

## **TITLE V: PUBLIC WORKS**

Chapter

- 50. SEWAGE SYSTEM**
- 51. SURFACE WATER RUNOFF**
- 52. STORMWATER REGULATIONS**
- 53. MINORITY BUSINESS ENTERPRISE ASSOCIATION**



## **CHAPTER 50: SEWAGE SYSTEM**

### Section

- 50.01 Hamilton County Metropolitan Sewer District rules adopted
- 50.02 Shawnee Run tap-in fee

### **§ 50.01 HAMILTON COUNTY METROPOLITAN SEWER DISTRICT RULES ADOPTED.**

The city is a participating member of the Hamilton County Metropolitan Sewer District and all sewage facilities, services and rates pertaining to sewage handling shall be covered by the rules and regulations of the Hamilton County Metropolitan Sewer District agreement.  
(1985 Code, § 50.01)

### **§ 50.02 SHAWNEE RUN TAP-IN FEE.**

Prior to issuing a building permit for sewer construction, a tap-in fee of \$500 shall be paid to the City Manager through the City Manager's office.  
(1985 Code, § 50.02)



## CHAPTER 51: SURFACE WATER RUNOFF

### Section

- 51.01 Discharge of surface water and other runoff
- 51.02 Inspection of tests of drains and downspouts
- 51.03 Notice of violations

- 51.99 Penalty

### ***Cross-reference:***

*Grading of land, see § 153.24*

*Storm drainage in subdivisions, see § 151.084*

*Water distribution system in subdivisions, see § 151.088*

*Waters and watercourses, see Ch. 96*

### ***Resolution reference:***

*Adopting rules and regulations for the Hamilton County Stormwater District, see Res. 03-09*

### **§ 51.01 DISCHARGE OF SURFACE WATER AND OTHER RUNOFF.**

(A) (1) Surface water, rain water from roofs, subsoil drainage water, building foundation drainage water, cistern overflow water, clean water from condensers, wastewater from water motors and elevators, and any other clean and unobjectionable wastewater shall be discharged into a stormwater sewer whenever and wherever a sewer is available to receive the water.

(2) Where a sewer is not available, the water shall be discharged into street gutters or natural watercourses.

(3) However, the water shall not be discharged into a sanitary sewer.

(B) It shall be unlawful for any person to discharge this water into a house sewer or drain, driveway approach, downspout or other rain water leader connected to or with a sanitary sewer, or to tap a house drain or sewer so connected for the purpose of discharging this water into it. Any existing connection in violation of the provisions of this section shall be abandoned and removed.

(C) Wherever a stormwater sewer is available to receive this water, downspouts shall be connected thereto with four-inch sealed joint tile.

(D) A stormwater sewer shall be deemed to be available to receive this water from the land of each particular person owning real property in the city wherever the sewer is located within the property or within 100 feet from any boundary of the property.

(1985 Code, § 51.01) Penalty, see § 51.99

***Cross-reference:***

*Changing natural drainage, see § 153.24*

**§ 51.02 INSPECTION OF TESTS OF DRAINS AND DOWNSPOUTS.**

The City Manager or any deputy designated by him or her is authorized and empowered, at any and all reasonable times, to enter and inspect any premises, building or structure within the city with regard to the existence of any violation of this chapter which may constitute a health hazard or create a hazard in case of rain; and with regard to the condition, capacity, arrangements, efficiency and connections of all devices on or in the premises, building or structure, for the disposition of this water. In pursuance of this inspection, he or she is authorized and empowered, without prejudice to the generality of the foregoing, to make or cause to be made, on behalf of the city, a dye test or other reasonable test on the house drains, driveway approaches, downspouts and other facilities and means for the disposition of this water, or on any premises, building or structure.

(1985 Code, § 51.02) Penalty, see § 51.99

**§ 51.03 NOTICE OF VIOLATIONS.**

The City Manager shall notify by certified mail the person having the right to the possession of the premises, building or structure where a determination has been made that drains, approaches, downspouts, facilities or means are faulty, improperly constructed or connected, or otherwise in violation of §§ 51.01 and 51.02. The notice shall apprise the person of the conditions and violations found to exist and shall require correction of the violation within 30 days from the mailing of the notice. Such person shall comply with the requirement within 30 days. Failure to receive any notice shall not, however, relieve any person from compliance with each and all the provisions of §§ 51.01 and 51.02.

(1985 Code, § 51.03) Penalty, see § 51.99

**§ 51.99 PENALTY.**

Any person who violates any provision of this chapter shall, on conviction, be fined not more than \$50 for each offense. A separate offense shall be deemed to have been committed each period of 24 hours the violation continues after a period of 30 days following the first conviction.

(1985 Code, § 51.99)

## CHAPTER 52: STORMWATER REGULATIONS

### Section

- 52.01 Establishment
- 52.02 General regulations
- 52.03 Master plan
- 52.04 Permits and plan review
- 52.05 Application for permit
- 52.06 Permits issued
- 52.07 Permit limitations
- 52.08 Permit and inspection fees
- 52.09 Posting of permit
- 52.10 Revocation of permit
- 52.11 Inspection and surveillance
- 52.12 Notice of violations
- 52.13 Right of entry for survey and examination
- 52.14 Funding
- 52.15 Stormwater Fund
- 52.16 Classification of property
- 52.17 Land use intensity of development factors
- 52.18 Rates
- 52.19 Delinquent charges
- 52.20 Notice to correct drainage
- 52.21 Emergencies and abatement
- 52.22 Abatement costs
- 52.23 Appeals and variances
- 52.24 Contents of petition
- 52.25 Filing fee
- 52.26 Board of Appeals
- 52.27 Emergency situations
- 52.28 Flooding; liability
- 52.29 Severability
- 52.30 Violation of sections
- 52.31 Accessories
- 52.32 Definitions

52.99 Penalty

**Cross-reference:**

*Grading of land, see § 153.24*

**Resolution reference:**

*Adopting rules and regulations for the Hamilton County Stormwater District, see Res. 03-09*

**§ 52.01 ESTABLISHMENT.**

(A) Whereas, there is currently no systematic program for the management of stormwater drainage in the city;

(B) Whereas, circumstances dictate that a systematic approach to the management of stormwater drainage be implemented in the city;

(C) Whereas, Council finds that the repair, replacement, improvement, management and regulation of the stormwater system is necessary to prevent further deterioration of the existing system, to prevent or reduce the potential for flooding and to prevent water pollution;

(D) Whereas, it may be necessary, desirable and in the best interest of the stormwater system to establish a special charge for the facility, which charge shall be designated to the stormwater drainage charge and shall be imposed and collected as provided by separate ordinance when necessary; and

(E) Now therefore, be it ordained by the City Council that a Madeira Stormwater Management Authority (MSMA) is established for the control of stormwater which affects the city.  
(1985 Code, § 52.01) (Ord. 87-29, passed 10-5-1987)

**§ 52.02 GENERAL REGULATIONS.**

(A) The city shall establish engineering projects to correct flooding of the city property owners.

(B) The city may accept from the property owner natural and/or altered watercourse easements for the purpose of maintenance.

(C) Natural watercourse easements may not be disturbed without approval of the city. The city shall approve each altered watercourse.

(D) The property owner shall maintain natural and altered watercourses unless this property owner gives to the city the maintenance easement. Upon the receipt and acceptance of the maintenance easement, the city shall have the authority to maintain the natural and altered watercourse.

(E) The city has the authority to procure private property or maintenance easements through its more general right of eminent domain for the construction and maintenance of stormwater projects.

(F) The value of procured property shall be the fair market value.

(G) The value of procured maintenance easements shall be \$1.

(H) During property development within the city, effective erosion and sediment controls shall be planned and applied according to the following principles.

(1) The smallest practical area of land should be exposed at any one time during development.

(2) When land is exposed, time exposure should be kept to the shortest practical period of time.

(3) Temporary vegetation and/or mulching should be used to protect critical areas exposed during development.

(4) Sediment basins (debris basin or silt traps) should be installed and maintained to remove sediment from runoff water from the land under development.

(5) Permanent final vegetation and structures should be installed as soon as practical in the development.

(6) The development should be fitted to the topography and soils so as to create the least erosion potential.

(7) Wherever feasible, natural vegetation should be retained and protected.

(I) The erosion, watercourse and sedimentation plan shall be included in the general plan.

(J) The water runoff rate of newly developed property shall be no greater than that which existed prior to said development. This provision shall be included in the development's general plan.

(K) Private stormwater maintenance shall not be done in a way which affects other property owners or the natural or altered watercourses that exist without the approval of the city.  
(1985 Code, § 52.02) (Ord. 87-29, passed 10-5-1987)

**§ 52.03 MASTER PLAN.**

(A) The City Engineer shall establish and maintain a master plan for a stormwater system designed to handle the stormwater runoff.

(B) The master plan shall provide or be accompanied by maps or other descriptive material showing, at a minimum, the following:

(1) An inventory of the existing stormwater facilities plus the extent and area of each watershed tributary to the main drainage channels in the city;

- (2) An inventory of all natural and altered watercourse easements, including ingress and egress easements from and to public streets;
- (3) The street storm sewers and other storm drains to be built; the basis of their design; the outfall, inlet and outlet locations; the receiving stream or channel and its high water elevation; and the functioning of the systems and facilities during high water conditions;
- (4) The parts of the proposed street system where pavements are planned to be depressed sufficiently to convey or temporarily store overflow from storm sewers and runoff over the curb resulting from the heavier rainstorms and the outlets for such overflow;
- (5) Existing streams and floodplains to be maintained, enlarged, altered, eliminated and constructed, and their locations, cross-sections and profiles;
- (6) Existing culverts and bridges, drainage areas and adequacy of waterway openings; new culverts and bridges to be built; and waterway openings and the basis of their design;
- (7) Existing detention ponds and basins to be maintained;
- (8) For all detention/retention basins, a tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;
- (9) For all detention/retention basins, design hydrographs of inflow and outflow for the design year under developed conditions and the calculated frequency peak flows from the site under natural and developed conditions;
- (10) Estimates of cost of proposed projects; and
- (11) The City Engineer shall submit a master plan draft to the Public Works Committee within two years following the approval of this chapter.

(1985 Code, § 52.03) (Ord. 87-29, passed 10-5-1987)

***Resolution reference:***

*Adoption of the master plan, see Res. 21-88A*

**§ 52.04 PERMITS AND PLAN REVIEW.**

(A) It shall be unlawful for any person or organization to construct, enlarge, alter, repair, relocate or demolish a storm sewer, natural watercourse or other drainage facility, without first filing an application and obtaining a proper permit.

(B) Permits are required and may be granted by the city for the following improvement categories:

- (1) Connection into the public stormwater system, except unimproved creeks or streams;

- (2) Improvements which are or will become public facilities;
- (3) Improvements within dedicated but unimproved street rights-of-way; and
- (4) Improvements which require retention or detention facilities.

(C) Plans for all improvements made within the city that require stormwater facilities or changes or alterations to existing stormwater facilities must be submitted to the City Engineer for review and approval. Plans and applications are to be submitted through the building permit process. All improvements must conform to the provisions of this chapter or rules or regulations promulgated hereunder and the master plan. The City Engineer shall have 30 days after the date of application to review each plan submitted. Plans that are not approved may be resubmitted after revisions are made. No permit shall be issued until a plan is approved or the need for a permit is waived by the City Engineer.

(D) Every improvement shall be provided with a stormwater system capable of handling stormwaters flowing onto the improvement site from other areas as well as stormwater from the site itself. The drainage system shall be designed to discharge into a watercourse, drainage channel or other existing stormwater facility.

(E) For developed lots and where new structures, additions or changes are to be made, adequate surface grading shall be extended or runoff shall be collected in inlets and then connected to sewers or drains. This grading, and the drains where necessary, shall be shown on the building permit plan. The plan shall then be reviewed by the City Engineer.

(F) Where plans are being developed, all areas shall be graded and drained to prevent the standing of stormwater, except lakes, lagoons or retention reservoirs approved by the City Engineer. Where necessary, drainage channels or sewers shall be provided to convey the water to an existing watercourse or outlet. The method and means of drainage, including the handling of both paved and unpaved areas, shall be subject to approval by the City Engineer.

(G) Facilities shall be provided to drain all street intersections, and to care for roof downspouts and drains from yards and driveway aprons. Where foundation drains are installed, the foundation drains must discharge to the surface water drainage system directly or through a sump pump installation.

(H) Except for existing combined sewers, the stormwater drainage system shall not be combined with any part of the sanitary sewer system, nor shall sanitary wastewater be discharged thereto.

(I) Connection into a storm sewer shall be performed only by sewer tappers who meet the following requirements.

- (1) They are licensed by the City of Cincinnati.

(2) They have posted a bond with the city in the amount of \$5,000.  
(1985 Code, § 52.04) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.05 APPLICATION FOR PERMIT.**

(A) An application shall be made by the owner of the property involved, or an authorized agent employed in connection with the proposed work.

(B) The application shall be prepared in writing on printed forms prescribed by the City Engineer and shall contain the full names and addresses of the owner, applicant and contractor; the street and house number of the building or structure; a brief description of the proposed work; the estimated cost thereof; a statement on behalf of the owner that the proposed work will be in accordance with this code and all laws and ordinances applying to the premises; and such other information as may be required by the City Engineer.

(C) All applications for permits shall be accompanied by three sets of plans and two sets of specifications. Plans and specifications shall be prepared in accordance with the City Engineer's requirements. In addition to the plans and specifications, the applicant shall provide any statements, calculations, drawings and other supporting data regarding the manner in which stormwater runoff from the project site on the proposed development area will be controlled.

(D) The applicant shall provide a bond equal to the cost of the proposed project.  
(1985 Code, § 52.05) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.06 PERMITS ISSUED.**

(A) The City Engineer shall examine the applications as described in the plan review process. The proposed stormwater drainage system must be designed so as to fit into the existing or planned stormwater drainage system as prepared by the City Engineer. The design, materials and construction of all parts of the drainage system shall satisfy the requirements of the City Engineer and, when involving highways and freeways, the requirements of the Department of Transportation of the state.

(B) If the examination reveals no objections to the proposed plan and it appears that the proposed work will be in compliance with the master plan, codes, laws and ordinances applicable thereto and the proposed construction or work will be in conformance with this chapter, such application shall be approved and a permit issued, as soon as practicable, for the proposed work. If the examination reveals otherwise, such application shall be rejected and the findings shall be communicated in writing to the applicant.

(1985 Code, § 52.06) (Ord. 87-29, passed 10-5-1987)

**§ 52.07 PERMIT LIMITATIONS.**

(A) A permit shall expire when no work is started within 180 days from the date of issuance; provided, however, that one renewal, which shall be valid from 180 days commencing upon expiration

of the original permit, shall be granted upon written application made prior to the expiration of the original permit and payment of the fee prescribed in § 52.08.

(B) A permit shall be revoked when work is discontinued for a period of one year or when, in the opinion of the City Engineer, the completion of the work has been unduly delayed. No revoked permit may be revived until the plans and uncompleted work are made to comply with all the requirements of all laws, codes, regulations and ordinances then in effect.

(1985 Code, § 52.07) (Ord. 87-29, passed 10-5-1987)

**§ 52.08 PERMIT AND INSPECTION FEES.**

(A) A permit fee and an inspection fee shall be paid as detailed herein for all stormwater facilities to be constructed. The fees shall be determined by the City Engineer in accordance with the guidelines herein.

(B) Permit fees for connections into the public stormwater system, except unimproved creeks and streams, shall be \$40.

(C) Inspection fees and plan review fees for other permits required as set forth in the rules and regulations, shall be based on an hourly rate reasonably related to the cost to the city. The owner is responsible for all plan, review and inspection fees. A deposit shall be required to provide for inspection fees.

(1985 Code, § 52.08) (Ord. 87-29, passed 10-5-1987)

**§ 52.09 POSTING OF PERMIT.**

(A) The permit shall be posted in a conspicuous location at the project site if possible. If not, the owner or contractor shall retain the permit and have it readily available upon request by the Utility Division.

(B) The owner or contractor shall preserve the permit until completion of the work. Upon application by the owner or contractor, the City Engineer shall issue a duplicate permit to replace one destroyed by vandals or one which is accidentally destroyed.

(1985 Code, § 52.09) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.10 REVOCATION OF PERMIT.**

The City Engineer may revoke the permit or stop work for any of the following reasons:

(A) Whenever there is a violation of any provision of this chapter, any ordinance of the city or statute of the state relating to the project;

(B) Whenever the continuance of any work becomes dangerous to life or property;

(C) Whenever there is a violation of any condition on which the issuance of the permit was based;  
or

(D) Whenever any false statement or misrepresentation has been made upon the application, plans or specifications on which the issuance of the permit or approval was based.  
(1985 Code, § 52.10) (Ord. 87-29, passed 10-5-1987)

### **§ 52.11 INSPECTION AND SURVEILLANCE.**

(A) The City Engineer shall inspect the permit premises and enforce all laws relating to construction, alteration, repair, removal, demolition, equipment, use, location and maintenance of the drainage facilities, except as may be otherwise provided for. The City Engineer shall, when the interests of the city so require, make investigations in connection with matters referred to in this code and render written reports on the same. For the purpose of enforcing compliance with the law, the City Engineer shall issue such notices or orders as may be necessary.

(B) The City Engineer shall keep careful and comprehensive records of applications, permits, inspections, reports rendered, notices, orders issued and approvals. All such records shall be open for public inspection.  
(1985 Code, § 52.11) (Ord. 87-29, passed 10-5-1987)

### **§ 52.12 NOTICE OF VIOLATIONS.**

(A) When the City Engineer finds the drainage facility or the construction thereof is contrary to the approved plans, or presents an unsafe or dangerous condition in connection with the provisions of this code or of any law or ordinance relating to the same subject matter, the Engineer shall give notice to the owner of the premises. The notice shall state where and in what respect the work does not conform to the approved plans, or state the defective condition and law violated, and shall specify a reasonable period of time in which to conform to the plans or this code.

(B) In every instance, a revocation notice of the permit shall be in writing and shall be served upon the owner, agent or the person having charge of the work. A revocation notice shall also be posted alongside the permit. After the notice is received or posted, it shall be unlawful for any person to proceed with any operation for which such permit was issued. No part of the fees for such permit shall be returned.

(C) Notice, as required by this section, is to be served on the owner, agent, contractor or other person responsible for the work or violation related to this chapter, by personal delivery or by certified mail addressed to the last-known place of residence or place of business.  
(1985 Code, § 52.12) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.13 RIGHT OF ENTRY FOR SURVEY AND EXAMINATION.**

(A) After presenting proper credentials and securing permission, the employees of the Public Works Division or its agents, including contractors and their employees and consultants and their employees, may enter upon lands within the city to make surveys and examinations to accomplish the necessary preliminary findings to establish a master plan and for detailed analysis to prepare final plans and specifications for the proposed improvements and easements.

(B) Where improvements are made that require periodic maintenance or inspection upon the lands by the Madeira Stormwater Management Authority, the owner of such land shall grant the city a perpetual easement and right of entry around and access to any stormwater channel or facility, including storm sewers.

(1985 Code, § 52.13) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.14 FUNDING.**

Funding for the stormwater Madeira Stormwater Management Authority activities shall include but not be limited to:

(A) *Permit and inspection fees.* Permit and inspection fees;

(B) *Direct charges.* This charge will be collected from the owner and developers for the cost of designing and constructing stormwater facilities and administrative costs and related expenses where the Madeira Stormwater Management Authority designs and/or constructs or contracts for the construction of such facilities;

(C) *Direct assessment.* This charge will be collected from owners in localized areas that desire stormwater drainage facilities not considered a part of the regional development or where an improvement is desired ahead of the priority status;

(D) *Other income.* Other income obtained from federal, state, local and private grants or revolving funds; and

(E) *Fees.* The fees shall be defined as the usual and customary cost.  
(1985 Code, § 52.14) (Ord. 87-29, passed 10-5-1987)

**§ 52.15 STORMWATER FUND.**

All revenues generated by or on behalf of the Madeira Stormwater Management Authority, including storm drainage service charges, permit and inspection fees and direct charges and interest earnings on those revenues shall be deposited in a Stormwater Fund and used exclusively for Madeira Stormwater Management Authority purposes.

(1985 Code, § 52.15) (Ord. 87-29, passed 10-5-1987)

### § 52.16 CLASSIFICATION OF PROPERTY.

There shall be three classifications of property for determination of the storm drainage charge.

(A) *Class A, one- and two-family residential properties having land area 10,000 square feet or less.* Typically, these types of property comprise about 7,500 square feet total, area range number (ARN 4) and an intensity of development factor (IDF) of .25, which constitutes an equivalent runoff unit (ERU) of 1.00. A flat rate or value of 1.00 ERU shall be applied to all one- and two-family residential property having a land area 10,000 square feet or less.

(B) *Class B, one- and two-family residential properties having a land area 10,001 square feet or larger.* Typically, these types of property comprise about 13,000 square feet total, area range number (ARN 7) and an intensity of development factor (IDF) of .20 which constitutes an equivalent runoff unit (ERU) of 1.40. A flat rate or value of 1.40 ERU shall be applied to all one- and two-family residential property having a land area 10,001 square feet or larger.

(C) *Class C, multi-family (three families or more) residential property and non-residential property.* The gross area, total square footage, of each Class C property shall be grouped in 2,000 square foot ranges and assigned an area range number (ARN).  
(1985 Code, § 52.16) (Ord. 87-29, passed 10-5-1987)

### § 52.17 LAND USE INTENSITY OF DEVELOPMENT FACTORS.

(A) Nine land uses are identified and recognized for purposes of this chapter, each of which has an assigned intensity of development factor (IDF).

(B) The land use of each Class C property shall be assigned based on the records of the County Recorder or Auditor, the city or through field examination or photogrammetric analysis.

<i>Land-Use</i>	<i>IDF</i>
Agriculture	.08
Commercial	.85
Industrial	.75
Institutional	.40
Multi-family	.60
Park and undeveloped	.05
Residential Class A; up to 10,000 square feet	.25

<i>Land-Use</i>	<i>IDF</i>
Residential Class B; 10,001 square feet or larger	.20
Transportation	.50

(1985 Code, § 52.17) (Ord. 87-29, passed 10-5-1987)

**§ 52.18 RATES.**

The City Engineer is directed to prepare a list of all lots and parcels within the city and the area thereof, and assign a classification. All properties included in Class C shall be assigned an area range number (ARN) and intensity of development factor (IDF). The City Engineer shall report any applications of the provisions which the utility engineer considers unjust or inequitable, and the matter shall be resolved in accordance with the provisions of § 52.19. The fee schedule shall be on an annual basis.

(1985 Code, § 52.18) (Ord. 87-29, passed 10-5-1987)

**§ 52.19 DELINQUENT CHARGES.**

(A) All charges not paid within 30 days after receipt of billing or under appeal shall be considered delinquent.

(B) All charges in arrears and delinquent hereunder shall:

- (1) Be subject to an interest charge at the statutory rate;
- (2) Be subject to a rebilling charge covering administrative cost; and
- (3) Constitute a lien upon the real property affected from the date charges are incurred.

(C) Charges which remain unpaid for a period of 60 days may be reported to City Council for assessment against the real property. In the alternative, Council may direct the City Law Director to file suit and collect unpaid charges.

(1985 Code, § 52.19) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.20 NOTICE TO CORRECT DRAINAGE.**

(A) Whenever the City Engineer shall find that a tract of land is inadequately drained, or that there is an obstruction to a culvert, covered drain or other natural or human-made watercourse that interferes with water naturally flowing therein or that such culvert, drain or watercourse is of insufficient capacity to reasonably accommodate the flow of water as required by this chapter, the City Engineer or a person designated by the City Engineer shall notify the owner or person having possession, charge or

management of such land to remove the obstruction or provide the necessary drainage. Such notice shall be served on such persons by personal delivery, by mail at the last known place of residence, or by posting on the premises.

(B) The owner must comply with the City Engineer's orders within the time specified and not to exceed 30 days. Failure to comply with such order shall constitute an unlawful act. Each additional period of ten days thereafter during which the owner fails to carry out the order of the City Engineer, or a designee, shall constitute a separate offense.

(1985 Code, § 52.20) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

### **§ 52.21 EMERGENCIES AND ABATEMENT.**

(A) In case of an emergency, the City Engineer may direct that action be taken immediately to correct the condition or abate the activity to protect the public health, safety and welfare. The Utility Division may perform the required work and charge the owner the abatement costs.

(B) In any case where a condition described in this section exists for more than 30 days after service of notice, City Council may by resolution direct the owner to fill or drain such land, remove any obstruction and, if necessary, enlarge the culverts, drains or watercourse to meet the requirements of this chapter.

(C) After service of a copy of such resolution or after publication in a paper of general circulation in the city for two consecutive weeks, the owner, agent or attorney shall comply with the directions of the resolution within the time therein specified. When the resolution is submitted to the appropriate Council committee, the owner shall be afforded notice and an opportunity to be heard prior to passage of the resolution. In the event an owner fails or refuses to comply with Council's resolution, the Madeira Stormwater Management Authority may perform the required work and charge the owner the abatement costs. Such costs shall constitute a lien on the real property from the time of the adoption of the resolution which may be enforced by suit in the Court of Common Pleas.

(1985 Code, § 52.21) (Ord. 87-29, passed 10-5-1987)

### **§ 52.22 ABATEMENT COSTS.**

(A) The City Engineer shall account for all costs associated with an emergency or abatement, including but not limited to administration, notification, inspection, serving of papers or documents, legal counsel, force account labor, enforcement, operational services and outside contracted services. These costs shall be charged to the owner.

(B) This section shall not be construed to relieve the owner of any penalties prescribed by other sections of this chapter.

(1985 Code, § 52.22) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.23 APPEALS AND VARIANCES.**

(A) Except as provided in § 52.22, any person who has a bona fide controversy with the City Engineer as to the interpretation or application of a provision of this chapter or related laws or ordinances pertaining to stormwater management and subject to the administration of the City Engineer, may apply in writing to the City Engineer for a written interpretation or ruling, setting forth in his or her petition the requirements of § 52.24.

(B) When the City Engineer has rendered a written interpretation or ruling, or has issued a written order to make repairs, maintenance or alterations, the complainant shall be allowed 30 days from the date of the receipt of the same, within which to file with the City Engineer an appeal to the Board of Appeals.

(C) The appeal shall be based on one of the following grounds:

(1) The interpretation, ruling or order is erroneous or constitutes an erroneous application of the particular provisions of the drainage code or other related laws or ordinances pertaining to stormwater management and finance, or is otherwise contrary to law; or

(2) A variance is necessary and feasible whereby the Board of Appeals shall make the following findings:

(a) Good and sufficient cause based on an unreasonable burden or hardship has been proven;

(b) The granting of the variance would not result in any increase in quantity or velocity of flow, degradation of water quality or negative impacts upon adjoining or downstream properties, nor upon the stormwater system;

(c) The degree of variance is the minimum necessary to afford relief from the unreasonable burden or hardship imposed by the drainage code or standards, specifications, requirements, regulations and procedures adopted pursuant to this code; and/or

(d) The variance may be granted without defeating the public health, safety and welfare purposes and intent of the drainage code or related laws or ordinances pertaining to stormwater management and finance.

(1985 Code, § 52.23) (Ord. 87-29, passed 10-5-1987)

**§ 52.24 CONTENTS OF PETITION.**

(A) The complainant shall set forth in the petition for appeal, the interpretation, ruling or order appealed from, and the provisions of the drainage code or related laws or ordinances, and shall state wherein the interpretation, ruling or order is erroneous.

(B) If the appeal is based on a request for variance, the petition shall point out the provision or provisions from which the variance is sought and how the request satisfies the requirements of § 52.23(C)(2).

(1985 Code, § 52.24) (Ord. 87-29, passed 10-5-1987)

#### **§ 52.25 FILING FEE.**

No appeal petition shall be accepted for filing unless the complainant, at the time of filing, pays a fee of \$50 to partially compensate the city for the direct and indirect expenditures, costs and extra work occasioned by the filing and prosecution of the appeal. Such filing fee shall be in addition to the payment of the permits and inspection fees and any or other fee which thereafter may occur, and no portion of such filing fee shall be refunded, whatever the outcome of the appeal.

(1985 Code, § 52.25) (Ord. 87-29, passed 10-5-1987)

#### **§ 52.26 BOARD OF APPEALS.**

(A) A board consisting of a member designated by and from the Planning Commission, the City Law Director and the Chairperson of the Public Works Committee of Council shall serve as the Board of Appeals to hear and determine any appeal filed under § 52.23.

(B) The Board of Appeals shall have full authority to affirm, modify, reverse or set aside the interpretation, ruling or order appealed or to grant a variance, and its decision shall be final.

(1985 Code, § 52.26) (Ord. 87-29, passed 10-5-1987)

#### **§ 52.27 EMERGENCY SITUATIONS.**

Nothing in this chapter shall be construed to prevent immediate action by the City Manager in emergency situations.

(1985 Code, § 52.27) (Ord. 87-29, passed 10-5-1987)

#### **§ 52.28 FLOODING; LIABILITY.**

Floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed, operated or maintained by funds made available under this chapter. This chapter does not imply that property subject to the fees and charges established herein will always be free from stormwater flooding or flood damage, or that stormwater systems capable of handling all storm events can be cost effectively constructed, operated or maintained. Nor shall this chapter create a liability on the part of, or cause of action against, the city or any officer or employee thereof for any flood damage that may result from such storms or the runoff thereof. Nor does this chapter purport to reduce the need or the necessity for obtaining flood insurance.

(1985 Code, § 52.28) (Ord. 87-29, passed 10-5-1987)

**§ 52.29 SEVERABILITY.**

If any section, division, sentence, clause or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions. (1985 Code, § 52.29) (Ord. 87-29, passed 10-5-1987)

**§ 52.30 VIOLATION OF SECTIONS.**

(A) Whoever violates §§ 52.04 and 52.05 by failing to file an application for minor repairs shall first be given a warning by the City Engineer and thereafter shall be guilty in accordance with § 52.99.

(B) Whoever violates § 52.09 or fails to obey a warning under § 52.99 shall be guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense. Each day and every day on which such person continues to violate the provisions of this code after having once been notified of such violation shall constitute a separate offense. Any fine hereunder shall be mandatory. (1985 Code, § 52.31) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.31 ACCESSORIES.**

Any person being the owner, agent or having control of the premises, or any architect, engineer, contractor, builder, sub-contractor, foreperson, mechanic, employee or other person who shall violate or assist in the violation of this chapter, or of any certificate, order or permit issued hereunder, shall be guilty of a misdemeanor of the fourth degree on each offense. (1985 Code, § 52.32) (Ord. 87-29, passed 10-5-1987) Penalty, see § 52.99

**§ 52.32 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALTERED WATERCOURSE.** The engineering description provided by the property owner of any alteration to the natural watercourse easement.

**CITY.** The City of Madeira.

**NATURAL ELEVATIONS.** The elevation which exists prior to property improvements.

**NATURAL WATERCOURSE EASEMENT.** The high water mark which exists during a ten-year rain prior to property improvements.

***PRIVATE STORMWATER MAINTENANCE.*** The maintenance which the property owner does on private property outside of the natural or altered watercourse.  
(1985 Code, § 52.33) (Ord. 87-29, passed 10-5-1987)

**§ 52.99 PENALTY.**

Except as provided in § 52.30, any person being the owner, agent or having control of the premises, who violates any of the provisions of this chapter, or fails to conform to any of the provisions thereof, or fails to obey any order of the City Engineer or his or her duly authorized agent, shall be guilty of a misdemeanor of the first degree. Each and every day on which such person continues to violate the provisions of this chapter after having once been notified of such violation, shall constitute a separate offense.

(1985 Code, § 52.30) (Ord. 87-29, passed 10-5-1987)

## **CHAPTER 53: MINORITY BUSINESS ENTERPRISE ASSOCIATION**

### Section

53.01 Adoption by reference

### **§ 53.01 ADOPTION BY REFERENCE.**

(A) The city hereby adopts the affirmative plan of action for accomplishing minority business enterprise participation requirements of the Ohio Public Works Commission, and R.C. Chapter 164, by reference, which plan is attached to Ordinance 90-89 as Exhibit A, and is incorporated as if fully set forth herein.

(B) The city hereby adopts such plan specifically to further provide participation in the financing of certain projects pursuant to R.C. Chapter 164 and for no other purposes whatsoever. Capital improvement projects which are not financed pursuant to the procedure and participation as set forth in R.C. Ch. 164 are not subject to said plan.

(1985 Code, § 53.01) (Ord. 90-89, passed 12-3-1990)

