

DRAFT 1/07/10 Title V Stormwater Management Code

PLEASE NOTE: THIS VERSION OF TITLE V HAS THE CHANGES MADE FROM THE OCTOBER 22, 2009 DRAFT HIGHLIGHTED. "STRIKETHROUGH" DENOTES TEXT FROM THE OCTOBER 22 DRAFT THAT HAS BEEN REMOVED IN THE FINAL TITLE V.

**CODE OF REGULATIONS OF THE
NORTHEAST OHIO REGIONAL SEWER DISTRICT**

TITLE V

STORMWATER MANAGEMENT CODE

Updated: January 7, 2010

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**NORTHEAST OHIO REGIONAL SEWER DISTRICT
CODE OF REGULATIONS**

TITLE V – STORMWATER MANAGEMENT CODE

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Chapter 1 – Title and Distribution, Applicability, and Statutory Authority

- Section 5.0101 Title and Distribution – This Title of the Code of Regulations of the Northeast Ohio Regional Sewer District shall be known as Title V – Stormwater Management Code and may be separately printed and distributed. The term “this Title” wherever used in all chapters of this Title means Title V – Stormwater Management Code of the Northeast Ohio Regional Sewer District.
- Section 5.0102 Applicability – Title V of the Code of Regulations of the Northeast Ohio Regional Sewer District is applicable to activities and persons on all parcels within the District’s service area.
- Section 5.0103 Community Service Status – Any Member Community receiving sanitary-sewage service from the District shall also be included in the Regional Stormwater Management Program. Per Ohio Revised Code Chapter 6119, a community may apply for inclusion in the District’s Regional Stormwater Management Program. Communities may petition for inclusion for stormwater-only service but will not be granted sanitary-sewage-only service.
- Section 5.0104 Authority – The District’s authority to promulgate this Title emanates from the Orders of the Cuyahoga County Court of Common Pleas that established the District, the authority granted by the Ohio Revised Code Chapter 6119, and the Federal Clean Water Act, 33 U.S.C. **Section §1251 et seq.**
- Section 5.0105 Conflicts with Other Titles – The provisions of this Title are intended to be read in conjunction with and complement other provisions of the District’s Code of Regulations. The provisions of this Title shall not conflict with applicable Local, State and Federal laws.
- Section 5.0106 Severability – If the provisions of any paragraph, section, or article of this Title are declared unconstitutional or invalid by the final decision of a court of competent jurisdiction, the provisions of the remaining paragraphs, sections, or articles shall continue in full force and effect.
- Section 5.0107 Member Community Powers – Nothing in this Title shall be construed to infringe upon or supplant a Member Community’s, or other local government’s, power and responsibility, **however derived**, to plan, finance, construct, maintain, operate, and regulate the Local Stormwater System within their jurisdiction.
- Section 5.0108 Disclaimer of Liability – This Title does not imply, nor does the District in any way warrant or represent, that land uses permitted within the District’s service area will be free from flooding or from flood and erosion damages. This Title shall not create liability on the part of the District **or any**

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Member Community, or any Trustee, officer, or employee thereof, for any damages that may result from reliance on any administrative decision lawfully made hereunder.

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Chapter 2 – Definitions

- Section 5.0201 Definitions – Unless the content specifically indicates otherwise, the meaning of the following terms wherever they are used in this Title shall be as defined in the following Sections.
- Section 5.0202 “Associated Impervious Surfaces” – The impervious surfaces that drain to a Stormwater Control Measure.
- Section 5.0203 “Credit” – A conditional reduction in the amount of Stormwater Fee charged to an account holder based on the provision and continuing presence of, use, operation, and maintenance of Stormwater Control Measures that the District does not own, maintain, or operate; or based on the continuing provision of activities that may reasonably reduce or mitigate the District’s cost of providing a regional stormwater management program.
- Section 5.0204 “Developed” – The condition of real property altered from its natural state by the addition to or construction on such property of impervious surfaces or other constructed physical changes that affect the hydrology of the property or a portion thereof.
- Section 5.0205 “Development” – Any constructed change to improved or unimproved real **estate property**, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.
- Section 5.0206 “Director” – The Executive Director of the Northeast Ohio Regional Sewer District or the Executive Director’s designated representative.
- Section 5.0207 “District” – The Northeast Ohio Regional Sewer District, its Trustees, officers, and employees.
- Section 5.0208 “Equivalent Residential Unit” or “(ERU)” – The measure of impervious surface for a typical single family residential property that is used by the District as the unit basis for assessing the Stormwater Fee.
- Section 5.0209 “Homestead” – A dwelling or unit in a multiple-unit dwelling or condominium which has a separate water connection and is owned and occupied as a home by an individual.
- Section 5.0210 “Impervious Surfaces” – **Hard surface areas Developed surfaces** that either prevent or significantly slow the infiltration of water into the ground compared to the manner that such water entered the ground prior to development, or which cause water to run off in greater quantities or at an

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increased rate of flow than that present prior to development. Impervious surfaces shall include, without limitation, rooftops, traveled gravel areas, asphalt or concrete paved areas, private access roads, driveways and parking lots, and patio areas.

- Section 5.0211 **“Inappropriate Connection”** – A connection that conveys sanitary sewage or industrial waste to the Regional Stormwater System or has the potential to impact the Regional Stormwater System through such a connection to the Local Stormwater System.
- Section 5.0212 **“Local Stormwater System”** – The entire system of watercourses, stormwater conveyance structures, or Stormwater Control Measures owned and/or operated by a private entity or a unit of local government other than the District. The Local Stormwater System shall include those watercourses, stormwater conveyance structures, or Stormwater Control Measures not designated as part of the Regional Stormwater System.
- Section 5.0213 **“Member Community”** – Any city, county, village, or township wholly or partly within the District’s service area.
- Section 5.0214 **“Non-Self-Supporting Municipal Functions”** – Municipal functions of Member Communities that are exempt from sewage charges as provided for in the judicial orders establishing the District. This exemption applies to municipal buildings which can be shown to house functions that are not proprietary in nature, including city halls, police and fire departments, service garages, and recreation facilities such as parks, playgrounds, indoor recreation facilities, swimming pools, and ice rinks. Nothing in this definition precludes the application of this definition to unincorporated Member Communities including townships. The final determination of Non-Self-Supporting Municipal Functions shall be made by the Board of Trustees.
- Section 5.0215 **“Non-Residential Parcels”** – All parcels in the District’s service area that are not classified as Residential Parcels by the District.
- Section 5.0216 **“Owner”** – Any person having a legal or equitable ownership interest in real property, including any person that owns real property. Persons who may own real property include, but are not limited to, agents, executors, administrators, trustees, lessees, or guardians of an estate for the holder of legal title. A person whose only interest in real property is as a secured lender does not own the real property. Owner also includes a person who is a vendor in possession under a purchase agreement or a land contract, or mortgagor, one or more joint tenants with rights of survivorship and tenants in common.
- Section 5.0217 **“Permanently and totally disabled”** – A person who has, on January 1 of the year of application for the Stormwater Homestead Fee, some

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impairment in body or mind that makes him or her unfit to work at any substantially remunerative employment which he or she is reasonably able to perform and which will, with reasonable probability, continue for an indefinite period of at least twelve months without any present indication of recovery therefrom or has been certified as permanently or totally disabled by a state or federal agency having the function of so classifying a person. An application for reduction based upon a physical disability shall be accompanied by a certificate signed by a physician, and an application based upon a mental disability shall be accompanied by a certificate signed by a physician or psychologist licensed to practice in Ohio, attesting to the fact that the applicant is permanently and totally disabled.

- Section 5.0218 “Regional Stormwater System” – The entire system of watercourses, stormwater conveyance structures, and Stormwater Control Measures in the District’s service area that are owned and/or operated by the District or over which the District has right of use for the management of stormwater, including both naturally occurring and constructed facilities. The Regional Stormwater System shall generally include those watercourses, stormwater conveyance structures, and Stormwater Control Measures receiving drainage from three hundred (300) acres of land or more. The District shall maintain a map of the Regional Stormwater System that shall serve as the official delineation of such system.
- Section 5.0219 “Regional Stormwater Management Program” – All activities necessary to operate, maintain, improve, administer, and provide Stormwater Management of the Regional Stormwater System and to facilitate and integrate activities that benefit and improve watershed conditions across the District’s service area.
- Section 5.0220 “Residential Parcels” – Parcels containing single-family homes, as well as apartment buildings, townhouses, condominiums, cooperatives, and other multifamily housing of four (4) units or less.
- Section 5.0221 “Sixty-five years of age or older” – A person who has attained age sixty-four (64) prior to January 1 of the year of application for the Stormwater Homestead Fee.
- Section 5.0222 “Stormwater Control Measures” or “SCMs” – An activity, measure, structure, device, or facility that helps to achieve stormwater management objectives including, without limitation, schedules of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements, and other practices to prevent or reduce the pollution of water resources, to control stormwater volume and/or rate, or to otherwise limit impacts to the Regional Stormwater System. SCMs shall be designed to minimize maintenance and reduce the potential for failure.

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- Section 5.0223 “Stormwater Fee” – The fee charged by the Northeast Ohio Regional Sewer District on all applicable impervious surfaces within the District’s service area as authorized by this Title for the purpose of funding costs related to the Regional Stormwater Management Program.
- Section 5.0224 “Stormwater Homestead Fee” – The Stormwater Fee charged to those account holders that qualify under Section 5.0712 of this Title.
- Section 5.0225 “Stormwater Management” – The process and activities involved in planning, financing, design, improvement, construction, inspection, monitoring, maintenance, operation, and regulation for the proper handling of stormwater runoff, considering both the quantity and quality of the runoff and the stability and function of stormwater systems.
- Section 5.0226 “Stormwater Management Plan” – The written documents and plans that set forth the Stormwater Management for a particular site, parcel, or area which meet the requirements of a Member Community’s stormwater management regulation.
- Section 5.0227 “Stormwater Master Plan” – The District’s plans for protecting and managing the Regional Stormwater System within a watershed.
- Section 5.0228 “Stormwater Runoff” – Stormwater that flows into ditches, watercourses, storm sewers, or other concentrated flow patterns during and following precipitation, including rain runoff, snowmelt runoff, and surface runoff.
- Section 5.0229 “Undeveloped” – The condition of a parcel unaltered by construction or the addition of impervious surface.
- Section 5.0230 “Watershed” – An extent of land where Stormwater Runoff drains downhill into a body of water, such as a river, lake, reservoir, estuary, or wetland. The Watershed includes both the streams and rivers that convey the water as well as the land surfaces from which water drains into those channels, and is separated from adjacent Watersheds by a topographic divide.

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Chapter 3 – Findings and Purpose

Section 5.0301

The District makes the following findings:

- (a) Flooding is a significant threat to public and private property.
- (b) Streambank erosion is a significant threat to public and private property, water quality, wildlife, and aquatic and terrestrial habitats.
- (c) Inadequate stormwater management damages the water resources of Northeast Ohio, impairing the ability of these waters to sustain ecological and aquatic systems.
- (d) A watershed-based approach to stormwater management is necessary to effectively and efficiently plan, design, construct, and maintain long-term solutions to stormwater problems.
- (e) An adequate funding source is necessary to provide a watershed-based approach to stormwater management.
- (f) Impervious surface on a given parcel relates to the volume, rate and/or pollutant loading of stormwater runoff discharged from that parcel.
- (g) The measurement of impervious surface that causes stormwater runoff ~~Stormwater runoff from impervious surfaces~~ provides an equitable and adequate basis for a system of fees for funding a watershed-based approach to stormwater management.

Section 5.0302

The District further finds that implementing a Regional Stormwater Management Program is necessary to address the issues in Section 5.0301 through the following activities:

- (a) Comprehensive management of the Regional Stormwater System.
- (b) Support, facilitation, and coordination with Member Communities on Stormwater Management activities.
- (c) Development and implementation of Stormwater Master Plans for those portions of the Rocky River, Cuyahoga River, Lake Erie Direct Tributaries, and Chagrin River watersheds within the District's service area.

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- (d) Construction and implementation of necessary Stormwater Control Measures to address current, and minimize new flooding and erosion issues affecting the Regional Stormwater System.
- (e) Inspection, operation, maintenance, and monitoring activities to address current, and minimize new, flooding and erosion issues affecting the Regional Stormwater System.

Section 5.0303

The purpose of this Title is to establish the Regional Stormwater Management Program through which the District and each Member Community served by the Regional Stormwater Management Program shall **cooperate work in a cooperative manner** to address stormwater management problems.

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Chapter 4 – Administration

- Section 5.0401 Administrative Rules, Policies, and Procedures – The Executive Director shall adopt, amend, and alter written rules, policies, and procedures governing the administration of this Title. Such rules, policies, and procedures shall not conflict with nor waive any provisions of this Title.
- Section 5.0402 Stormwater Fee Adjustments – The Executive Director may grant Stormwater Fee Adjustments to account holders whose circumstances may not be fully or appropriately reflected in the application of the Stormwater Fee detailed in this Title. Pursuant to Section 5.0401, the Executive Director shall establish rules, policies, and procedures for the review and administration of such Stormwater Fee Adjustments.
- Section 5.0403 Appeals – For the purposes of this Title, any person who disagrees with any final determination of the Executive Director in the administration of this Title with regard to classification of parcels, Stormwater Fees, application of credits, **final administrative rules, policies, or procedures**, and any other matters related to the District’s administration of the Regional Stormwater Management Program shall have thirty (30) days from the date **of notification** of such determination to apply for a hearing in accordance with Section 5.0404 of this Title and the Rules of Procedure for Administrative Determinations Made by the Northeast Ohio Regional Sewer District.
- Section 5.0404 Hearing – All appeals of administrative determinations shall be heard by the Board of Trustees, or by a Hearing Officer appointed pursuant to Section 2.2 of the Rules of Procedure for Administrative Determinations Made by the Northeast Ohio Regional Sewer District.
- Section 5.0405 Enforcement – The Executive Director, or the Executive Director’s designee, shall administer and enforce this Title.

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Chapter 5 – Authority and Responsibility

Section 5.0501 Management of the Regional Stormwater System – The District shall provide overall Stormwater Management of the Regional Stormwater System, including planning, financing, design, improvement, construction, inspection, monitoring, maintenance, operation, and regulation for the proper handling of stormwater runoff and the development and provision of technical support information and services to Member Communities.

Section 5.0502 Watershed Support, Facilitation, and Regional Coordination – The District shall facilitate, coordinate, integrate, and maintain other stormwater-related services, programs, and initiatives, generally on a watershed basis. Such services, programs, and initiatives shall be supportive of District and Member Community goals and objectives, including clean water, stream stability, flood control, education, account-holder service, and development of additional funding for Member Community stormwater management priorities.

As part of these services, the District shall provide support to Member Communities with the Ohio Environmental Protection Agency’s National Pollutant Discharge Elimination System (NPDES) General Permit for Municipal Separate Storm Sewer Systems requirements under Public Education and Outreach Minimum Control Measure, Public Participation/Involvement Minimum Control Measure, Illicit Discharge Detection and Elimination Minimum Control Measure, and Pollution Prevention/Good Housekeeping Minimum Control Measure through cooperative agreements with applicable Soil and Water Conservation Districts, County Boards of Health, and other service providers. ¶The District may also review development projects, local regulatory changes, and local stormwater management issues at Member Community request and based on available District resources.

Section 5.0503 Regional Stormwater System Map – The District shall develop and maintain a map of the Regional Stormwater System and an inventory of Stormwater Control Measures that it owns or for which it has operational responsibility. The Regional Stormwater System map and inventory shall be available for public review. The map and inventory shall define the description of the District’s responsibility area and assets over which it has ownership or operational responsibility.

Section 5.0504 Watershed Advisory Committees – The District shall establish Watershed Advisory Committees for those portions of the Rocky River, Cuyahoga River, Lake Erie Direct Tributaries, and Chagrin River watersheds ~~the watersheds~~ within the District’s service area. Per Section 5.0401, the Executive Director shall establish rules, policies, and procedures for the membership and administration of the Watershed Advisory Committees

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and these shall be available for Member Community review and comment. The Watershed Advisory Committees shall:

- ~~(a) Be advisory in nature.~~
- ~~(b) Be composed of Member Communities, public agencies with control over infrastructure in the applicable watershed, and watershed organizations. The composition of any Watershed Advisory Committee shall be determined by the District.~~
- ~~(c) Provide input to the District's planning and resource allocation processes.~~
- ~~(d) Assist the District in determining Regional Stormwater Management Program activities and priorities in each watershed.~~

(a) Be composed of representatives from each Member Community as designated by the Mayor or Township Trustees. Each Member Community in the subject watershed shall have one (1) position on the Watershed Advisory Committee. In the event that a Member Community is in two (2) or more watersheds, that Member Community shall have one (1) position on each applicable Watershed Advisory Committee. Public agencies with control over infrastructure in a District watershed, including but not limited to the Ohio Department of Transportation, Counties, and Regional Park Districts, shall have one (1) position each on the Watershed Advisory Committees for their applicable watersheds. The director of the public agency shall designate the agency's representative. The members of the Watershed Advisory Committees shall serve at the pleasure of their appointing agency or Member Community.

(b) Assist the District in determining Regional Stormwater Management Program activities and priorities in each watershed. The recommendations of Watershed Advisory Committees shall be considered during the preparation of each Stormwater Master Plan. Per Ohio Revised Code 6119, the final determination of any expenditure by the District shall be made by the Board of Trustees.

(c) Assist the District in developing, as necessary, additional regional stormwater standards as discussed in Chapter 6 of this Title.

Section 5.0505

Stormwater Master Plans –The District shall develop Stormwater Master Plans for those portions of the Rocky River, Cuyahoga River, Lake Erie Direct Tributaries, and Chagrin River watersheds within the District's service area to guide the Regional Stormwater Management Program. The plans shall address both the needs of the Regional Stormwater System and of the watersheds. They shall ~~involve~~ include input from Watershed Advisory Committees described in Section 5.0504 and shall be updated as reasonable and necessary.

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Section 5.0506 Construction Projects – The District shall develop and implement a stormwater construction plan for the Regional Stormwater System and District-owned or -operated Stormwater Control Measures. Projects shall be identified through Watershed Advisory Committees, Stormwater Master Plans, and by other means and shall be prioritized based on a weighting of factors developed by the District and reviewed by Watershed Advisory Committees.

Projects included in the stormwater construction plan shall be related to the proper function of the Regional Stormwater System. The stormwater construction plan shall be reviewed annually and updated as reasonable and necessary as new needs are identified. Projects shall involve Member Community and Watershed Advisory Committee input.

All District-owned or -operated Stormwater Control Measures shall be covered by the appropriate permanent easement to the District for inspection, monitoring, maintenance, and other necessary activities. The acquisition of easements shall be the responsibility of the District.

Section 5.0507 Inspection, Operation, Maintenance, and Monitoring Activities – The District, as part of its operations and maintenance activity, shall develop and implement inspection, maintenance, and monitoring plans for the Regional Stormwater System and District-owned or -operated Stormwater Control Measures.

Activities shall be identified through Stormwater Master Plans, inspections, Member Community requests, Watershed Advisory Committees, and by other means and shall be prioritized based on a weighting of factors developed by the District and reviewed by Watershed Advisory Committees.

Activities included in the operations, maintenance, and monitoring plans shall be related to the proper function of the Regional Stormwater System and District-owned or -operated Stormwater Control Measures. These activities shall include, but are not limited to, clearing debris from blocked culverts, bridge abutments, and Regional Stormwater Control Measures, and the repair of streambank erosion.

The District shall have access to all parts of the Regional Stormwater System for inspection and emergency response activities. Other than in emergent circumstances, the District shall not undertake maintenance activities without first entering into appropriate legal agreements with applicable property owners and obtaining clearance from applicable local, state, and federal agencies.

Section 5.0508 Review of Stormwater Management Plans – Member Communities shall provide the District, or require to be provided to the District, with copies

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of the proposed Stormwater Management Plan for any project that is regulated by the Member Community by ordinance or resolution and is located wholly within the District's service area. and proposes improvements on or connection to the Regional Stormwater System or that will materially contribute flow to any District-owned or -operated Stormwater Control Measures. Submission to the District shall occur within seven (7) business days of the submission of such plans to the Member Community.

The District shall review submissions for potential impacts to the Regional Stormwater System and/or District-owned or -operated Stormwater Control Measures SCMs. The District shall provide any review comments to the approving Member Community within a timeframe mutually agreed upon by the Member Community and the District. If a mutually agreed upon timeframe is not established, District shall provide any review comments within fifteen business (15) days of receiving the proposed Stormwater Management Plan. If the District does not provide review comments within fifteen business (15) days, or such other agreed timeframe, it shall be assumed that the District has no comments on the proposed Stormwater Management Plan.

Section 5.0509

Review of Stormwater Management Plans in Combined Sewer Areas – The District shall review Stormwater Management Plans for new development, redevelopment, and other projects in the combined system pursuant to the requirements set forth in Title IV of this Code of Regulations.

Section 5.0510

Optional Local Services – The District may provide additional services to Member Communities beyond those provided to all Member Communities under the Regional Stormwater Management Program. Such additional services shall be described in a service agreement with the interested Member Community and shall be paid for as described by that service agreement.

Section 5.0511

Authority to Enter – Nothing in this Title shall be construed to impair the District's emergency powers or restrict any power the District may have to enter, inspect, or otherwise exercise pursuant to Chapter 6119 of the Ohio Revised Code.

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Chapter 6 – Standards and Requirements for Stormwater Management

Section 5.0601 Standards for Stormwater Management – In order to insure the protection of the Regional Stormwater System, all Member Communities shall adopt minimum stormwater design and programmatic standards consistent with:

- (a) The requirements of the Ohio Environmental Protection Agency’s National Pollutant Discharge Elimination System (NPDES) General Permit for Municipal Separate Storm Sewer Systems, if applicable to the Member Community. These minimum standards shall include adopting the necessary local regulations as required under this General Permit.
- (b) Additional standards that may be promulgated by the District as may be necessary and reasonable to protect the Regional Stormwater System. This section is reserved for the development of Stormwater Management standards as may be necessary and reasonable to protect the Regional Stormwater System based on findings of Stormwater Master Plans for each watershed of the District’s service area and the recommendations of Watershed Advisory Committees. Per the requirements of Section 5.0401 of this Title, these additional standards shall be developed with review and comment of the Watershed Advisory Committees, based on findings in Stormwater Master Plans, and provided for Member Community review and comment prior to adoption by the Board of Trustees.

Section 5.0602 Requirement to Eliminate or Correct Inappropriate Connections – Any parcel located within the District’s service area that has a sewer connection that conveys sanitary sewage or industrial waste to the Regional Stormwater System, or has the potential to impact the Regional Stormwater System through such a connection to the Local Stormwater System, is required to eliminate the inappropriate connection and construct an appropriate connection to the sanitary or combined sewer system. The elimination and construction of all sewer connections must be conducted in accordance with the Code of Regulations of the District, and pursuant to the governing building and public health codes of the municipality within which the parcel is located. In the event of a failure or refusal to eliminate such inappropriate connection, the District may terminate such connection take corrective actions, up to and including termination of such connection, and charge back to such parcel the costs associated with such corrective action. Any costs that are not paid pursuant to this Section shall be subject to any measures set forth in Section 5.0716 of this Title.

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Chapter 7 – Stormwater Fees

Section 5.0701 Stormwater Account – The District will establish a separate account dedicated to the implementation and administration of the Regional Stormwater Management Program and maintain a separate accounting of all revenues and expenses generated by or through on behalf of the Regional Stormwater Management Program, including interest earnings on those revenues.

Section 5.0702 General Funding Policy

- (a) It shall be the policy of the District that funding for the Regional Stormwater Management Program shall be equitably derived through methods that have a demonstrable relationship to the varied demands imposed on the Regional Stormwater Management Program by individual parcels and/or the level of service rendered by or resulting from the provision of the Regional Stormwater Management Program. Stormwater Fees shall be structured so as to be fair and reasonable, and the resultant Fees shall bear a substantial relationship to the cost of providing the Regional Stormwater Management Program throughout the District's service area. Similarly situated properties shall be charged similar Stormwater Fees. Stormwater Fees shall be structured to be consistent in their application and shall be coordinated with the use of any other funding methods employed for the Regional Stormwater Management Program within the District.
- (b) The Stormwater Fee will include reflect all costs for all aspects of the Regional Stormwater Management Program.
- (c) As set forth in Chapter 8 of this Title, credits against Stormwater Fees may be provided for private investments and/or activities that reduce a parcel's use of and/or impacts on the Regional Stormwater System or that reduce the costs of the Regional Stormwater Management Program. The monetary value of any approved credits shall bear a substantial relationship to the stormwater service demand reduction, impact reduction, or estimated cost reduction.

Section 5.0703 Parcel Classification – The District shall classify all parcels within the District service area in accordance with this Title without regard to whether the parcel receives District services under other Titles of this Code of Regulations.

Section 5.0704 Stormwater Fees – A Stormwater Fee based upon a calculation of the amount of Impervious Surfaces on a parcel shall be imposed on every parcel within the District's service area.

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Stormwater Fees shall be determined and modified, from time to time, so that the total revenues generated by such Fees and any other sources of revenues shall be sufficient to meet the cost of the Regional Stormwater Management Program.

Section 5.0705

Exemptions – Except as provided in this Section 5.0705, or in Chapter 4 or Chapter 8 of this Title, no parcel shall be exempt from Stormwater Fees or receive a credit or offset against such Fees. The following exemptions from Stormwater Fees shall be allowed:

- (a) Public Road Rights-of-Way that have been conveyed to and accepted for maintenance by the State of Ohio, a County, or a Member Community, and which are available for use in common by the general public for motor vehicle transportation. This exemption shall not apply to internal site roadways within public facilities; to private roads or drives; or to internal roads, drives, and parking areas in privately owned property;
- (b) Railroad Rights-of-Way. This exemption shall not apply to railroad stations, railroad yards, rail-lines on private property, maintenance buildings, or other developed land used for railroad purposes;
- (c) Aggregated parcels with less than four-hundred (400) square feet of impervious surface; ~~and~~
- (d) Parcels whose use has been designated as a Non-Self Supporting Municipal Function owned by Member Communities; and
- (e) Airports owned and operated by Member Communities.

Section 5.0706

Impervious Surface and Equivalent Residential Unit – Impervious surface shall be the primary parameter for establishing a Stormwater Fee structure to distribute the costs associated with the administration, operation, repair, improvement, maintenance, ~~and monitoring of,~~ and all other costs associated with the Regional Stormwater System. Based on an analysis by the District of impervious surfaces on parcels throughout the District's service area, an impervious surface of three thousand (3,000) square feet shall be designated as one (1) Equivalent Residential Unit (ERU), as modified by the Board of Trustees from time to time.

Section 5.0707

Schedule of Stormwater Fees – The following Stormwater Fees are hereby established for all parcels within the District's service area, excluding exempted parcels under Section 5.0705 of this Title:

- (a) Small Residential Parcel – Small Residential Parcels shall be classified as Tier 1 and include residential parcels with less than

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two thousand (2,000) square feet of Impervious Surface. The Stormwater Fee for all Small Residential Parcels shall be six-tenths (0.6) Equivalent Residential Units per month.

- (b) Medium Residential Parcel – Medium Residential Parcels shall be classified as Tier 2 and include residential parcels with two thousand (2,000) to three thousand nine hundred and ninety-nine (3,999) square feet of Impervious Surface. The Stormwater Fee for all Medium Residential Parcels shall be one (1) Equivalent Residential Unit per month.
- (c) Large Residential Parcel – Large Residential Parcels shall be classified as Tier 3 and include residential parcels with four thousand (4,000) square feet or more of Impervious Surface. The Stormwater Fee for all Large Residential Parcels shall be one and eight-tenths (1.8) Equivalent Residential Units per month.
- (d) Non-Residential Parcel – The Stormwater Fee for Non-Residential Parcels shall be based upon the calculated Impervious Surface as determined by the District expressed in whole Equivalent Residential Units by rounding to the next highest ERU. The Stormwater Fee for Non-Residential Parcels shall be computed by multiplying the number of ERUs for a given parcel by the unit Fee established by the District per ERU per month.

Section 5.0708

Effective Equivalent Residential Unit (ERU) Fee – The effective monthly ERU fee is established as follows:

- (a) Effective ~~on the date of Board approval of this Title in 2010, no earlier than July 1, 2010,~~ the base ERU fee is \$4.75 per month. The Stormwater Homestead Fee is \$1.95 per month.
- (b) Effective January 1, the Stormwater Fees shall be as follows:

		2011	2012	2013	2014
Tier 1	0.6 ERU	\$2.85	\$2.97	\$3.03	\$3.09
Tier 2/Base	1.0 ERU	\$4.75	\$4.95	\$5.05	\$5.15
Tier 3	1.8 ERU	\$8.55	\$8.91	\$9.09	\$9.27
Homestead		\$1.95	\$1.99	\$2.03	\$2.07

Section 5.0709

Local Stormwater Charges – The District may assist Member Communities in the development and implementation of a local stormwater charge. ~~The local stormwater charge shall be applied on the same basis and structure as the District Stormwater Fee.~~

~~Local stormwater charges must be calculated based on a detailed study of~~

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~~the projected costs of the local stormwater program to be funded by the local stormwater charges.~~

~~Such local stormwater charges shall be separately listed on bills. Collection of delinquent local stormwater charges and other matters associated with the local stormwater charges shall be the responsibility of the Member Community unless otherwise agreed between the Member Community, the District, and/or the District's Billing Agents.~~

Section 5.0710

Billing and Collection of Stormwater Fees – Stormwater Fees shall be administered as follows:

- (a) Stormwater Fees shall be billed on a quarterly basis and collected by the District or the District's designated Billing Agent(s) pursuant to agreement between the Billing Agent(s) and the District.
- (b) All account holders shall be required to pay Stormwater Fees other than as exempted in Section 5.0705.
- (c) It is the obligation of all account holders to notify the District if they are not being billed Stormwater Fees. Account holders shall be responsible for any unbilled Stormwater Fees for a period of six (6) years prior to the date of the account holder receiving the back bill or other instrument stating the amount due and owing.

Section 5.0711

Annual Notification of Stormwater Fees – The Executive Director or designated District staff shall provide ~~an~~ annual notification of ~~the~~ Stormwater Fees.

Section 5.0712

Stormwater Homestead Fee – The Stormwater Homestead Fee may be available to residential account holders with homesteads owned by a person sixty-five (65) years of age or older whose total annual income does not exceed the limits listed below, or homesteads owned by a person permanently and totally disabled whose total annual income does not exceed the limits listed below, provided the owner has obtained approval by their county of residence of a reduction in taxes under the Homestead Exemption provisions of Chapter 323 of the Ohio Revised Code. The applicant must own and live at the applying service address. The Executive Director shall prescribe the application form for the Stormwater Homestead Fee and have final approval of all applications.

Income Limits	
Year	Total Annual Income
2010	\$29,500
2011	\$30,385

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2012	\$31,295
2013	\$32,200
2014	\$33,170

- Section 5.0713 Establishment of Competitive Fees for Non-Residential Account Holders – The Board of Trustees may, upon petition of a Member Community and upon finding that it is in the best interest of the District, **the Member Communities**, and its account holders, enter into Joint Economic Development Agreements and/or special stormwater service agreements with Member Communities and/or account holders of non-residential parcels for stormwater management under fees, terms, and conditions that differ from those contained in this Title for the purpose of promoting economic development and for retaining such account holders based upon substantial evidence that the Stormwater Fee charged by the District is **a substantial factor** compelling the non-residential account holder on such parcels to leave the District’s service area or **for a prospective account holder** to not locate in the District’s service area. **The terms and conditions of individual Joint Economic Development Agreements shall be consistent with the Ohio Revised Code.**
- Section 5.0714 Common Area Fees – The Executive Director may develop methods pursuant to Section 5.0401 by which the Stormwater Fees for common areas shall be calculated and billed for any homeowners’ association consisting of owners of single-family residential parcels. If a binding agreement allocating such Fees exists, the parcels shall be billed accordingly.
- Section 5.0715 Payment Requirements – All Stormwater Fees shall be paid on or before the date stated on the bill. The Executive Director may, after request and investigation, grant an extension of time for payment not to exceed ninety (90) days in cases of indigence, emergency, and similar conditions. Partial payments may be accepted, upon approval; however, bills must be paid in full before the expiration of the ninety (90) day period.
- Section 5.0716 Enforcement – Failure of an account holder to pay applicable Stormwater Fees will result in the District placing the account in collection status. If the account holder fails to pay after being placed in collection status, the District may authorize the Cleveland Division of Water to stop water service to the account holder, **place a lien on the applicable parcel, and/or take such other steps as are reasonable to collect the unpaid debt.** If the account holder does not receive Cleveland Division of Water service, the District may place a lien on the applicable parcel **and/or take such other steps as are reasonable to collect the unpaid debt.**

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Chapter 8 – Stormwater Fee Credits

- Section 5.0801 Stormwater Fee Credits – The District may adjust Stormwater Fees calculated pursuant to Chapter 7 of this Title through the use of credits when the District determines that an applicant’s investment in District-approved Stormwater Control Measures or other approved programs results in a reduced impact on the Regional Stormwater System or a reduced overall program cost to the District. The Executive Director shall develop and implement a Stormwater Fee Credit Policy Manual that shall include credit applications, guidelines for Member Community input into the review and approval of credit applications, and procedures in conformance with the general parameters detailed in this Chapter 8 of this Title.
- Section 5.0802 Credit Eligibility – Credits may be approved for applicants who maintain and operate Stormwater Control Measures (SCM). No credit will be given for the following circumstances:
- (a) The applicant does not have legal responsibility to maintain the SCM.
 - (b) The functional condition of the SCM does not meet District performance criteria.
 - (c) The SCM is not designed to meet at least the minimum requirements as defined in the District’s Stormwater Fee Credit Policy Manual.
- Section 5.0803 Credit Applicability – The credit shall be applicable, in part or whole, to Impervious Surfaces that drain to the Stormwater Control Measure. These Impervious Surfaces shall be termed “Associated Impervious Surfaces” for the purposes of this Title. Only those portions of a particular parcel that drain through a given SCM are eligible for credit based on that SCM.
- Section 5.0804 Credit Amounts and Limitations – Stormwater Fee Credits shall be as detailed below.
- (a) Stormwater Quantity Credit – Applicants with SCMs that meet and maintain at least the minimum requirements of the Stormwater Fee Credit Policy Manual for controlling stormwater quantity may receive a Stormwater Fee Credit not to exceed fifty percent (50%) of the total Stormwater Fee that would otherwise have been charged to the Associated Impervious Surfaces.
 - (b) Stormwater Quality Credit – Applicants with SCMs that meet and maintain at least the minimum requirements of the Stormwater Fee Credit Policy Manual for controlling stormwater quality may

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receive a Stormwater Fee Credit not to exceed twenty-five percent (25%) of the total Stormwater Fee that would otherwise have been charged to the Associated Impervious Surfaces.

- (c) Stormwater Education Credit – Public and private primary, elementary, and secondary schools that are recognized in the State of Ohio, are account holders with the District, and that provide approved stormwater pollution prevention curricula to their students that meet and maintain at least the minimum requirements of the Stormwater Fee Credit Policy Manual may receive a Stormwater Fee Credit not to exceed twenty-five percent (25%) of the total Stormwater Fee for the subject parcel on which the stormwater education curricula are delivered.
- (d) Residential Credit – Residential parcels that do not qualify for the Stormwater Quality Credit may alternately receive a twenty-five percent (25%) credit for implementation and maintenance of approved site-based water quality Stormwater Control Measures as detailed in the Stormwater Fee Credit Policy Manual. No partial credit shall be offered for residential SCMs.
- (e) Except as detailed in Section 5.0804(f), Stormwater Fee Credits may be combined up to a maximum available credit of seventy-five percent (75%).
- (f) Public and private primary, elementary, and secondary schools recognized in the State of Ohio may receive a combined Stormwater Fee Credit up to one hundred percent (100%) on qualifying parcels.
- (g) The Stormwater Quantity, Stormwater Quality, and Education Credits, as applicable, shall be prorated based on attainment of the at least the minimum requirements for each credit as detailed in the Stormwater Fee Credit Policy Manual. To attain the maximum credit amount(s), the most stringent standard(s) as specified in the Policy Manual must be attained.
- (h) All credits are conditioned on continuing compliance with the applicable design and performance standards on which the credit is based. The District may revoke any credit on the condition that SCMs are not conforming to the credit standard, that SCMs are not being maintained to function as designed, or that the SCMs or activities no longer meet the purpose of the credit.

Section 5.0805

Credit Submittal Requirements – To apply for a Stormwater Fee Credit, the applicant must submit, at the applicant’s expense, a completed

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Stormwater Fee Credit application packet as detailed in the Stormwater Fee Credit Policy Manual.

Section 5.0806 Credit Recertification– To remain eligible for Stormwater Fee Credits, credit recipients must periodically submit a Credit Recertification Letter to the District for review and approval as specified in the Stormwater Fee Credit Policy Manual. Failure to meet recertification requirements will result in a removal of the applicable credit. Applicants may reapply for such credits as detailed in the Policy Manual.

Section 5.0807 Affirmative Duty – It is the sole responsibility of applicants to apply for a Stormwater Fee Credit. An applicant may apply for a Stormwater Fee Credit at any time.

A determination by the District that an applicant fails to meet the criteria set forth by the District for any such Stormwater Fee Credit may be the subject of appeal by the applicant under Chapter 4 of this Title., **but the The credit applied for shall not apply during the pendency of any such appeal. If all or any part of the credit sought is awarded to the applicant upon appeal, the credit amount shall be applied to the applicant's Stormwater Fees.**

Section 5.0808 Timing – For the first full year of the Regional Stormwater Management Program, Stormwater Fee Credits that are approved by the District may be prorated to the beginning of the Regional Stormwater Management Program or to such time as the SCM for which the credit is approved began to function. After the first full year of the Regional Stormwater Management Program, Stormwater Fee Credits shall not be prorated, but shall start at the beginning of the next billing cycle after the District has approved the Stormwater Fee Credit.

Section 5.0809 No District Liability – This Title shall not create liability on the part of the District **or any Member Community** for any failure **by an applicant** to secure any and all permits and approvals for any **non-District** construction undertaken on any parcel within the District's service area.

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Chapter 9 – Community Cost-Share Program

- Section 5.0901 Purpose – The District shall form a financial account termed the “*Community Cost-Share Account*” that shall be for the aggregation and dissemination of funds derived from revenues collected from the Stormwater Fee and whose purpose is to provide funding to assist in Member-Community-requested and District-approved projects.
- Section 5.0902 Qualifying Member Communities and Stormwater Control Measures – Efforts to maintain compliance with this Title, as determined by the District, shall be a prerequisite for a Member Community to participate in the Community Cost-Share Program. All activities proposed by Member Communities for funding under the Community Cost-Share Program shall clearly promote or implement the goals and objectives of the District as set forth in this Title and must be intended to address current, and minimize new, flooding, erosion, and water quality problems.
- Section 5.0903 Procedure for Allocating Funds – All Community Cost-Share Program funds shall be under the control and disposition of the District. The Executive Director shall develop and implement rules, policies, and procedures for the collection and distribution of Community Cost-Share Program funds. Fund distribution shall be by application of Member Communities to the District. In developing procedures for allocation of funds, the following requirements shall apply:
- (a) A minimum of seven and one half percent (7.5%) of the total annual revenue collected in each Member Community shall be allocated to that Member Community through the Community Cost-Share Account.
 - (b) Member Communities may accumulate up to five years (5) of Community Cost-Share revenue. Member Communities must apply by July 1st of Year Five to be able to receive their funds from Year One. Except as detailed in Section 5.0903(c) of this Title, if a Member Community does not apply by this deadline, Year One Community Cost-Share revenue will revert back to the District’s Stormwater Account.
 - (c) Member Communities may accumulate Community Cost-Share Revenue beyond five years (5) based on a plan approved by the District for the use of those accumulated funds.

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(d) ~~(e)~~ Member Communities may apply for Community Cost-Share Funds at any time such funds are available. The District shall review the Community's application within a reasonable timeframe.

(e) ~~(d)~~ The Board of Trustees may review and adjust the Community Cost-Share Program at their discretion.

Section 5.0904

Community Cost-Share Program Limits – For consideration under the Community Cost-Share Program, projects must meet the following criteria:

~~(a) — Cost sharing funds will not exceed seventy five percent (75%) of total cost of the project.~~

(a) The Member Community shall apply in a form prescribed by the District.

(b) If Community Cost-Share Program funding is to be used for construction or maintenance activities on private property, the Member Community shall obtain all necessary legal agreements with the private property owner to perform construction; and to bind any successor in title to maintain compliance as specified in the agreement between the District and the Member Community for the specific Community Cost-Share Program project. The costs of obtaining such legal agreements are eligible for Community Cost-Share funds.

Section 5.0905

Post-Construction Inspection – The District may periodically inspect the Community Cost-Share Program project to ensure proper maintenance in conformance with the Community Cost-Share Program agreement. If applicable, the Member Community shall maintain a complete record of the Member Community's maintenance inspections and overall performance of the project for at least three (3) years, or as otherwise specified in the Community Cost-Share Program agreement, from the date of creation of the record, and shall submit the same upon reasonable request to the District.

Section 5.0906

Failure to Maintain Community Cost-Share Program Projects – If the Member Community fails to maintain a project funded through the Community Cost-Share Program in accordance with any agreement executed with the District, the Member Community shall be liable for the full amount of any Community Cost-Share Program funds paid for the project. Such amount may be reimbursed to the District directly by the Member Community, or shall be offset against the Member Community's Community Cost-Share Program account.

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Chapter 10 – Violations and Penalties

- Section 5.1003 Violations – Persons violating this Title shall be subject to the full range of actions authorized under the District’s Code of Regulations and other applicable State and Federal laws, including, without limitation, criminal fines, civil and administrative orders, and/or penalties. It shall be a violation of this Title for any person to:
- (a) Make any false, inaccurate, incomplete, or misleading statements in any submission required by this Title;
 - (b) Make any false, inaccurate, incomplete, or misleading statement in any record, report, plan, or other document that the person is required to keep by this Title; or
 - (c) Fail to comply with the applicable requirements set forth in this Title.
- Section 5.1004 Complaints – Upon receipt of a complaint regarding an alleged violation of this Title, the District shall promptly investigate the alleged violation. Following such inspection, a report shall be filed with the applicable Member Community.
- Section 5.1005 Penalties – When violations and/or noncompliance have been determined, the account holder or Member Community shall immediately take appropriate measures to come into compliance with this Title. Notwithstanding such measures, enforcement options shall be used at the Executive Director’s discretion, and may include daily fines of up to two thousand dollars (\$2,000.00) per violation.
- Section 5.1006 Removal of Violation – For the purposes of this Title:
- (a) Upon written notice, the Executive Director may cause any structure, encroachment, or work constructed without approval or which is in violation of the terms of such approval per an approved Member Community Stormwater Management Plan, to be removed immediately at the expense of the person who caused the structure, encroachment, or work. If the structure, encroachment, or work will cause an immediate danger to life and property, the District may take action to cause the immediate removal of the structure, encroachment, or work, at the expense of the person who caused the structure, encroachment, or work.

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- (b) The District shall be entitled to recover all costs, including administrative, engineering, and legal, to remove or modify the structure, encroachment, or work that is in violation of this Title.

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