ENROLLED ORDINANCE

No. 2006-1114A

INTRODUCED BY COMMISSIONER(S): Boike and Co-sponsored by Commissioner Varga

AN ORDINANCE TO provide for the protection of the environment against pollution from storm water runoff; to provide flood control and adequate drainage within and around Wayne County; to prevent pollution within and around Wayne County; to provide for the implementation of a storm water management program in Wayne County; to provide for the issuance of storm water construction approvals for certain construction activities within Wayne County's jurisdiction; to provide design and construction criteria for storm water management systems; to provide for administration and enforcement of the Ordinance; to require long-term maintenance and financial assurance; to authorize inspections of construction activities governed by this Ordinance; to provide for the continuation of all pre-existing legal requirements to preserve and protect the environment; to provide for the severability of this Ordinance; to provide for the effective date hereof; and to establish penalties for violations hereof.

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

1 WAYNE COUNTY STORM WATER MANAGEMENT ORDINANCE

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CHAPTER 1  GENERAL PROVISIONS

SECTION 1.1  AUTHORITY

This Ordinance is enacted pursuant to the Federal Water Pollution Control Act of 1972, 33 U.S.C. 1251 et seq., as amended; Part 31 of the Natural Resources and Environmental Protection Act of 1994 ("Part 31"), MCL 324.3101 et seq., as amended; the General Permit "Storm Water Discharges from Municipal Separate Storm Sewer Systems (MS4s) Subject to Watershed Plan Requirements" (General Permit No. MIG619000) issued by the Michigan Department of Environmental Quality pursuant to Part 31; Act 288 of 1967 (Subdivision Control Act), MCL 560.101 et seq., as amended by the Land Division Act, MCL 560.101 et seq.; Act 283 of 1909 (County Road Law), MCL 224.1 et seq., as amended; Act 40 of 1956 (Drain Code), MCL 280.1 et seq., as amended; and Act 96 of 1987 (Mobile Home Commission Act), MCL 125.2301 et seq., as amended; the Charter County Law, MCL 45.515 et seq., and the Home Rule Charter of Wayne County, Michigan (1981), as amended.

SECTION 1.2  PURPOSE

Prevention of pollution from storm water runoff and the protection of the quality of the waters of the state of Michigan is of utmost importance to the People of the Charter County of Wayne. It is the purpose of this Ordinance and any rules promulgated pursuant to this Ordinance:
A. To protect the environment against pollution and other effects from storm water runoff, and to protect the public health and safety;

B. To provide for the implementation of a storm water management program in Wayne County to manage and prevent flooding, streambank erosion, pollution, and other effects from storm water runoff;

C. To establish standards and criteria for the design and construction of storm water management systems subject to the requirements of this Ordinance;

D. To establish best management practices for the design, construction, maintenance, and operation of storm water management systems subject to the requirements of this Ordinance;

E. To provide for the issuance of storm water construction approvals for construction activities subject to the requirements of this Ordinance;

F. To provide for the long-term preservation and maintenance of storm water management systems subject to the requirements of this Ordinance;

G. To authorize the inspection of storm water management systems subject to the requirements of this Ordinance; and

H. To provide for the administration, implementation, and enforcement of this Ordinance.
SECTION 1.3 TITLE

This Ordinance shall be known and may be cited as the "Wayne County Storm Water Management Ordinance."

SECTION 1.4 ADMINISTRATION

This Ordinance shall be administered jointly by the Wayne County Department of Environment and the Wayne County Department of Public Services.

SECTION 1.5 EFFECTIVE DATE

The Wayne County Storm Water Management Ordinance became effective October 23, 2000. Any project that was assigned an active review number by the Permit Office as of the Effective Date shall be exempt from the requirements of this Ordinance.

SECTION 1.6 STATE RULES

Unless otherwise specifically provided in this Ordinance, the provisions of this Ordinance shall control over less stringent rules of the Michigan Department of Environmental Quality, unless contrary to law.

SECTION 1.7 NO WAIVER OF OTHER OBLIGATIONS

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

SECTION 1.8 INCORPORATION BY REFERENCE

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

SECTION 1.9 SEVERABILITY

The provisions of this Ordinance shall be severable. If any provision of this Ordinance is declared by a Court of competent jurisdiction to be unconstitutional or otherwise invalid, the remaining provisions of this Ordinance shall remain valid and enforceable.

CHAPTER 2: DEFINITIONS

SECTION 2.1 As used in this Ordinance, the following terms have the following meanings:

(A) Applicant means a person responsible for regulated construction activity on a development site who is seeking to obtain storm water construction approval.

(B) Construction activity means a human-made activity, including without limitation, clearing, grading, excavating, construction and paving, that results in an earth change or disturbance in the existing cover or topography of land, including any modification or alteration of a site or the "footprint" of a building that results in an earth change or disturbance in the existing cover or topography of land.
(C) Conveyance means any structure or other means of safely conveying storm water and storm water runoff within a storm water management system, including without limitation a watercourse, closed conduit, culvert, or bridge.

(D) County means the Charter County of Wayne.

(E) County Drains are drains established pursuant to the Michigan Drain Code of 1956, MCL 280.1 et seq., as amended.

(F) Development site means the property on which regulated construction activity will occur or is occurring or has occurred.

(G) Director means the Director of the Wayne County Department of Public Services or its designee.

(H) Permit Office means the Permit Office of the Wayne County Department of Public Services, Engineering Division.

(I) Person means a natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, city, county, municipality, district, or other political subdivision, department, bureau, agency or instrumentality of federal, state, or local government, or other entity recognized by law as the subject of rights and duties.

(J) Regulated construction activity means construction activity that is subject to the provisions of this Ordinance or a rule promulgated pursuant to this Ordinance.
(K) Storm water means water resulting from precipitation, including without limitation rain, snow, and snowmelt.

(L) Storm water construction approval means an approval issued pursuant to this Ordinance and rules promulgated pursuant to this Ordinance.

(M) Storm water management program consists of ordinances, orders, rules, regulations, and other mechanisms that provide for the management of storm water and storm water runoff to prevent flooding and to ensure the restoration and/or protection of surface waters in Wayne County. With respect to the County, storm water management program consists of the requirements of this Ordinance and any rules or regulations promulgated under this Ordinance, and activities mandated by the Certificate of Coverage issued by the Michigan Department of Environmental Quality to the County pursuant to the General Permit "Storm Water Discharges from Municipal Separate Storm Sewer Systems (MS4s) Subject to Watershed Plan Requirements" (General Permit No. MIG619000).

(N) Storm water management system means any structure, feature or appurtenance subject to this Ordinance or a rule promulgated pursuant to this Ordinance that is designed to collect, detain, retain, treat, or convey storm water or storm water runoff, including without limitation buffer strips, swales, gutters, catch basins, closed conduits, detention systems, pretreatment systems, wetlands, pavement, unpaved surfaces,
structures, watercourses, or surface waters.

(O) Storm water runoff means the excess portion of precipitation that does not infiltrate the ground, but "runs off" and reaches a conveyance, surface water, or watercourse.

(P) Surface water means a body of water, including without limitation seasonal and intermittent waters, in which the surface of the water is exposed to the atmosphere, including without limitation lakes, open detention basins, forebays, watercourses, bioretention areas, retention basins, wetlands, and impoundments.

(Q) Watercourse means an open conduit, either naturally or artificially created, that periodically or continuously conveys water, including without limitation rivers, streams, vegetated swales, open channels, and open County Drains.

CHAPTER 3: APPLICABILITY

SECTION 3.1 GENERAL

This Ordinance and rules promulgated pursuant to this Ordinance shall apply to all of the following:

(A) construction activity that impacts storm water runoff into or around new or existing road rights-of-way within the jurisdiction of the County;

(B) construction activity that impacts storm water runoff into or around County drains;
(C) construction activity that impacts storm water runoff in projects that are subject to the requirements of Act 288 of 1967 (Subdivision Control Act), MCL 560.101 et seq., as amended;

(D) construction activity that impacts storm water runoff from projects that are subject to Act 96 of 1987 (Mobile Home Commission Act), MCL 125.2301 et seq., as amended;

(E) construction activity that impacts storm water runoff into, on, or through property owned by the County;

(F) construction activity that impacts new or existing storm sewer systems owned, operated, or controlled by the County; and

(G) construction activity that occurs within and impacts or may impact water quality or water resources in watersheds or sub-watersheds included in the Certificate of Coverage issued by the Michigan Department of Environmental Quality to the County pursuant to the General Permit "Storm Water Discharges from Municipal Separate Storm Sewer Systems (MS4s) Subject to Watershed Plan Requirements" (General Permit No. MIG619000).

SECTION 3.2 LOCAL REQUIREMENTS

(A) Nothing in this Ordinance, or in any rule promulgated pursuant to this Ordinance, invalidates any rule, regulation, or ordinance enacted by a local unit of government within Wayne County prior to the Effective Date of this Ordinance, or prevents any local unit of government from adopting or enacting a storm water management
program applicable to activities within its jurisdiction.

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

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

CHAPTER 4: STORM WATER CONSTRUCTION APPROVALS

SECTION 4.1 GENERAL REQUIREMENTS

It shall be a violation of this Ordinance to engage in regulated construction activity except in accordance with this Ordinance and rules promulgated pursuant to this Ordinance, and pursuant to a valid storm water construction approval issued by the County. A storm water construction approval shall be issued in a form and manner approved by the County, and may be incorporated into a construction permit or other approval issued under or required by another ordinance, statute or regulation.
SECTION 4.2 APPLICATION FOR STORM WATER CONSTRUCTION APPROVAL

(A) Applicants shall submit a written application for a storm water construction approval to the County. The application shall be made in a form and manner approved by the County, and shall include all information and documentation required by the County pursuant to this Ordinance or rules promulgated pursuant to this Ordinance.

(B) All proposed modifications to a storm water management system that has received a storm water construction approval issued by the County shall be submitted to the County in writing, together with all information and all supporting documentation required by the County pursuant to this Ordinance or rules promulgated pursuant to this Ordinance to support the proposed modification. A person shall not commence regulated construction activity associated with a proposed modification without the approval of the County.

SECTION 4.3 FINANCIAL ASSURANCE FOR REGULATED CONSTRUCTION ACTIVITY

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

(B) Financial assurance provided pursuant to this section shall be in the form of a performance bond, cash deposit, or unconditional irrevocable letter of credit. The County may accept, with prior approval, an equivalent instrument as financial assurance for regulated construction activity.
(C) The County may establish the form and amount of financial assurance to be provided; the events, circumstances, or occurrences that will cause the County to release the financial assurance mechanism; and other requirements for financial assurance to satisfy the purposes of this Ordinance.

CHAPTER 5: DESIGN AND CONSTRUCTION REQUIREMENTS FOR STORM WATER MANAGEMENT SYSTEMS

SECTION 5.1 GENERAL

(A) Except as provided below, storm water management systems shall be designed in accordance with the minimum requirements for performance and design that are set forth in this Ordinance and in rules promulgated pursuant to this Ordinance.

(B) The County encourages the development and use of innovative storm water management system designs and construction techniques, including without limitation the use of non-structural practices to reduce storm water runoff and/or its water quality impacts, to achieve the flood control and water quality objectives of this Ordinance and the rules promulgated hereunder.

(C) Notwithstanding any provision in this Ordinance or a rule promulgated pursuant to this Ordinance, the County may require storm water management systems to satisfy performance and/or design standards more stringent than the minimum requirements for performance and design set forth in this Ordinance and in rules promulgated pursuant to this
Ordinance when necessary to address unique flood control or water
resources protection issues at a development site, on adjacent
properties, or downstream of a development site.

SECTION 5.2 REQUIREMENTS FOR DESIGN OF STORM WATER MANAGEMENT SYSTEMS

(A) Selecting and designing storm water management systems to
meet the requirements of this Ordinance and the rules promulgated
pursuant to this Ordinance shall be the responsibility of the applicant
or its designee, subject to the approval of the County pursuant to this
Ordinance and rules promulgated pursuant to this Ordinance. The County
may deny a storm water construction approval for a system design that is
not in compliance with these requirements.

(B) In designing a storm water management system, the applicant
shall consider all relevant and appropriate factors, including without
limitation the following:

(1) the public health, safety, welfare, and the environment;

(2) the inconvenience caused by storm water runoff on the
subject property;

(3) the long-term impact of regulated construction activity on
storm water runoff on, from, and beyond the property;

(4) the natural drainage pattern of the land;

(5) the impact of the regulated construction activity on the
affected watershed(s); and
(6) the effect of complete upstream development on the subject property as determined by applicable master plans and/or storm water plans; and

(7) the extent of downstream improvements necessary for proper storm water drainage.

CHAPTER 6: FEES FOR STORM WATER CONSTRUCTION APPROVALS

A County agency may recommend to the County Commission a written schedule to be adopted by the County to establish a fee system for administering and implementing the storm water management program. The fee system may include fees for application submittal and review, project overview, compliance inspections, and any other task or service performed by the County to administer or implement the requirements of this Ordinance or rules promulgated hereunder. Fees may be refundable or nonrefundable, as determined appropriate by the County, and may include charges for time and materials utilized by the County in implementing and administering the requirements of this Ordinance or rules promulgated pursuant to this Ordinance. The schedule of fees shall be incorporated into chapter 129 (Fees) of the Code of Ordinances of the Charter County of Wayne, as amended.

CHAPTER 7: LONG-TERM MAINTENANCE

SECTION 7.1 DEMONSTRATION OF LONG-TERM MAINTENANCE

The applicant for a storm water construction approval shall demonstrate to the County in the application or during the application
review process, as determined appropriate by the County, that the storm water management system shall be maintained in perpetuity. This demonstration shall be made in the manner specified in rules promulgated pursuant to this Ordinance.

SECTION 7.2 SCOPE OF LONG-TERM MAINTENANCE

For purposes of this Ordinance and rules promulgated pursuant to this Ordinance, long-term maintenance shall include site monitoring and preventative maintenance activities necessary to ensure that a storm water management system functions properly as designed; remedial actions necessary to repair, modify, or reconstruct the system in the event the system does not function properly as designed at any time; notification to subsequent owners of limitations or restrictions on the property; actions necessary to enforce the terms of restrictive covenants or other instruments applicable to the property pursuant to this Ordinance and rules promulgated pursuant to this Ordinance; and such other actions as may be set forth in rules promulgated hereto.

CHAPTER 8: AUTHORITY AND DUTIES OF INSPECTORS

SECTION 8.1 AUTHORITY

Upon presentation of proper credentials and identification, and after stating the authority and purpose of the inspection, County inspectors shall be promptly permitted to enter and inspect a development site. The inspection shall be for the purpose of investigating the development site, storm water management systems, or
components of storm water management systems, to determine compliance or
non-compliance with this Ordinance, rules or regulations promulgated
pursuant to this Ordinance, and/or storm water construction approvals
issued pursuant to this Ordinance.

SECTION 8.2 DUTIES OF INSPECTORS

While entering and performing an inspection on private property
pursuant to Section 8.1 above, a County inspector shall observe and
comply with all safety rules applicable to the premises.

CHAPTER 9: COMPLIANCE AND ENFORCEMENT

SECTION 9.1 GENERAL

All persons are encouraged to cooperate with the County to ensure
that the requirements of this Ordinance, rules promulgated pursuant to
this Ordinance, and storm water construction approvals issued hereunder
are satisfied. Whenever possible, the County shall attempt to enter
into voluntary agreements to resolve violations of this Ordinance, rules
promulgated pursuant to this Ordinance, and storm water construction
approvals issued hereunder.

SECTION 9.2 INVESTIGATIONS, INFORMAL CONFERENCES, AND VOLUNTARY
AGREEMENTS

(A) If the County believes that a violation of this Ordinance, a
rule promulgated pursuant to this Ordinance, or a storm water
construction approval issued hereunder may have occurred or exists, the
County shall make a prompt investigation. If, after this investigation,
the County determines that a violation has occurred or exists, the
County shall attempt to enter into a voluntary agreement to resolve or
correct the violation. An informal conference may be requested by the
County or by any other person to facilitate a voluntary agreement.

(B) If a voluntary agreement cannot be reached, the County shall
take appropriate enforcement action pursuant to this Ordinance and other
applicable provisions of law.

SECTION 9.3 NOTIFICATION OF VIOLATION

(A) If a voluntary agreement pursuant to Section 9.2 cannot be
reached, the County shall issue written notice of a violation to the
person or persons alleged to have caused or contributed to a violation
of this Ordinance, a rule promulgated pursuant to this Ordinance, and/or
an approval issued hereunder. A written notice of violation shall
include a statement of facts upon which the violation is based.

(B) Within fourteen (14) days of the receipt of a written notice
of violation, the alleged violator shall submit to the County an
explanation of the violation and a plan for correcting the violation to
comply with this Ordinance, rules promulgated pursuant to this
Ordinance, and/or storm water construction approvals issued hereunder.
Submission of this plan in no way relieves the alleged violator of
liability for any previous violation not addressed by the plan or future
violation.
(C) Within fourteen (14) days of the receipt of a written response to a notice of violation, the County shall determine whether the response resolves and/or corrects the alleged violation. If the County determines that the response resolves and/or corrects the violation, then the plan for correcting the violation shall be incorporated into a consent agreement pursuant to Section 9.4.

SECTION 9.4 CONSENT AGREEMENT

(A) A consent agreement may be entered into at any time by and between the County and the person or persons alleged to have caused or contributed to the violation. The consent agreement shall be mutually acceptable to both the County and the recipient(s) and shall reflect the recipient's agreement to assume responsibility for and correct violations of this Ordinance, rules promulgated pursuant to this Ordinance, and approvals issued hereunder.

(B) The consent agreement shall contain a short statement of facts, describe the actions necessary to correct the non-compliance, contain a compliance schedule, and be signed by all parties. The agreement may contain a monetary or other relief as agreed to by the parties for the non-compliance, including without limitation, amounts necessary to compensate the County for costs incurred investigating, administering and/or enforcing this Ordinance or rules promulgated hereto.
SECTION 9.5 ADMINISTRATIVE COMPLIANCE ORDERS

(A) If the County determines that a violation of this Ordinance, a rule promulgated pursuant to this Ordinance, or a storm water construction approval issued hereunder has occurred or exists, the County may issue an administrative compliance order pursuant to this Section 9.5.

(B) Except as provided in Section 9.6, the County may issue an administrative compliance order in the following circumstances:

(1) the County determines that a person has violated a consent agreement entered into with the County; or

(2) (a) the County determines that a person has violated or continues to violate this Ordinance, a rule promulgated pursuant to this Ordinance, or a storm water construction approval issued hereunder, and

(b) the County has attempted to resolve the violation pursuant to Sections 9.2 and 9.3 but no voluntary agreement or consent agreement has been entered into.

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

(D) Within twenty-eight (28) days of being issued an administrative compliance order, the person or persons receiving the order may appeal the issuance of the Order pursuant to Chapter 10 of this Ordinance.

SECTION 9.6 IMMINENT AND SUBSTANTIAL INJURY ORDERS

(A) The County may issue an administrative order without attempting to resolve a violation by using the enforcement procedures described in Section 9.2 and 9.3 if the County finds that a violation of this Ordinance, a rule promulgated pursuant to this Ordinance, or a storm water construction approval issued hereunder constitutes or causes, or will constitute or cause, a substantial injury to the public health, safety, welfare, or the environment, and it is prejudicial to the interests of the people of the County to delay action.

(B) Administrative orders issued pursuant to this Section 9.6 shall contain a statement of facts upon which the order is based, and notification to the person that it must immediately take action to discontinue, abate, correct, or otherwise address the imminent and substantial injury caused or likely to be caused by the non-compliance.

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

(D) An order issued pursuant to this Section 9.6 is effective on issuance and shall remain in effect for a period of not more than seven (7) days, unless the County brings an action to restrain the alleged non-compliance pursuant to Section 9.8 or 9.9 before the expiration of that period. If the County brings such an action within the seven day period, the order issued by the County shall remain in effect for an additional seven (7) days or such other period as is authorized by the court in which the action is brought.

SECTION 9.7 MUNICIPAL CIVIL INFRACTIONS

(A) Violation; Municipal Civil Infraction

Except as provided by Section 9.8, a person who violates any provision of this Ordinance or rules promulgated hereunder, including without limitation any notice, order, storm water construction approval, agreement, decision, or determination promulgated, issued, made, or entered by the County under this Ordinance or rules promulgated hereunder, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than $1,000 per day and not more than $27,500 per day for each infraction, plus costs and other sanctions.

(B) Repeat Offenses; Increased Fines.

(1) Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent)
municipal civil infraction violation of the same requirement or
provision of this Ordinance or rule promulgated hereunder (a) that is
committed by a person within any 12-month period and (b) for which the
person admits responsibility or is determined to be responsible.

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

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

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

(C) Amount of Fines.

(1) Municipal Civil Infraction Citations. Subject to the
minimum fine amounts specified in Section 9.7(A) and (B), the following
factors shall be considered in determining the amount of a municipal
civil infraction fine following the issuance of a municipal civil
infraction citation for a violation of this Ordinance or rules
promulgated pursuant to this Ordinance:

(a) the type, nature, gravity, magnitude, severity, frequency,
duration, preventability, potential and actual effect, cause (including
whether negligent or intentional) and economic benefit to the violator
(such as delayed or avoided costs or competitive advantage) of the
violation;
(b) the violator's recalcitrance, cooperation or efforts to comply;

(c) the violator's compliance history (regardless whether prior enforcement proceedings were commenced);

(d) the economic impacts of the fine on the violator; and

(e) such other factors as justice may require.

A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

(2) Municipal Civil Infraction Notices; Schedule of Fines.

Notwithstanding any provision of this Ordinance to the contrary, the amount of a municipal civil infraction fine due in response to the issuance of a municipal civil infraction notice for a violation as provided by Section 9.7(A) shall be according to the following schedule:

First offense: $1,000

Second offense: $2,500

Third offense (or any subsequent offense): $5,000

For any fine not paid in full within 30 days of the time specified for appearance in the municipal civil infraction violation notice, the fine amount due shall automatically be double the amounts listed immediately above. A copy of this schedule shall be posted at the Wayne County
(D) Authorized County Officials.

The following persons are authorized County Officials for purposes of issuing municipal civil infraction citations (directing alleged violators to appear in district court) or municipal civil infraction violation notices (directing alleged violators to appear at the Wayne County Municipal Ordinance Violations Bureau) for violations under this Ordinance: the Director of the Department of the Environment; the Director of the Department of Public Services, and their respective designees and authorized representatives.

(E) Procedures.

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

SECTION 9.8 CIVIL ACTIONS

The County, by and through corporation counsel, may bring a civil action in the name of the County to enforce the provisions of this Ordinance and rules promulgated pursuant to this Ordinance. Nothing in this Ordinance shall preclude the County from instituting an action for appropriate legal and/or equitable relief in Wayne County Circuit Court to restrain, correct, or abate a violation of this Ordinance, a rule or regulation promulgated pursuant to this Ordinance, or a storm water
construction approval issued hereunder; or to stop an illegal act; or to
abate a nuisance; or to prevent pollution or flooding.

SECTION 9.9 CRIMINAL PENALTIES; IMPRISONMENT

Any person who

(A) At the time of a violation knew or should have known that a
violation of this Ordinance, or any notice, order, storm water
construction approval, or decision or determination promulgated, issued
or made by the County under this Ordinance; or

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

(C) Commits any other act that is punishable under state law by
imprisonment for more than 90 days;

shall, upon conviction, be guilty of a misdemeanor punishable by a fine
of $500 per violation, per day, or imprisonment for up to 90 days, or
both in the discretion of the court.
SECTION 9.10 SEPARATE OFFENSES

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

CHAPTER 10: APPEAL

SECTION 10.1 APPEAL

(A) Any person whose legal rights, duties, or privileges are determined by the County pursuant to this Ordinance or a rule promulgated pursuant to this Ordinance, and who is aggrieved by the County's determination, may appeal to the Storm Water Appeals Board for relief of that grievance. An appeal shall be made according to the procedure set forth in this Chapter.

(B) The Storm Water Appeals Board shall consist of the Director of the Department of Public Services; the Director of the Department of Environment; and the Director of the Department of Engineering; or their designees. Meetings of the Storm Water Appeals Board shall be in person and shall be open to all interested parties.

SECTION 10.2 APPEAL PROCEDURE

(A) An appeal shall be in writing, shall be addressed to the Storm Water Appeals Board c/o the Permit Office, and shall be received
within twenty (20) days of the determination that is the subject of the
appeal. The appeal shall be made in triplicate, shall set forth the
specific act or matter complained of and in dispute, and shall include
all documentation that supports the appellant's position. The appellant
may be required to post a deposit at the time of filing to cover the
costs of processing the appeal.

(B) Within thirty (30) days of receipt of a written appeal, the
Permit Office shall acknowledge such receipt in writing, and shall set a
day and time for an appellate hearing to be conducted in accordance with
subsection (D). If appropriate, the Permit Office may schedule a
conciliation meeting with the appellant in accordance with subsection
(C).

(C) Conciliation meeting

(1) The purpose of a conciliation meeting is to attempt to
resolve the matter before an appeal is forwarded to the Storm Water
Appeals Board. If a conciliation meeting is held, it shall occur as
soon as practicable, at the mutual convenience of the parties.
Conciliation meetings shall be open to all interested parties and their
representatives.

(2) After a conciliation meeting, if the appellant or the Permit
Office determines that an appeal cannot be resolved through a
conciliation meeting, the parties shall so inform the Storm Water
Appeals Board in writing, and the appellate hearing scheduled pursuant
to subsection (B) shall be conducted in accordance with subsection (D).

Additional conciliation meetings shall not be necessary.

(3) If the Permit Office and the appellant agree that the subject of the appeal has been satisfactorily resolved through the conciliation meeting process or otherwise, the agreement shall be incorporated into a consent agreement pursuant to Section 9.4.

(D) Hearing procedure

(1) A notice shall be sent to the appellant at least ten (10) days prior to the hearing. The notice shall include (a) a statement of the date, time, place, and nature of the hearing; (b) a statement of the legal authority and jurisdiction under which the hearing will be held; (c) a reference to the particular sections of this Ordinance involved in the appeal; (d) brief summary of the specific act or matter complained of and in dispute.

(2) At the hearing, the Storm Water Appeals Board shall receive testimony and evidence provided by the appellant, the County, and/or others as the Storm Water Appeals Board deems necessary. During the hearing, the Storm Water Appeals Board shall not be bound strictly by the rules of evidence that would apply in a court, but shall have the authority to receive such evidence as deemed relevant and material. The Storm Water Appeals Board may give the evidence as is received such weight and probative value as, in the Board's discretion, is deemed proper.
(3) Within thirty (30) days after the hearing, the Storm Water
Appeals Board shall render a decision in writing. This thirty (30) day
period may be extended for good cause. The decision shall include a
brief summary of the specific act or matter complained of, the nature of
the testimony and evidence received, and a decision as to whether the
Board affirmed, rescinded, or modified the decision or action at issue.

(4) The decision of the Storm Water Appeals Board shall be final
and enforceable at law. A person aggrieved by a final decision of the
Storm Water Appeals Board may seek judicial review of the decision by
the Wayne County Circuit Court. A petition for judicial review shall be
filed not later than sixty (60) days following the receipt of the final
decision of the Storm Water Appeals Board. An aggrieved person shall
exhaust all administrative remedies provided in this Chapter before
seeking judicial review.

ADOPTED BY THE WAYNE COUNTY COMMISSION DECEMBER 19, 2006
(2007-70-009A)