, county, state, and federal requirements related to erosion and  
16          sediment control, surface water resource protection, and stormwater management applicable to the  
17          regulated construction activity.

18          (c) The Post Construction Stormwater Management Plan shall be developed by a  
19          professional engineer or landscape architect properly licensed to practice in the State of Michigan  
20          and shall include:

21               (1) The discharge location(s) for all post-construction stormwater runoff which will  
22               leave the development site, and the boundaries of the drainage area tributary to each  
23               discharge location;

- 1           (2) The boundaries of the development site, the common plan of development if  
2           applicable, and the regulated construction activity, clearly indicating areas of  
3           disturbance, the boundaries of any no-build or non-disturbance areas, all points of  
4           egress from the development site to a public right-of-way, and all easements and  
5           other encumbrances;
- 6           (3) The required calculations establishing compliance with the post construction  
7           stormwater management performance standards as set forth in Section 56-3-106 of  
8           this Code;
- 9           (4) The design specifications and calculations, construction details, and locations for  
10           all proposed stormwater control measures, whether located on the development site  
11           or elsewhere.
- 12           (5) The locations and descriptions of all access drive easements necessary to allow for  
13           construction, inspection, operation and maintenance of all proposed stormwater  
14           control measures;
- 15           (6) An Operation and Maintenance Plan containing all required information and  
16           schedules as set forth in this division; and
- 17           (7) A copy of all applicable state and federal permits and notice of coverage related to  
18           erosion and sedimentation control, water resource and stormwater management for  
19           the regulated project.
- 20           (d) One copy of the approved Post Construction Stormwater Management Plan shall  
21           be kept on file at the site of the regulated construction activity from the initiation of site preparation  
22           until a certificate of occupancy is issued for the development associated with the regulated  
23           construction activity.

1 **Section 56-3-106. Post construction stormwater management requirements.**

2 (a) Stormwater control measures shall not be constructed within the Rouge River flood  
3 plain or the Rouge River flood way as defined in Section 20-1-1 of this code, or within Michigan  
4 Coastal Flood Hazard Zones.

5 (b) A buffer strip with a minimum width of 25 feet shall be established and preserved  
6 along the edge of any surface water and any regulated wetland as defined by the State of Michigan  
7 PART 303. Exemptions may be granted for construction activities that are within 25 feet of a  
8 surface water and regulated wetland that remain consistent with the intent of the development.

9 (c) The Department is authorized to require any additional stormwater control  
10 measures necessary to control the rate and volume of stormwater runoff discharged from the  
11 development site in order to prevent drainage, flooding or water quality impacts upon public or  
12 private property.

13 (d) Performance standards for combined sewer areas.

14 (1) Water quality:

15 a. The water quality volume shall be the 90th percentile annual non-  
16 exceedance storm.

17 b. The regulated area for purposes of complying with the water quality  
18 performance standard for combined sewer areas shall be defined as follows:

19 i. If the regulated construction activity will disturb 50% or more of the  
20 development site, the regulated area shall be defined as the entire  
21 development site; or

1                    ii. If the regulated construction activity will disturb less than 50% of  
2                    the development site, the regulated area shall be defined as the area  
3                    of the regulated construction activity.

4                    c. The runoff volume and peak flow rate of stormwater runoff leaving the  
5                    regulated area post-construction shall not exceed the runoff volume and  
6                    peak flow rate leaving the regulated area under natural conditions.

7                    d. The water quality volume shall be treated to remove a minimum of 80% of  
8                    the total suspended solids as compared to uncontrolled runoff, or to a  
9                    discharge concentration which does not exceed 80 milligrams per liter of  
10                   total suspended solids.

11                   (2) Combined sewer infrastructure protection.

12                   a. For regulated construction activities discharging to the combined sewer  
13                   area, the entire development site shall be defined as the regulated area for  
14                   purposes of complying with the combined sewer infrastructure protection  
15                   standards.

16                   b. The peak flow rate(s) of stormwater runoff leaving the development site  
17                   shall not exceed the allowable discharge rates established in the Stormwater  
18                   Management Design Manual for the geographic location within the  
19                   combined sewer system where the discharge occurs.

20                   (e) Performance standards for storm sewer areas.

21                   (1) Water quality:

22                   a. The water quality volume shall be based on the 90th percentile annual non-  
23                   exceedance storm.

1           b. The regulated area for purposes of complying with the water quality  
2                   performance standard for separate sewer areas shall be the area of the  
3                   regulated construction activity.

4           c. The water quality volume shall be treated to remove a minimum of 80% of  
5                   the total suspended solids as compared to uncontrolled runoff, or to a  
6                   discharge concentration which does not exceed 80 milligrams per liter of  
7                   total suspended solids.

8           (2) Channel protection:

9           a. The regulated area for purposes of complying with the channel protection  
10                   performance standards shall be the area of the regulated construction  
11                   activity.

12           b. The runoff volume and peak flow rate of stormwater runoff leaving the  
13                   regulated area post-construction shall not exceed the runoff volume and  
14                   peak flow rate which would occur under natural conditions for all storms up  
15                   to and including the two-year, 24-hour storm event.

16           c. Discharges from regulated construction activities that drain into any portion  
17                   of the City's storm sewer discharging directly to the Detroit River or  
18                   downstream of the Rouge River Turning Basin shall be exempt from the  
19                   channel protection performance standard.

20           (f) Performance standards for local flood control in combined and separate sewer  
21           areas:

22           (1) The regulated area for purposes of complying with local flood control performance  
23                   standards shall be the entire development site.

1           (2) For regulated construction activities for which the total of all drainage areas as  
2           defined in this division, is less than 5 acres, the stormwater control measures shall  
3           be designed to achieve a peak flow rate of fifteen one-hundredths cubic feet per  
4           second (0.15cfs)/acre for the 10-year storm.

5           (3) For regulated construction activities for which the total of all drainage areas, as  
6           defined in this division, is 5 acres or greater, the stormwater control measures shall  
7           be designed to achieve a peak flow rate of fifteen one hundredths cubic feet per  
8           second (0.15 cfs)/acre for 100 -year storm.

9           **Section 56-3-107. Alternative compliance.**

10          (a) An applicant may apply to the Department for review and approval of alternative  
11          compliance measures for the development site if the applicant demonstrates the presence of  
12          extraordinarily difficult site conditions, as defined in this division and in written guidance set forth  
13          in the Stormwater Management Design Manual.

14          (1) Extraordinarily difficult site conditions include, but are not limited to, one or more  
15          of the following:

16            a. The presence of sub-surface conditions, including soil contamination or  
17            shallow depth to bedrock or groundwater, that present significant and  
18            atypical technical requirements for mitigation, stormwater management  
19            measure design or installation or create a likelihood for subsurface pollutant  
20            flume transport; or

21            b. Unique topographic or geologic conditions that would require site re-  
22            grading or re-contouring substantially different from typical and customary  
23            practices for the installation of stormwater control measures; or

1 c. Surface or subsurface conditions indicating a likelihood that basement  
2 flooding on properties other than the development site are reasonably  
3 foreseeable if stormwater control measures are installed; or

4 d. Conditions that would require pumping or other mechanical routing of  
5 stormwater in order to meet the performance standards of Section 56-3-  
6 106(d)(1)(c); or

7 e. Other conditions that, in the judgment of the Department, present a  
8 substantial barrier to the safe and effective construction or operation of  
9 stormwater control measures.

10 (2) In all cases, the applicant shall demonstrate, to the satisfaction of the Department,  
11 that the extraordinarily difficult site conditions cannot be overcome or mitigated  
12 through reasonable re-design of the regulated construction activity, or without  
13 substantial interference with the present or intended use of the development site.

14 (3) Any such application for a finding of extraordinarily difficult site conditions shall:

15 a. Quantify the degree to which the specific provisions of the performance  
16 standards set forth in 56-3-106(d)(1)(c), as applicable, cannot be met on the  
17 development site, using the analysis set forth in the Stormwater  
18 Management Design Manual;

19 b. Detail the stormwater control measure to be constructed on site, if any, and  
20 the water quality and detention volume to be met through alternative  
21 compliance measures; and

1 c. Specify the off-site alternative compliance measure, or fee-in-lieu payment  
2 proposed to satisfy the requirements of Sections 56-3-105(d) or (e) of this  
3 section, as applicable, in accordance with the provisions of this section.

4 (b) An applicant may propose to use one or a combination of the following alternative  
5 compliance measures:

6 (1) The coincident construction by the applicant of the alternative compliance  
7 measures approved by the Department under the procedures set forth in this  
8 division and in the Stormwater Management Design Manual; or

9 (2) The legal assignment by the applicant of the equivalent volume from an existing,  
10 approved alternative compliance measure(s); or

11 (3) Payment to the Department of a fee-in-lieu, in accordance with the procedures set  
12 for in the Stormwater Management Design Manual, and subsequent certification by  
13 the Department that sufficient equivalent volume has been assigned to the regulated  
14 construction activity to achieve compliance with the measurements of this division.

15 (c) Any person may make application to the Department for approval of the  
16 construction of stormwater control measures on lands located within the City to be authorized as  
17 alternative compliance measures, as defined in this division, subject to the following procedures  
18 and requirements:

19 (1) An applicant for such approval shall define the drainage area(s) to be treated by the  
20 alternative compliance measure and shall provide all relevant information,  
21 including demonstration of site control and an operation and maintenance plan,  
22 required by the Department as set forth in the Stormwater Management Design  
23 Manual.

1           (2) The design and construction of the alternative compliance measure shall meet all  
2           relevant standards for materials, design, safety, and other technical considerations  
3           in the Stormwater Management Design Manual.

4           (3) For each alternative compliance measure an applicant shall stipulate the amount of  
5           equivalent volume, if any, that shall be reserved for the applicant's own use or  
6           assignment, and the amount of equivalent volume, if any, that may be made  
7           available by the Department for assigned through fee-in-lieu payment. In issuing  
8           its approval, the Department shall state the amount of equivalent volume assigned  
9           to the alternative compliance measure, the equivalent volume within the alternative  
10          compliance measure reserved by the applicant for the applicant's own purposes,  
11          and the equivalent volume that may be available through fee-in-lieu payments.

12          (4) The applicant shall obtain all relevant and applicable City, state and federal permits  
13          as may apply to construction of the alternative compliance measure.

14          (5) Approval issued pursuant to this section shall be contingent upon the recording of  
15          both an easement on the land on which the alternative compliance measure is  
16          constructed, and on the operation and maintenance plan for the alternative  
17          compliance measure. The operation and maintenance plan shall be fully consistent  
18          with the standards set forth in the Stormwater Management Design Manual.

19          (6) No portion of an alternative compliance measure may be utilized to satisfy the  
20          requirements of this division for a regulated construction activity unless explicitly  
21          approved by the Department in a post construction stormwater control plan.

1 (d) No discharge from a regulated construction activity to a combined sewer area may  
2 be mitigated by the construction of an alternative compliance measure discharging to a separate  
3 storm sewer system.

4 (e) The Department shall maintain continuously, and make available for inspection, a  
5 record of the volume equivalency of alternative compliance measures assigned to alternative  
6 compliance measures, whether constructed by the City or another applicant; all credits issued to  
7 regulated construction activities; and the timing, amount, and disposition of all fee-in-lieu  
8 payments.

9 **Section 56-3-108. Performance bond.**

10 (a) The Department shall have the authority to require a performance bond or other  
11 financial guarantee in the amount of the estimated cost of construction of the stormwater control  
12 measures and all landscaping associated therewith for a duration of two years after the issuance of  
13 the certificate of occupancy to ensure that all stormwater control measures have been established  
14 and installed correctly and function as designed and permitted.

15 (b) The Department shall have the authority to require a performance bond or other  
16 financial guarantee of a greater or lesser amount, or duration of time, where such an adjustment is  
17 warranted to reflect unique site conditions or to ensure the function and performance of the  
18 stormwater control measures in the Post Construction Stormwater Management Plan.

19 (c) A final inspection and approval of the stormwater control measures by the  
20 Department, the Buildings, Safety Engineering and Environmental Department, or other  
21 authorized agent shall be issued before the release of the performance bonds or other financial  
22 guarantee.

23

1 **Section 56-3-109. Maintenance required.**

2 (a) Any stormwater control measure installed pursuant to this division shall be operated  
3 and maintained in accordance with the requirements of the approved operations and maintenance  
4 plan and associated provisions in the Stormwater Management Design Manual.

5 (b) No area of land specified or designated to comply with the performance standards  
6 in this Division shall be altered in a manner which reduces or alters its infiltration rate, unless the  
7 Department approves an amendment to the previously approved Post Construction Stormwater  
8 Management Plan for the site, showing how the reduced or altered infiltration rate will be offset  
9 to maintain compliance with the performance standards specified in this division.

10 **Section 56-3-110. Operations and Maintenance Plan.**

11 (a) Prior to the conveyance or transfer of any portion of a development site to be served  
12 by a stormwater control measure(s) pursuant to this division, the applicant shall provide the  
13 Department with evidence of transfer of the associated Operation and Maintenance Plan.

14 (b) The Operation and Maintenance Plan shall be binding on the record owner of the  
15 property or properties subject to the Post Construction Stormwater Management Plan and their  
16 owners, heirs and assigns.

17 (c) The Operation And Maintenance Plan shall be developed by a professional engineer  
18 or landscape architect properly licensed to practice in the State of Michigan and shall include  
19 maintenance requirements and protocols for each stormwater control measure, including an  
20 associated schedule of inspection and maintenance activities, and procedures and checklists for  
21 each stormwater control measure consistent with the provisions in the Stormwater Management  
22 Design Manual and a signed certification statement accepting responsibility for the operation,  
23 maintenance and inspection of the stormwater control measures.

1 **Section 56-3-111. Easements.**

2 (a) A Post Construction Stormwater Management Plan shall include the preparation  
3 and property recording of all easements, deed restrictions, reservation of rights-of-way, or other  
4 protective covenants as are required to ensure sufficient access for purposes of maintenance,  
5 inspection, operation and repair or replacement of stormwater control measures, and to ensure that  
6 any future modification of the site is consistent with the provisions of the approved Post  
7 Construction Stormwater Management Plan, unless amendments or modifications to the Post  
8 Construction Stormwater Management Plan are approved by the Department.

9 (b) The Post Construction Stormwater Management Plan and applicable Operation and  
10 Maintenance Plan shall be referenced on a final plat, site plan or as-built drawing, and shall be  
11 recorded with the Wayne County Register of Deeds Office upon final approval, and shall be  
12 provided to the Department within 14 days following receipt of the recorded document.

13 **Section 56-3-112. Record drawings and final approval.**

14 (a) Upon final stabilization of the site of a regulated construction activity, the applicant  
15 or a professional engineer, or landscape architect duly licensed to practice in the State of Michigan,  
16 and acting on the applicant's behalf, shall conduct a post-construction inspection and shall certify  
17 in writing that the completed project is in full compliance with the approved Post Construction  
18 Stormwater Management Plan.

19 (b) The applicant or applicant's designee shall submit record drawings for all  
20 stormwater control measures to the Department, within 15 days of final stabilization of the site.

1 **Section 56-3-113. Right of entry for compliance inspections.**

2 (a) The Department, Buildings, Safety Engineering and Environmental Department or  
3 other authorized agent may enter a property to inspect stormwater control measures during any  
4 phase of construction and operation of approved stormwater control measures.

5 (b) The Department, Buildings, Safety Engineering and Environmental Department or  
6 other authorized agent may enter a property when the Department or its designee has a reasonable  
7 basis to believe that a violation of this division is occurring or has occurred, when necessary for  
8 abatement of a public nuisance, and to confirm the correction of a violation.

9 **Section 56-3-114. Periodic self-inspections required.**

10 (a) Periodic inspections shall be conducted according to the Operation and  
11 Maintenance Plan by the applicant or the applicant's successors, heirs or assigns of the stormwater  
12 control measure(s) as set forth in the applicable Operations and Maintenance Plan.

13 (b) An inspection report, certified by a professional engineer or landscape architect  
14 properly licensed to practice in the State of Michigan, shall be provided to the Department  
15 according to the schedule in the operation and maintenance plan, commencing no more than twelve  
16 months after the date of issuance of a certificate of occupancy for the regulated construction  
17 activity, and occurring once every three years or stipulated period thereafter.

18 **Section 56-3-115. Right of appeal.**

19 (a) Any person whose legal rights, duties, or privileges are determined by the  
20 Department pursuant to this ordinance and who is aggrieved by the Department's determination,  
21 may appeal to the DWSD Stormwater Appeals Board for relief of that grievance. An appeal shall  
22 be made according to the procedure set forth in this chapter.

1 (b) The DWSD Stormwater Appeals Board shall be appointed by the Director of the  
2 Department and confirmed by the Board of Water Commissioners and shall consist of 2 engineers  
3 from the academic sector, 2 engineers from the private sector, and 1 stormwater management  
4 expert. Meetings of the DWSD Stormwater Appeals Board shall be in person and shall be open to  
5 all interested parties.

6 (c) An appeal shall be in writing, addressed to the DWSD Stormwater Appeals Board  
7 c/o the Stormwater Management Group, and must be received within 30 days of the determination  
8 that is the subject of the appeal. The appeal shall set forth the specific act or matter complained of  
9 and in dispute, and shall include all documentation that supports the appellant's position.

10 (d) Within 30 days of receipt of the appeal, the Stormwater Management Group, or its  
11 designee, shall acknowledge such receipt in writing, and shall set a date and time for an appellate  
12 hearing to be conducted in accordance with Department rules and procedures.

13 (e) The decision of the DWSD Stormwater Appeals Board shall be final and  
14 enforceable at law. A person aggrieved by a final decision of the DWSD Stormwater Appeals  
15 Board may seek judicial review of the decision by the Wayne County Circuit Court. A petition for  
16 judicial review shall be filed not later than 60 days following the receipt of the final decision of  
17 the DWSD Stormwater Appeals Board.

18 (f) An aggrieved person shall exhaust all administrative remedies provided in this  
19 Chapter before seeking judicial review.

20 **Section 56-3-116. Notice.**

21 (a) If any stormwater control measure is found upon inspection to be arranged,  
22 damaged, clogged, or in such disrepair, as to impede, obstruct, or hinder the flow of surface water  
23 in a manner which conflicts with acceptable engineering practices, or if a planned and permitted

1 stormwater control measure has not been installed per an approved Post Construction Stormwater  
2 Management Plan within 30 days of inspection, the certifying party shall give written notice to the  
3 Department of the conditions found, the actions necessary to bring conditions into conformance  
4 with the approved Operation and Maintenance Plan, and the timeframe for completion.

5 (b) If any condition referenced in Subsection (a) of this section, is found by the  
6 Department upon its own investigation, whether as a result of, or independent of, a period  
7 inspection report, the Department shall give written notice to the owner of the property of the  
8 findings specifying the problem, the actions necessary to bring conditions into conformance and  
9 the timeframe for completion, as well as the potential for additional action under civil penalty or  
10 other penalty or remedy in Section 56-3-118 of this Code.

11 **Section 56-3-117. Civil penalty.**

12 Whenever the Department has reasonable grounds to believe that any person is violating,  
13 or has violated, any requirement of this division, the Department may commence a civil action to  
14 compel compliance in a court of competent jurisdiction to enjoin said person from discharging, or  
15 to obtain appropriate relief to remedy the violations. The Department or DWSD Board also may  
16 seek additional legal or equitable relief. The commencement of suit neither constitutes an exclusive  
17 election of remedies nor prohibits the Department, Director, Board, or City of Detroit from  
18 commencing action in federal court for discharges believed to be in violation of this division, state  
19 or federal requirements contained in the Clean Water Act, the City's NPDES permit, or other  
20 applicable laws or requirements. In addition, the City may recover the reasonable attorney fees,  
21 court costs, court reporters' fees, and other unusual expenses related to enforcement activities or  
22 litigation against the person found to have violated this division, or the orders, rules, regulations  
23 and permits issued hereunder.

1 **Section 56-3-118. Fines.**

2 All fines, costs, and penalties which are imposed by any court of competent jurisdiction  
3 shall be payable to the Detroit Water and Sewerage Department.

4 **Section 56-3-119. Additional remedies.**

5 (a) The Buildings, Safety Engineering & Environmental Department or other  
6 authorized agent may refuse to issue a certificate of occupancy for any regulated construction  
7 activity on a development site and served by stormwater control measures until such time as the  
8 applicant or other responsible person has taken remedial measures set forth in the notice of  
9 violation or has otherwise cured the violations described therein.

10 (b) The Buildings, Safety Engineering & Environmental Department may suspend or  
11 revoke any approvals granted for the development site upon discovery of the failure of the property  
12 owner, applicant or developer to comply with the provisions of this division.

13 (c) So long as a violation of this division continues and remains uncorrected, the  
14 Department, the Buildings, Safety Engineering and Environmental Department or other authorized  
15 agent may withhold, and the Department, the Buildings, Safety Engineering and Environmental  
16 Department or other authorized agent may disapprove, any request for a permit or site plan  
17 approval or authorization provided by this ordinance or the zoning, subdivision, or other building  
18 regulations, as appropriate for the land on which the violation occurs.

19 (d) The Department may institute an action in a court of competent jurisdiction for a  
20 mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance.  
21 Any person violating this ordinance shall be subject to the full range of equitable remedies  
22 provided in the general statutes or common law.

1 (e) If the violation is deemed dangerous or prejudicial to the public health or public  
2 safety, the Department may cause the violation to be corrected and the costs to be assessed as a  
3 lien against the property.

4 (f) By issuance of an order of restoration, the Department may require a person who  
5 engaged in a regulated construction activity and failed to comply with this division to restore the  
6 waters and land affected by such failure so as to minimize the detrimental effects of the resulting  
7 pollution. The authority is in addition to any other civil penalty or injunctive relief authorized  
8 under this ordinance. If failure to comply is deemed dangerous or prejudicial to the public health  
9 or public safety, the Department, may institute an action to cause the violation to be corrected and  
10 the costs to be assessed as a lien against the property.

11 **Sec. 56-3-120 -56-3-149. RESERVED.**

1           **Section 2.**    All ordinances, or parts of ordinances, that in conflict with this ordinance  
2 are repealed.

3           **Section 3.**    This ordinance is declared necessary to preserve the public peace, health,  
4 safety, and welfare of the People of the City of Detroit.

5           **Section 4.**    In the event that this ordinance is passed by a two-thirds (2/3) majority of  
6 City Council members serving, it shall be given immediate effect and become effective upon  
7 publication in accordance with Section 4-118 of the 2012 Detroit City Charter. In the event that  
8 this ordinance is passed by less than a two-thirds (2/3) majority of the City Council members  
9 serving, it shall become effective on the thirtieth (30) days after enactment, or on the first business  
10 day thereafter, in accordance with Section 4-118 of the 2012 City Charter.

**Approved as to form:**



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Lawrence T. García  
Corporation Counsel