



**Environmental  
Protection Agency**

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

September 24, 2012

RE: TRUMBULL COUNTY  
CITY OF NILES  
PERMIT NO. #3GQ00002\*BG  
MUNICIPAL STORM WATER  
PROGRAM INSPECTION

**NOTICE OF VIOLATION**

Mike Wilson  
Storm Water Program Coordinator  
Trumbull County Soil and Water Conservation District  
520 West Main Street #3  
Cortland, OH 44410

Dear Mr. Wilson:

Ohio EPA has completed an audit for a portion of your municipal storm water program. Our audit primarily focused on implementation of minimum control measure (MCM) #4: Construction Site Storm Water Runoff Control and MCM #5: Post-Construction Storm Water Management in New Development and Redevelopment. This program is a requirement of the Ohio EPA General Storm Water National Pollutant Discharge Elimination System Permit for Small Municipal Separate Storm Sewers Systems (MS4s) (General MS4 Permit), No. OHQ000002, and Ohio Administrative Code 3745-39.

On September 5, 2012, Ohio EPA met with you and other representatives of the City of Niles (City) to determine compliance with the general MS4 permit and the Storm Water Management Plan (SWMP) submitted by the City in March 2003. In performing this audit, Ohio EPA implemented a modified version of the Municipal Storm Water Program Evaluation Guide developed by the United States Environmental Protection Agency.

Attached are the Municipal Storm Water Program Evaluation, File Review, and Field Inspection Worksheet(s) completed for your community. Please review these documents in detail to determine specific elements where your construction and post-construction programs need improvement. In addition, you will find comments suggesting ways to improve your MS4 program. The following is a summary of our audit findings:

**Violations**

- **Failure to update construction and post-construction ordinance(s) within two years of permit renewal.** This is a violation of Part III.B.4.a.i and Part III.B.5.c of the general MS4 permit. The City was required to revise their ordinances to be equivalent with the technical requirements set forth in the Ohio EPA NPDES General Storm Water Permit for Construction Activities (General Construction Permit), No. OHC000003, by June 24, 2011. The existing ordinance for the City, Chapter 923.08, does not meet the requirements set forth in the general MS4 permit and the general construction permit. The ordinance did not set the appropriate threshold for coverage and does not establish best management practice (BMP) standards equivalent to the general construction permit or provide a reference to an equivalent document or manual. Ohio EPA

recommends the City evaluate referencing Ohio EPA's general construction permit or adopt the Chagrin River Watershed Partners model ordinances for erosion and sediment control and comprehensive storm water management, located at [www.crwp.org](http://www.crwp.org) under the Storm Water Phase II link. In addition, the existing ordinance does not provide Trumbull County Soil and Water Conservation District (Trumbull SWCD) with the enforcement authority to issue letters of deficiency, notices of non-compliance (NON) and notices of violation (NOV) within municipal limits. ***Within 120 days of receiving this notice of violation (NOV), the City must adopt a revised ordinance that is equivalent with the technical requirements set forth in the general construction permit.***

- **Failure to escalate enforcement to achieve compliance with the local construction site ordinance.** This is a violation of Part III.B.4.a.vi of the general MS4 permit. Our file review and interview revealed that the City is deficient in addressing violations detailed within Trumbull SWCD's letters of deficiency, NONs and NOVs within municipal limits. A formalized written enforcement escalation plan must be developed to ensure that non-compliance issues are properly addressed. ***Within 30 days of receiving this NOV, the City must develop, implement, and submit an enforcement escalation plan to Ohio EPA, which includes a procedure the City, is capable of administering.***
- **Failure to conduct site inspections at active construction sites at a frequency of at least once per month.** This is a violation of Part III.B.4.c of the general MS4 permit. Active construction sites must be inspected at a frequency of at least once per month for compliance with the general MS4 permit requirements. ***Please describe why active construction sites have not been inspected for NPDES permit compliance at least once per month. In addition, the inspection frequency established within the 2003 SWMP does not establish the minimum monthly inspection frequency established within the general MS4 permit.***
- **Failure to ensure the implementation of post-construction BMPs on all new construction and redevelopment projects that disturb one (1) or more acres (including those less than one (1) acre that are part of a larger common plan of development or sale).** This is a violation of Part III.B.5.a of the general MS4 permit. This violation was noted for the Tru-Niles Greenway Bike Path project located from County Line Road to Robbins Road. The City must ensure that all general MS4 permit requirements are satisfied during the plan review process. The City should have determined that no post-construction BMPs were detailed on the storm water pollution prevention plan (SWP3), even after have a meeting with Ohio EPA and Trumbull SWCD to discuss the post-construction requirements for the site. ***The City must request that post-construction BMPs are implemented to meet NPDES permit requirements for the Tru-Niles Greenway Bike Path. If on-site retrofit is not feasible, the City must require the contractor to develop off-site mitigation at one and a half (1.5) times the water quality volume associated with the development. Within 30 days of receiving this NOV, the City must submit information to Ohio EPA detailing how this violation will be addressed.***
- **Failure to have pre-construction meetings that include post-construction BMPs.** This is a violation of Part III.B.5.f of the general MS4 permit. Site inspections performed by Trumbull SWCD at Niles Lincoln K-2 Elementary School and Niles Bonham

Elementary School have documented issues related to the early installation of bioretention cells. Had the pre-construction meeting discussed the construction sequence for the proper installation of post-construction BMPs, the current issues may not have occurred. ***Please describe the how the City will address this violation so that issues related to the early installation of post-construction BMPs do not persist in the future.***

### **Deficiencies**

- The April 15, 2005 *Mutual Agreement for Technical Assistance between Niles City and Trumbull County Soil and Water Conservation District* (MOU) does not reflect the inspection frequency detailed within the March 2003 SWMP or Ohio EPA's general MS4 permit.
- During the audit interview, Trumbull SWCD stated that it was performing the initial post-construction BMP inspection. The April 15, 2005 MOU does not detail that Trumbull SWCD is to perform post-construction BMP inspections.
- Ohio EPA recommends that some of the language within the City ordinances should be re-constructed in order to encourage the use of the following:
  - Riparian and Wetland setback protection;
  - Runoff reduction (i.e. infiltration, mitigation of recharge volume, etc.);
  - "Green" infrastructure (i.e. rain gardens, pervious pavers, etc.); and
  - Balanced growth principles (i.e. conservative design, native vegetation, etc.).

Post-construction storm water management, land use planning and building and zoning codes must be linked to create a meaningful storm water program. A good MS4 program goes beyond the WQv requirement. The storm water program manager must work with the building commissioner to affect development patterns in their community that negatively impact storm water quality.

- The City's permissible exclusions from Chapter 923.08: *Storm Water Management* must be updated to reflect the exclusions allowable from NPDES permit requirements. The City's standards reflect the "Applicability Limitations" established within the *Trumbull County drainage and Erosion and Sedimentation Control Manual* and do not satisfy the current minimum requirements of the Ohio EPA. The City's allowable exclusions must be consistent Ohio EPA's allowable exclusions. ***Please refer to the attached interview for a list of activities excluded from NPDES permit requirements.***
- The City has not yet completed mapping of the entire MS4 system. As a reminder, the City must complete mapping within five (5) years of NPDES permit renewal, i.e., September 28, 2014.
- Although the City does not explicitly prohibit low-impact development and green infrastructure, it is simply a design alternative and is not required or encouraged. Ohio EPA expects future storm water regulations to require a certain amount of on-site storm water infiltration, capture, and reuse. Low-impact development codes will help you meet these requirements. The City should consider strengthening the local development code and integrating standards, which not only allow for these types of structures to be

implemented but also explicitly encourages or requires it. Although some LID practices have been used in the past, they have not been incorporated to the extent possible to meet post-construction requirements. LID practices that could have been incorporated into the design of new projects or redevelopments, had the City asked include green roofs, sidewalk or parking lot bioretention, permeable pavers, cisterns and other rainwater harvesting techniques.

- Although the City code does not explicitly prohibit certain balanced growth principles such as conservative design and retaining open space, there is little in the code to incentivize it or make it the standard requirement. Codes that can be improved to make them more friendly to storm water program goals include, but are not limited to: use of low-maintenance native vegetation, identifying areas where conservation development and low-impact development practices must be implemented, providing incentives for infill development and redevelopment, increasing vertical development limits, and providing incentives for development and redevelopment along corridors with public transportation, walking and biking options.

Please review my comments and provide me with a letter of response indicating the actions you will take to address my concerns, including those documented on the Municipal Storm Water Program Evaluation, File Review, and Field Inspection Worksheet(s). **Your response should be received no later than October 31, 2012.** Please note that this response does not replace the requirement to submit an Annual Report. Your annual report for 2012 will be due on April 1, 2013.

Should you have any questions, please contact me at your earliest convenience at (330) 963-1118 or [chris.moody@epa.ohio.gov](mailto:chris.moody@epa.ohio.gov).

Sincerely,



Chris Moody  
Environmental Specialist II  
Division of Surface Water

CM/cs

cc: Ralph Infante, Jr., Mayor, City of Niles  
Sam Villio, City of Niles

ec: Jason Fyffe, Ohio EPA, DSW, CO

## Municipal Storm Water Program Evaluation

### Construction and Post-Construction Component Worksheet

<b>Date of Evaluation:</b>
September 5, 2012
<b>Evaluator Name, Title:</b>
Chris Moody, Environmental Specialist II
<b>M54 Permittee:</b>
City of Niles 3GQ00002*BG

**Instructions:** Use this worksheet as a guide for questioning M54 staff and reviewing applicable documents. Keep in mind that additional questions may be necessary based on local regulations, M54 permit requirements, implementation strategies, or water quality issues. Remember to obtain copies of any applicable documents or files which may assist in writing the M54 evaluation report.

<b>Staff Interviewed</b>		
<b>Name</b>	<b>Department/Agency</b>	<b>Phone Number/Email</b>
Mark Hess	Engineering & Grant Development / City of Niles	(330) 544-9000 Ext. 181 <a href="mailto:mhess@thecityofniles.com">mhess@thecityofniles.com</a>
John Nemet	Water & Wastewater Department / City of Niles	(330) 544-9000 Ext. 182 <a href="mailto:jnemet@thecityofniles.com">jnemet@thecityofniles.com</a>
Tony Vigorito	Building & Zoning Department / City of Niles	(330) 544 - 9000 Ext. 177 <a href="mailto:tvigorito@aol.com">tvigorito@aol.com</a>
Amy Reeher	Trumbull SWCD	(330) 637-2056 Ext. 111 <a href="mailto:reehera@embarqmail.com">reehera@embarqmail.com</a>
Marcus Hollenbank	Trumbull SWCD	(330) 637-2056 Ext. 107 <a href="mailto:hollenbank@embarqmail.com">hollenbank@embarqmail.com</a>
Sat Adlaka	ES&C International, LLP	(330) 744-4995 <a href="mailto:adlaka@att.net">adlaka@att.net</a>
Siddharth Mistri	ES&C International, LLP	(330) 744-4995 <a href="mailto:mistry_s@att.net">mistry_s@att.net</a>

<b>Ordinance/Legal Authority</b>	
<b>Interview Questions</b>	<b>Response</b>
<b>Construction Ordinance</b>	
Ordinance used to require storm water BMPs at construction sites?	YES
Name and/or code section(s)	Storm Water Management Chapter 923.08
Date initially enacted:	June 8, 2006
Threshold for coverage (e.g., 1 acre, 100 cubic yards, etc.)	Chapter 923.08(e) does not establish a threshold for coverage and incorrectly refers to the <i>Trumbull County Erosion and Sedimentation Control Rules</i> .

<b>Ordinance/Legal Authority</b>	
<b>Interview Questions</b>	<b>Response</b>
	<p>Please note that the <i>Trumbull County Erosion &amp; Sediment Control Rules</i> have been established under Ohio Revised Code Chapter 307.79(A), which states "the rules adopted under this section shall not apply inside the limits of municipal corporations or the limits of townships with a limited home rule government that have adopted rules under Chapter 504.21 of the Revised Code..."</p> <p style="text-align: center;"><b>***See Note 1 on Pg. 17***</b></p>
Exclusions from coverage allowed:	<p>Chapter 923.08(e) does not establish exclusion from coverage and incorrectly refers to the <i>Trumbull County Erosion and Sedimentation Control Rules</i>.</p> <p>Please note that the <i>Trumbull County Erosion &amp; Sediment Control Rules</i> have been established under Ohio Revised Code Chapter 307.79(A), which states "the rules adopted under this section shall not apply inside the limits of municipal corporations or the limits of townships with a limited home rule government that have adopted rules under Chapter 504.21 of the Revised Code..."</p> <p style="text-align: center;"><b>***See Note 1 on Pg. 17***</b></p>
<p>Does your construction program include the following types of construction activity:</p> <p>Single-family residential?</p> <p>Multi-family residential?</p> <p>Commercial development?</p> <p>Institutional development (schools or government facilities)?</p> <p>Mixed-use development?</p> <p>Non-subdivided development?</p> <p>Non-exempt construction on agriculturally-zoned lands? (barn on a farm)</p> <p>Non-silvicultural tree clearing?</p> <p>Your own municipal construction projects?</p>	<p><b>YES</b></p> <p><b>YES</b></p> <p><b>YES</b></p> <p><b>YES</b></p> <p><b>YES</b></p> <p><b>YES</b></p> <p><b>YES</b></p> <p><b>YES</b></p> <p><b>YES</b></p>

<b>Ordinance/Legal Authority</b>	
<b>Interview Questions</b>	<b>Response</b>
Construction and demolition debris landfills?	<b>YES</b>
Construction by other public entities within your political jurisdiction, e.g., a county road project within a municipality?	<b>YES</b>
Earth disturbance associated with open spaces and parks (e.g., trails within a park or parking lot improvements at a park)?	<b>YES</b>
Private pond construction?	<b>YES</b>
Construction of wind or solar panel farms?	<b>YES</b>
Establishment of borrow or spoil areas that service multiple, unrelated construction projects?	<b>YES</b>
Utility construction projects (including tree clearing along utility corridors or pipeline projects that cross multiple political Jurisdictions)?	<b>YES</b>
<i>NOTE: The intent of this line of questioning is to simply highlight the scope of regulated construction activity that the MS4 may have to contend with.</i>	
Does ordinance regulate the discharge of pollutants other than sediments on a construction sites (e.g., construction wastes, fuel tanks, cement truck washwater, trash, chemicals, etc.)?	<p style="text-align: center;"><b>NO</b></p> <p>Chapter 923.08(e) does not regulate the discharge of pollutants other than sediments on a construction sites (e.g., construction wastes, fuel tanks, cement truck washwater, trash, chemicals, etc.) and incorrectly refers to the <i>Trumbull County Erosion and Sedimentation Control Rules</i>.</p> <p>Please note that the <i>Trumbull County Erosion &amp; Sediment Control Rules</i> have been established under Ohio Revised Code Chapter 307.79(A), which states "the rules adopted under this section shall not apply inside the limits of municipal corporations or the limits of townships with a limited home rule government that have adopted rules under Chapter 504.21 of the Revised Code..."</p> <p style="text-align: center;"><b>***See Note 1 on Pg. 17***</b></p>

<b>Ordinance/Legal Authority</b>	
<b>Interview Questions</b>	<b>Response</b>
<p>Has ordinance been updated to reflect minimum requirements of Ohio EPA NPDES permit #OHC000003?</p> <p>Date of updates?</p> <p>Date of MS4 Permit Renewal:</p>	<p style="text-align: center;"><b>NO</b></p> <p>Chapter 923.08(e) has been updated, but does not reflect the minimum requirements of Ohio EPA NPDES permit No. OHC000003. In addition, Chapter 923.08 incorrectly refers to the <i>Trumbull County Erosion and Sedimentation Control Rules</i>.</p> <p>Please note that the <i>Trumbull County Erosion &amp; Sediment Control Rules</i> have been established under Ohio Revised Code Chapter 307.79(A), which states "the rules adopted under this section shall not apply inside the limits of municipal corporations or the limits of townships with a limited home rule government that have adopted rules under Chapter 504.21 of the Revised Code..."</p> <p style="text-align: center;">September 2, 2009</p> <p style="text-align: center;">June 24, 2009</p> <p style="text-align: center;"><b>***See Note 1 on Pg. 17***</b></p>
<b>Post-Construction Ordinances</b>	
<p>Ordinances used to require post-construction storm water BMPs on new development or redevelopment projects:</p> <p><b>Treatment of Water Quality Volume (WQv)</b> Name and code section:</p> <p>Date initially enacted:</p> <p>Has this ordinance been updated to reflect the minimum requirements of Ohio EPA General Permit #OHC000003?</p>	<p style="text-align: center;"><b>YES</b></p> <p>Chapter 923.08(a) states that "projects must abide by these regulations are those that must meet the "Applicability Limitations" as set forth in the most current edition of the <i>Trumbull County Drainage and Erosion and Sedimentation Control Manual</i>.</p> <p style="text-align: center;">April 18, 1990</p> <p style="text-align: center;"><b>***See Note 2 on Pg. 17***</b></p> <p style="text-align: center;"><b>YES</b></p> <p>Chapter 923.08(a) has been updated, but does not reflect minimum requirements of Ohio EPA NPDES permit No. OHC000003. Chapter 923.08(a) states that "projects must abide by these regulations are</p>

<b>Ordinance/Legal Authority</b>	
<b>Interview Questions</b>	<b>Response</b>
	those that must meet the "Applicability Limitations" as set forth in the most current edition of the <i>Trumbull County Drainage and Erosion and Sedimentation Control Manual</i> ."
Date of update:	September 2, 2009
<b>Riparian and Wetland Setback Ordinance</b>	<b>NO</b>
Name and code section:	N/A
	***See Note 3 on Pg. 17***
If YES, does ordinance require protection of native vegetation within riparian area or can manicured lawns be established?	N/A
If YES, does ordinance allow the location of storm water infrastructure within the riparian setback?	N/A
<b>Runoff Reduction</b> (e.g., infiltration or mitigation of a recharge volume)?	N/A
Name and code section:	
<b>BMPs designed to control temperature</b> for discharges to cold water habitat streams?	N/A
Name and code section:	
<b>Encouraging Green Infrastructure</b> or low-impact development practices:	<b>YES</b>
	Chapter 1135, Chapter 1137, Chapter 1139, and Chapter 1141 increase the green space by:
	(1) Establishing a minimum lot area of 10,500 square feet;
	(2) Established a 50% maximum lot coverage for buildings;
	(3) Established a 75% maximum lot coverage for impervious surfaces;
	(4) Establishes a minimum side yard width of ten feet; and
	(5) Establishes a rear yard of thirty feet.
	<i>Ohio EPA recommends that the code be modified such that green infrastructure is not only allowable but explicitly encouraged.</i>
Allow downspout disconnection and use of open storm water conveyance systems?	<b>NO</b>

<b>Ordinance/Legal Authority</b>	
<b>Interview Questions</b>	<b>Response</b>
Names and code sections:  Permit the installation of rain gardens and other bioretention facilities? Names and code section:	<b>NO</b>
Allow rainwater harvesting (rain barrels and cisterns)? Name and code section:	<b>NO</b>
Allow or require the use of pervious pavement systems? Name and code section:	<b>NO</b>
Allow reduction in the size of traditional storm water management structures if LID used? Name and code section:	<b>NO</b>
Provide a credit to a storm water utility fee if LID is used? Describe:	<b>YES</b> The City currently does not have a LID credit established for the existing storm water utility fee.  The City stated that in response to flooding that occurred in 2003, a monthly \$2.00 residential fee and a monthly \$5.00 commercial fee was initiated to address sewer and storm water projects. An October 4, 2006 Storm Water Task Force Project Status Report was provided to Ohio EPA.
<b>Balanced Growth Principles</b> , i.e., other non-structural ordinances or codes that promote better site design: Allow conservation design as a subdivision layout (retain $\geq$ 40% open space by maintaining existing zoned density)	<b>YES</b> Nothing in the resolution would prohibit a conservative subdivision layout; however nothing in the resolution would encourage it either.
Standard or variance required? Name and code section:	<b>VARIANCE</b> Resolution No. 17-11
Encourage the use of vegetation that requires little to no maintenance in common areas (e.g., meadow vegetation vs. mowed lawn) Name and code section:	<b>NO</b>
Reduce impervious area created by commercial parking lots (e.g., update codes so that they are context-specific, allow shared	<b>YES</b>

<b>Ordinance/Legal Authority</b>	
<b>Interview Questions</b>	<b>Response</b>
<p>parking, landbanked parking, parking garages rather than surface lots, etc.) Name of code section</p>	<p>Chapter 1135, Chapter 1137, Chapter 1139, and Chapter 1141.</p>
<p>Allow sidewalks on only one side of the road in residential neighborhoods Name and code section:</p>	<p style="text-align: center;"><b>YES</b></p> <p>The City does not have an ordinance that sidewalks can be permitted on only one side of the road in residential neighborhoods. The City explained that one sidewalk was installed on North Road approximately two years ago.</p>
<p>Zoning that encourages smart growth in compact neighborhoods or mixed-use development:</p>	<p style="text-align: center;"><b>YES</b></p> <p>Ordinance 11-41 established a variance to B-3, which permitted residential within commercial districts.</p>
<p>If YES, does zoning create walkable neighborhoods with access to commercial areas and employment centers? Describe:</p>	<p style="text-align: center;"><b>NO</b></p>
<p>If YES, does this zoning provide incentives for vertical development rather than horizontal sprawl? Describe:</p>	<p style="text-align: center;"><b>YES</b></p> <p>Zoning has reduced the size of the buildings that can be constructed on residential lots. In addition, the City has established a mean height (i.e. four stories) requirement for commercial lots.</p>
<p>If YES, does this zoning encourage a range of housing options for people of various incomes? Describe how:</p>	<p style="text-align: center;"><b>NO</b></p>
<p>If YES, do you provide incentives for infill development or development in the core? Describe incentive programs:</p>	<p style="text-align: center;"><b>NO</b></p>
<p>If YES, does zoning direct growth in areas where there are a variety of transportation choices (walking, biking, public transportation vs. just the car)? Describe how:</p>	<p style="text-align: center;"><b>NO</b></p>
<p><i><b>NOTE:</b> The point of this line of questioning is to emphasize that post-construction storm water management, land use planning and building and</i></p>	

<b>Ordinance/Legal Authority</b>	
<b>Interview Questions</b>	<b>Response</b>
<i>zoning codes must be linked to create a meaningful storm water program. A good MS4 program goes beyond the Water Quality Volume requirement.</i>	
<b>Provision within Ordinances:</b>	
<p>Do permit or plan approvals have to be issued before construction activities that disturb 1 or more acre can commence?</p> <p>Plan Approvals Construction</p> <p>Post-Construction</p> <p>Permits &amp; Type (Building, Grading, etc.)</p> <p>Construction</p> <p>Post-Construction</p> <p>Does your definition of "construction activities" include any grading, grubbing, filling, clearing or excavating activity?</p>	<p>Plan approval is required to obtain the necessary permits to begin construction.</p> <p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;"><b>YES</b></p> <p>Plan approval is required by both the City and Trumbull SWCD.</p> <p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;"><b>NO</b></p> <p>A definition of "construction activities" could not be located within Chapter 923.08.</p>
<p>Are plans for storm water controls used during construction submitted separately from plans that depict post-construction BMPs?</p> <p>Describe the submission process and the timing of plan submission:</p>	<p style="text-align: center;"><b>YES</b></p> <p>The plans are submitted to the Trumbull SWCD via an application and applicable review fee.</p>

<b>Ordinance/Legal Authority</b>											
<b>Interview Questions</b>	<b>Response</b>										
Does your ordinance explicitly specify selection criteria or minimum acceptable BMP design?											
Construction	<b>NO</b>										
Post-Construction	<b>NO</b>										
If NO, are these standards referenced?											
Construction	<b>NO</b>										
Post-Construction	<b>YES</b>										
If YES, list references:											
Construction	The City's ordinance incorrectly refers to the <i>Trumbull County Erosion and Sedimentation Control Rules</i> for construction.										
Post-Construction	The City's ordinance refers to the <i>Trumbull County Drainage and Erosion and Sedimentation Control Manual</i> .										
<b>CONSTRUCTION SITE ENFORCEMENT AUTHORITY</b>											
Types of enforcement mechanisms available for construction site issues per your ordinance:	<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">Notices of Violations (NOV)</td> <td style="text-align: center;"><b>YES</b></td> </tr> <tr> <td>Administrative fines</td> <td style="text-align: center;"><b>NO</b></td> </tr> <tr> <td>Stop-work orders</td> <td style="text-align: center;"><b>YES</b></td> </tr> <tr> <td>Civil penalties</td> <td style="text-align: center;"><b>NO</b></td> </tr> <tr> <td>Criminal penalties</td> <td style="text-align: center;"><b>NO</b></td> </tr> </table> <p>The City stated that stop work orders can only be issued through violations of building codes. In regards to storm water, Chapter 923.08 does not establish the enforcement mechanisms that are available to address violations. In fact, Chapter 923.99, Penalty, was repealed by Ordinance 05-09, which was passed April 15, 2009.</p>	Notices of Violations (NOV)	<b>YES</b>	Administrative fines	<b>NO</b>	Stop-work orders	<b>YES</b>	Civil penalties	<b>NO</b>	Criminal penalties	<b>NO</b>
Notices of Violations (NOV)	<b>YES</b>										
Administrative fines	<b>NO</b>										
Stop-work orders	<b>YES</b>										
Civil penalties	<b>NO</b>										
Criminal penalties	<b>NO</b>										
Which type of enforcement action have you most commonly implemented?	<p>The Trumbull SWCD, on behalf of the City, will typically send out notices of violation letters describing the violations documented during a storm water inspection. No further enforcement actions have been taken by the City at this time.</p> <p style="text-align: center;"><b>***See Note 4 on Page 17***</b></p>										
Describe the enforcement mechanism used when											

<b>Ordinance/Legal Authority</b>											
<b>Interview Questions</b>	<b>Response</b>										
<p>the following compliance situations are encountered on construction sites:</p> <ol style="list-style-type: none"> <li>1. Construction has commenced without a permit or plan approval</li> <li>2. A BMP indicated on the SWP3 has not been installed or requires maintenance (first incidence)</li> <li>3. A BMP is required but not shown on the SWP3</li> <li>4. A BMP has not been installed or maintained despite prior notification from the MS4 (repeated incidences)</li> <li>5. If using a third party inspection service provider, e.g., the SWCD, MS4 receives inspection report indicating repeated non-compliance issue</li> </ol>	<p>Trumbull SWCD would issue a NOV.</p> <p>Trumbull SWCD would issue a deficiency letter.</p> <p>Trumbull SWCD would issue a deficiency letter.</p> <p>Trumbull SWCD would issue a NOV.</p> <p>The City stated that it would not issue an occupancy permit.</p> <p style="text-align: center;"><b>***See Note 5 on Pg. 17***</b></p>										
Describe the last enforcement action your community has taken against a contractor or developer for non-compliance with construction site requirements and provide the documentation to demonstrate the action.	No enforcement actions have been taken by the City beyond written notification. The last enforcement action taken was on July 25, 2012. A NOV was issued to Park Place Villas and documented the failure to submit a SWP3, the failure to install inlet protection, and the failure to install sediment barriers. The NOV cited the <i>Trumbull County Erosion &amp; Sediment Control Rules</i> .										
Have your enforcement protocols and procedures for construction site issues been formalized in a written enforcement escalation plan?	<b>NO</b>										
	<b>***See Note 6 on Page 17***</b>										
<b>POST-CONSTRUCTION ENFORCEMENT AUTHORITY</b>											
Types of enforcement mechanisms available for post-construction site issues per your ordinance:	<table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Notices of Violations (NOV)</td> <td style="text-align: right;"><b>NO</b></td> </tr> <tr> <td>Administrative fines</td> <td style="text-align: right;"><b>NO</b></td> </tr> <tr> <td>Stop-work orders</td> <td style="text-align: right;"><b>NO</b></td> </tr> <tr> <td>Civil penalties</td> <td style="text-align: right;"><b>NO</b></td> </tr> <tr> <td>Criminal penalties</td> <td style="text-align: right;"><b>NO</b></td> </tr> </table> <p>The City has not been using any enforcement mechanisms.</p>	Notices of Violations (NOV)	<b>NO</b>	Administrative fines	<b>NO</b>	Stop-work orders	<b>NO</b>	Civil penalties	<b>NO</b>	Criminal penalties	<b>NO</b>
Notices of Violations (NOV)	<b>NO</b>										
Administrative fines	<b>NO</b>										
Stop-work orders	<b>NO</b>										
Civil penalties	<b>NO</b>										
Criminal penalties	<b>NO</b>										
Which type of enforcement action have you most commonly implemented?	No enforcement has occurred for post-construction related issues yet.										

<b>Ordinance/Legal Authority</b>		
<b>Interview Questions</b>	<b>Response</b>	
<p>Describe the enforcement mechanism used when the following compliance situations are encountered regarding post-construction:</p> <ol style="list-style-type: none"> <li>1. The post-construction BMP has been installed too early in the construction process (e.g., the permanent WQv outlet has been installed when the sediment control outlet is still required, or the bioretention soil has been placed prior to upland areas being stabilized)</li> <li>2. The post-construction BMP has not been maintained (first incident)</li> <li>3. The post-construction BMP has not been maintained after multiple notifications</li> <li>4. A homeowner has cut down trees in the riparian setback area (if applicable)</li> <li>5. A homeowner has installed a shed in a vegetated filter strip disrupting sheet flow runoff.</li> </ol>	<p>The City would issue a deficiency letter. If the issue has not been addressed, then a NON followed by a NOV would be administered.</p> <p>The City would issue a deficiency letter. If the issue has not been addressed, then a NON followed by a NOV would be administered.</p> <p>The City would issue a deficiency letter. If the issue has not been addressed, then a NON followed by a NOV would be administered.</p> <p>N/A as the City has not established a riparian setback ordinance.</p> <p>The City was unsure on how to address this scenario.</p> <p style="text-align: center;"><b>***See Note 7 on Pg. 18***</b></p>	
<p>Describe the last enforcement action your community has taken against a property owner/homeowners association for non-compliance with post-construction site requirements and provide the documentation to demonstrate the action.</p>	<p>N/A</p> <p>No previous enforcement actions have been taken.</p>	
<p>Have your enforcement protocols and procedures for post-construction issues been formalized in a written enforcement escalation plan?</p>	<p>NO</p> <p><b>***See Note 6 on Pg. 17***</b></p>	
<b>Applicable Documents</b>	<b>Reviewed</b>	<b>Obtained</b>
Sediment and Erosion Control Ordinance	YES	YES
Post-Construction Storm Water BMP Ordinances(s)	YES	YES
Enforcement escalation plan or procedures		
Construction:	N/A	NO
Post-Construction:	N/A	NO

<b>Notes</b>
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- 1) The existing ordinance for the City, Chapter 923.08, does not meet the requirements set forth in the general MS4 permit and the general construction permit. If the City wishes to use a general reference to "minimum Ohio EPA requirements" in their code (due to the fact that these standards are updated every five years), the ordinance must be updated to reflect that control measures must comply with the most current standards required by Ohio EPA.
- 2) The *Trumbull County Drainage and Erosion and Sedimentation Manual* provides exemptions from being regulated, which include the expansion, construction, or reconstruction of one-single family dwelling or one two-family dwelling on a single parcel. Ohio EPA's general construction permit regulates construction activities that disturb one or more acres of land or are less than one acre of land and part of a larger common plan of development.

In order to align with Ohio EPA's general construction permit, the only exclusions allowed are (a) if rainfall erosivity factor, R, is < 5 for the project, (b) construction is "routine maintenance" to re-establish the original line, grade or hydraulic capacity of storm water infrastructure, i.e., ditch cleaning and detention basin dredging, where < 5 acres is disturbed, (c) silvicultural disturbances, (d) agricultural disturbances or (e) construction related to oil & gas well exploration. For more information, please refer to our website at:

[http://www.epa.ohio.gov/dsw/storm/routine\\_maint.aspx](http://www.epa.ohio.gov/dsw/storm/routine_maint.aspx)

- 3) It is recommended that the City evaluate establishing an ordinance that establishes riparian areas and wetland setbacks in order to protect "waters of the State."
- 4) In municipalities, letters from the SWCD are not considered NOV's unless the community's ordinance specifically gives the SWCD enforcement authority. This is not the case typically. The SWCD is simply notifying the developer and community that there are compliance issues on the site, but they have no inherent enforcement authority in a municipality. Trumbull SWCD issues NONs and NOV's on behalf of the City and has been citing violations of the *Trumbull County Erosion & Sediment Control Rules*. Please be aware that the *Trumbull County Erosion & Sediment Control Rules* do not apply within the municipal limits of the City. In order for Trumbull SWCD to issue NONs and NOV's, the City must provide the authority within the City's ordinance. Another option to provide Trumbull SWCD enforcement authority would be for the City to develop a general cover letter than can be attached to Trumbull SWCD's NONs and NOV's citing municipal code violations.
- 5) The City stated that it would not issue an occupancy permit to address repeated non-compliance issues. As occupancy permit are typically the final approval needed for a project, this means that construction activities have been completed and the cited non-compliance issues have inadvertently been eliminated due to final stabilization or construction of impervious areas. The City must develop and implement an enforcement escalation plan to address non-compliance issues while construction activities are occurring until the point that a notice of termination has been issued to the site by Ohio EPA.
- 6) Part III.B.5.a of the general MS4 permit requires the City to develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the City of Niles MS4. The City has not developed and formalized enforcement protocols and procedures for construction and post-construction issues in a written enforcement escalation plan. The City must develop and implement an enforcement escalation plan to resolve construction and post-construction issue. In addition, the enforcement escalation plan must clearly detail when deficiency letters, NONs, and NOV's are to be utilized. Trumbull SWCD has issued deficiency letters, NONs, and NOV's for the same violations

documented during different inspections dates for a specific construction site.

- 7) The City did not know how to address the scenario where a homeowner had installed a shed in a vegetated filter strip disrupting sheet flow runoff. This question is meant to show the relationship that exists between the Building Department (i.e. issuing building permits) and the Engineering Department (i.e. post-construction BMPs). Both City departments must communicate to ensure that these types of issues do not get created. Ohio EPA recommends that prior to issuing building permits, the Engineering Department have an opportunity to verify that post-construction BMP are maintained in perpetuity.

<b>Construction Project Inventory</b>	
<b>Interview Question</b>	<b>Response</b>
<p>Do you keep an inventory of construction projects that are actively occurring in your community? If YES, how?</p>	<p><b>YES</b></p> <p>The Trumbull SWCD maintains a list of active sites within the City in an Excel file. The list currently consists of five projects.</p>
<p>Do you track construction projects &lt;1 acre (e.g., individual lot within a subdivision or small addition to a business)?</p>	<p><b>YES</b></p>
<p>How often is your inventory of construction projects updated?</p>	<p>The inventory is updated after every site inspection and once SWP3 approval occurs.</p> <p><i>It is recommended that completed sites be removed from the list once an NOI has been submitted.</i></p>
<p>Information tracked:</p>	<p>Project status                   <b>YES</b>            Inspection Findings           <b>YES</b>            Enforcement Actions         <b>YES</b>            Complaints                     <b>YES</b>            NOI submittal                 <b>YES</b>            Other:                         Permit numbers and                                                  NOV issue                                                  dates.</p>
<p>Are site inspections at active construction sites conducted at a frequency of at least once per month?</p> <p><i>NOTE: This is the minimum performance standard in the NPDES permit for small MS4s.</i></p>	<p><b>NO</b></p> <p>According to Trumbull SWCD, sites are inspected once every two weeks. Records maintained by Trumbull SWCD indicate a frequency of greater than one month.</p>
<p>If construction sites are <b>not</b> inspected at least once per month, how do you prioritize or determine inspection frequency?</p>	<p>Proximity to water body       <b>YES</b>            Water body impairment       <b>YES</b>            Size of project                 <b>YES</b>            Slope of project site         <b>YES</b>            Other:                         Previously documented</p>

<p>Is this inspection criteria and frequency explicitly stated in your SWMP?</p>	<p>deficiencies and violations.</p> <p><b>PARTIALLY</b></p> <p>According to the March 2003 SWMP, inspections will be prioritized on the potential for soil the leave a site. The specific factors utilized to determine this potential include type of soil, slope of land, and amount of acreage disturbed.</p> <p><b>*** See Note 8 on Page 19***</b></p>
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<p>Number of active construction sites on date of interview (for subdivisions where only individual lot construction is occurring, count the entire subdivision or phase of subdivision as one site):</p> <p><i>NOTE: Select two sites from NOI list and ask if they are active. Ask for the dates of the last two site inspections at each site.</i></p>	<p>Five active sites. These include one municipal project, three school projects, and one private construction project.</p> <p><b>Site #1: Niles Lincoln K-2 Elementary School</b>  Most recent inspection date: August 30, 2012  No documentation of an inspection letter sent.</p> <p>Prior inspection date: August 13, 2012.  A NON documented numerous compliance issues and did not cite the City's code. The NON cited the <i>Trumbull County Erosion &amp; Sediment Control Rules</i>.</p> <p><b>Site #2: Niles Bonham Elementary School</b>  Most recent inspection date: August 30, 2012.  No documentation of an inspection letter sent.</p> <p>Prior inspection date: August 13, 2012.  A NON documented numerous compliance issues and did not cite the City's code.</p>
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<b>Applicable Documents</b>	<b>Reviewed</b>	<b>Obtained</b>
List of active construction projects	YES	YES
List of projects covered under a state/EPA general permit	YES	YES

<b>Notes</b>
<p>8) The SWMP establishes a goal for Trumbull SWCD to perform 50 site inspections per year. In addition, the April 15, 2004 MOU details that Trumbull SWCD will perform erosion and sediment control inspections on a bi-weekly frequency. The SWMP must be updated to reflect that storm water inspections are conducted at least once per month.</p>

<b>Post-Construction BMP Inventory</b>	
<b>Interview Question</b>	<b>Response</b>
Are post-construction BMPs tracked?	NO

Does this include all types of BMPs, e.g., riparian setback area, green roof or pervious pavement as well as bioretention cells and extended detention ponds?	Post-construction BMPs are in the process of being tracked.  <b>YES</b>  The post-construction BMP tracking will include all types of BMPs once completed.
Information tracked:  A general maintenance agreement is drafted describing what is required (Ask for Copy) but is still currently in the development stage, so no LTM's exist at this point.  Inspection requirements are part of this draft. None are currently on inventory since the City hasn't conducted any of these inspections to this date.	Location <b>YES</b>  Type <b>YES</b>  Maintenance Requirements <b>YES</b>  Inspection findings <b>YES</b>  Other (e.g., Ownership): <b>Ownership, drawing files, access easements.</b>
Database used?	<b>NO</b> The City uses an Excel spreadsheet.
Number of private post-construction structural BMPs installed in community	Unknown as the City and Trumbull SWCD are currently reviewing.
<b>Applicable Documents</b>	
Inventory of Post-Construction BMPs	<b>Reviewed</b> <b>Obtained</b> N/A                      NO

<b>Construction and Post-Construction BMP Standards</b>	
<b>Interview Questions</b>	<b>Response</b>
<b>POST-CONSTRUCTION BMPs</b>	
Do your erosion and sediment control standards include BMP selection criteria?	<b>NO</b> Chapter 923.08(e) incorrectly refers to the <i>Trumbull County Erosion and Sedimentation Control Rules</i> .  Please note that the <i>Trumbull County Erosion &amp; Sediment Control Rules</i> have been established under Ohio Revised Code Chapter 307.79(A), which states "the rules adopted under this section shall not apply inside the limits of municipal corporations or the limits of townships with a limited home rule government that have adopted rules under Chapter 504.21 of the Revised Code..."
Do your construction site standards account for different needs for different times of the year (e.g., growing season vs. winter)?	<b>NO</b> Nothing is specifically listed in the City's standards; however, the Trumbull SWCD stated that the seasonal seeding specifications

<b>Construction and Post-Construction BMP Standards</b>			
<b>Interview Questions</b>		<b>Response</b>	
Please elaborate:		established within Ohio Department of Natural Resources (ODNR) <i>Rainwater and Land Development</i> manual.	
Do your standards include operation and maintenance requirements?		The City stated that the standards include operation and maintenance requirements; however, no standards could be located within the City's code.	
<b>POST-CONSTRUCTION BMPs</b>			
Do your post-construction standards include BMP selection criteria?		<p style="text-align: center;"><b>NO</b></p> <p>Chapter 923.08(a) states that "the accepted post-construction practices are those listed in the most current edition of the <i>Trumbull County Drainage and Erosion and Sedimentation Control Manual</i>."</p> <p style="text-align: center;"><b>***See Note 9 on Page 21***</b></p> <p><i>The City needs to be very familiar with the post-construction standards.</i></p>	
<p>Has your community established standards for post-construction BMP selection and design for small construction activities (i.e., where the larger common plan of development or sale disturbs &lt; 5 acres)?</p> <p>If so, what are your standards?</p>		<p style="text-align: center;"><b>NO</b></p> <p>Chapter 923.08(a) states that "the accepted post-construction practices are those listed in the most current edition of the <i>Trumbull County Drainage and Erosion and Sedimentation Control Manual</i>."</p> <p style="text-align: center;"><b>***See Note 9 on Page 21***</b></p>	
Do your standards include operation and maintenance requirements?		<p style="text-align: center;"><b>YES</b></p> <p>Ordinance 60-05-A includes operation and maintenance requirements.</p>	
<b>Applicable Documents</b>		<b>Reviewed</b>	<b>Obtained</b>
BMP guidance or technical document		YES	YES

<b>Notes</b>
9) The City's ordinance refers to the <i>Trumbull County Drainage and Erosion and Sedimentation Control Manual</i> : Selection criteria and design standards for each post-construction BMP are not detailed within the <i>Trumbull County Drainage and Erosion and Sedimentation Control Manual</i> . The City must include selection criteria and design standards within the post-construction ordinance either by direct incorporation or by referencing the general construction permit.

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<b>Plan Review Procedures</b>	
<b>Interview Questions</b>	<b>Response</b>
<p>Who is responsible for erosion and sediment control plan review?</p> <p>If third party, is there an MOU or other agreement in place?</p> <p>Is it current?</p>	<p>Marcus Hollenbank, Storm Water Specialist Trumbull County SWCD.</p> <p style="text-align: center;">A MOU was executed April 15, 2005.</p> <p style="text-align: center;"><b>NO</b></p>
<p>Who is responsible for post-construction plan review?</p> <p>If third party, is there an MOU or other agreement in place?</p> <p>Is it current?</p>	<p style="text-align: center;">ES&amp;C International, LLP</p> <p>An annual contract is executed between the City and ES&amp;C International, LLP.</p> <p style="text-align: center;"><b>YES</b></p>
<p>What training or professional certifications have plan review personnel received?</p> <p style="padding-left: 40px;">Construction</p> <p style="padding-left: 40px;">Post-Construction</p> <p>How many years of experience does plan review personnel have inspecting storm water BMPs?</p> <p style="padding-left: 40px;">Construction</p> <p style="padding-left: 40px;">Post-Construction</p> <p>How often do plan review personnel receive training?</p> <p style="padding-left: 40px;">Construction</p> <p style="padding-left: 40px;">Post-Construction</p> <p><i>Training opportunities provided by Ohio EPA are archived at:</i> <a href="http://www.epa.ohio.gov/ocapp/storm_water.aspx">www.epa.ohio.gov/ocapp/storm_water.aspx</a>.</p>	<p>Civil engineering degree, Ohio EPA and Ohio Department of Transportation (ODOT) training workshops.</p> <p>Civil engineering degrees, professional engineer license, ODOT training workshops, and Trumbull SWCD training workshops.</p> <p style="text-align: center;">Approximately three years.</p> <p style="text-align: center;">Approximately forty-three years.</p> <p style="text-align: center;">Approximately once per month.</p> <p style="text-align: center;">Annually for required continuing certification credits.</p>
<p>Do you use a checklist to conduct plan review?</p> <p style="padding-left: 40px;">Construction</p>	<p style="text-align: center;"><b>YES</b></p>

<b>Plan Review Procedures</b>	
<b>Interview Questions</b>	<b>Response</b>
Post-Construction  If NO, what criterion is used to review plans?  Construction  Post-Construction	YES    N/A  N/A
Size threshold for plan review (i.e. 1 acre, 10,000 square feet)?  Construction  Post-Construction	Greater than one acre or less than one acre and part of a larger common plan of development.  Greater than one acre or less than one acre and part of a larger common plan of development.
Do you verify the submission of a Notice of Intent (NOI) or Individual Lot NOI to Ohio EPA as part of your plan review process?	YES Trumbull SWCD verifies if a Notice of Intent is submitted to Ohio EPA for construction activities.
Do you require a pre-construction meeting with developers and/or contractors?    Is the sequence of implementation of sediment and erosion controls discussed during these meetings?  Is the timing of installation of post-construction BMPs discussed during these meetings?	YES Pre-construction meetings are required with developers and contractors. Pre-construction meetings are not required for post-construction.  <b>***See Note 10 on Page 24***</b>  YES  YES
Does your community have standard conditions of plan approval?    Do they include erosion and sediment control and/or post-construction water quality requirements?	<b>Partially</b> The standard conditions of approval are detailed within the <i>Trumbull County Drainage and Erosion and Sedimentation Control Manual</i> for post-construction. In addition, Trumbull County SWCD explained that it also utilized ODNR's <i>Rainwater and Land Development</i> manual as standard conditions.  YES

<b>Plan Review Procedures</b>		
<b>Interview Questions</b>	<b>Response</b>	
Does your community require a performance bond that can be used to pay for BMPs (site stabilization) in the event the developer does not complete the project?	<b>NO</b>	
Does your community require a long-term maintenance plan for post-construction BMPs?	<b>YES</b> Ordinance No. 60-05-A requires a long-term maintenance plan for post-construction BMPs.	
If YES, is the plan required to include the following:		
Identify the party responsible for long-term maintenance?	<b>YES</b>	
A list of routine and non-routine maintenance tasks and the frequency for their performance?	<b>YES</b>	
A map that identifies the types and locations of post-construction BMPs and their maintenance or access easements?	<b>YES</b>	
A list of deed restrictions, conservation easements or environmental covenants required to maintain post-construction BMPs in perpetuity?	<b>YES</b>	
Is this plan kept on file or input into a database for future reference to ensure the required tasks are being completed?	<b>YES</b>	
<b>Applicable Documents</b>	<b>Reviewed</b>	<b>Obtained</b>
Copy of standard conditions of approval (Only checklist)	<b>YES</b>	<b>YES</b>
Example of standard conditions applied to an approved project	<b>YES</b>	<b>YES</b>
Checklist used by plan reviewers	<b>YES</b>	<b>YES</b>

<b>Notes</b>
10) Part III.B.5.f of the general MS4 permit establishes a performance standard that pre-construction meetings must occur that also address post-construction BMPs. The two active constructions sites inspected, Niles Lincoln K-2 Elementary School and Niles Bonham Elementary School, both have issues related to the early installation of bioretention cells. Had the pre-construction meeting discussed the construction sequence for the proper installation of post-construction BMPs, the current issues may not have occurred.

<b>Project Inspections</b>	
<b>Interview Questions</b>	<b>Response</b>
<b>CONSTRUCTION SITE INSPECTIONS</b>	
Who is responsible for erosion and sediment control site inspection?	Marcus Hollenbank, Storm Water Specialist Trumbull SWCD.

<b>Project Inspections</b>	
<b>Interview Questions</b>	<b>Response</b>
<p>If third party, is there an MOU or other agreement in place?</p> <p>Is it current?</p>	<p>A MOU was executed April 15, 2005.</p> <p style="text-align: center;"><b>NO</b></p>
<b>POST-CONSTRUCTION INSPECTIONS</b>	
<p>Who is responsible for post-construction site inspection?</p> <p>If third party, is there an MOU or other agreement in place?</p> <p>Is it current?</p>	<p>Trumbull SWCD performs the initial post-construction site inspection.</p> <p style="text-align: center;"><b>NO</b></p> <p style="text-align: center;"><b>NO</b></p> <p style="text-align: center;"><b>***See Note 11 on Page 27***</b></p>
<p>Is an "as-built" inspection conducted at the time a post-construction BMP is installed to ensure compliance with the approved BMP construction plan?</p>	<p style="text-align: center;"><b>YES</b></p> <p>Trumbull SWCD performs the initial post-construction site inspection.</p> <p style="text-align: center;"><b>***See Note 11 on Page 27***</b></p>
<p>Does the MS4 conduct inspections for long-term maintenance of privately-owned post-construction BMPs?</p> <p>If YES, at what frequency?</p> <p>If NO, does the MS4 collect inspection reports from the responsible party? At what frequency?</p>	<p style="text-align: center;"><b>YES</b></p> <p>The Engineering Department conducts inspections for long-term maintenance of privately-owned post-construction BMPs and records are maintained on inspection reports.</p> <p style="text-align: center;">Annually</p>
<b>CONSTRUCTION &amp; POST-CONSTRUCTION INSPECTION QUESTIONS</b>	
<p>Findings from construction and post-construction inspections tracked in a database?</p>	<p style="text-align: center;"><b>NO</b></p> <p>Hard copies of the findings from construction and post-construction inspections are maintained in files.</p>
<p>What training or professional certifications have site inspection personnel received?</p> <p style="padding-left: 40px;">Construction</p>	<p>Civil engineering degree, Ohio EPA and ODOT training workshops.</p>

Project Inspections		
Interview Questions	Response	
Post-Construction  How many years of experience does site inspection personnel have inspecting storm water BMPs?  Construction  Post-Construction  How often do site inspection personnel receive training?  Construction  Post-Construction	Civil engineering degrees, professional engineer license, ODOT training workshops, and Trumbull SWCD training workshops.   Approximately three years.  Approximately forty-three years.   Approximately once per month.  Annually for required continuing certification credits.	
Do you use a checklist or the approved plan to conduct site inspections?  Construction  Post-Construction  If NO, what standards are used to determine if a site is compliance?  Construction  Post-Construction	YES  NO  ***See Note 12 on Page 27***   N/A  N/A	
Applicable Documents	Reviewed	Obtained
Most recent inspection staff training records	YES	YES
Example of active construction project inspection checklist	YES	YES
Example of inspection record to verify "as-built" of post-construction BMPs	N/A	N/A
Records from inspection tracking database or filing system (spreadsheet)	N/A	N/A
Checklist for inspecting long-term maintenance of post-construction BMPs	N/A	N/A

Notes
11) Trumbull SWCD performs the initial post-construction site inspection. The April 15, 2005 MOU does not detail that Trumbull SWCD is to perform inspections related to post-construction.
12) The City should develop a checklist to perform post-construction inspections in order to provide consistency for inspecting post-construction BMPs.

Notes

MS4-Owned Construction Projects		
Interview Questions	Response	
Projects designed in-house or contracted?	Projects are contracted.	
Designers trained in storm water BMP implementation?	N/A	
Checklist used during the design and/or review of public construction projects?	<p style="text-align: center;"><b>YES</b></p> The same checklist is used for both public and private construction projects.	
Are projects greater than one acre covered by a general construction permit (has an NOI been submitted)?	<p style="text-align: center;"><b>YES</b></p>	
If contracted planners and engineers are used for the design of MS4-owned projects, does the contract language specify that sediment and erosion control and post-construction storm water BMPs be incorporated into the design?	<p style="text-align: center;"><b>YES</b></p>	
Are municipal construction projects inspected for compliance with the SWP3?  Are they inspected with the same frequency for BMP compliance as a private construction project?  Who inspects municipal construction projects for compliance?	<p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;"><b>YES</b></p> Municipal construction projects are inspected at the same frequency for BMP compliance as a private construction project.  Marcus Hollenbank, Storm Water Specialist Trumbull SWCD.	
Project inspectors trained?  Frequency:	<p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;">Approximately once per month.</p>	
If contracted inspectors are utilized, are minimum inspection, maintenance and reporting requirements specified in the contract?	<p style="text-align: center;"><b>YES</b></p> The April 15, 2005 MOU establishes a bi-weekly inspection frequency.	
For municipally-owned post-construction BMPs, how often are they inspected to ensure long-term maintenance?  Which department is responsible for conducting these inspections?	<p style="text-align: center;">Annually</p> <p>The Engineering Department is responsible for conducting these inspections.</p>	
Applicable Documents	Reviewed	Obtained
MS4-owned project storm water design standards and/or checklist	N/A	N/A

<b>MS4-Owned Construction Projects</b>		
<b>Interview Questions</b>	<b>Response</b>	
Contract language for active public project not developed or inspected in-house	N/A	N/A

<b>Outreach and Education</b>	
<b>Interview Questions</b>	<b>Response</b>
Type of training provided to construction operators:  Designers and Engineers:	Trumbull SWCD conducts an annual erosion and sediment control workshop for Trumbull County contractors, engineers, and developers.  Trumbull SWCD conducts an annual erosion and sediment control workshop for Trumbull County contractors, engineers, and developers.
Attendance required?	<b>NO</b>
Training frequency?	Annually
Number of operators trained:	Approximately thirty operators trained.
Training topics:	The agenda for Trumbull SWCD's April 18, 2012 erosion and sediment control workshop for Trumbull County contractors, engineers, and developers included:  (1) Wetlands – Identification Tools and Regulations (2) Importance of Soils and Soil Tools (3) Regulated Activities and Soil and Water Conservation District Responsibilities (4) Best Management Practices (5) Inspections (6) A Case Study, Stream and Pond Retrofit for the Sayle Far Subdivision, Willoughby Hills, Ohio (7) Post-Construction (Review, BMPs) (8) Health Department – Regulations and Safety Issues
Presentations given by MS4 staff to professional groups?	<b>YES</b>
Brochures or outreach materials targeted at operators:	Handouts and displays are available.
How/when is the information distributed?	During training workshops.
Website used to educate operators?	<b>NO</b>

Web address:	N/A	
<b>Applicable Documents</b>	<b>Reviewed</b>	<b>Obtained</b>
Training materials	N/A	N/A
Brochures, outreach materials	NO	NO

## CONSTRUCTION & POST-CONSTRUCTION FILE RECORDS REVIEW

In addition to interviewing staff, select 2 to 3 approved projects with erosion and sediment control plans to review with the permittee. You are essentially conducting a file review. Try to choose different project types (residential, commercial) and sizes. Also, if one exists, review a public project plan to see if the permittee is applying equivalent standards to municipal construction.

<b>Construction Project #1 Name: Niles Lincoln K-2 Elementary School (9.4 ac.) #3GC05027*AG</b>	
<p>BMPs adequately incorporated into the plan to address erosion control, sediment control, and housekeeping?</p>	<p style="text-align: center;"><b>YES</b></p> <ul style="list-style-type: none"> <li>• BMPs used during construction include sediment settling ponds, construction entrance, silt fence, concrete wash out pits, and temporary stabilization. The BMPs appeared to be sufficient enough to prevent sediment laden runoff from entering "waters of the State."</li> </ul> <p><b>Room For Improvement:</b></p> <ul style="list-style-type: none"> <li>• The approved SWP3 for the site details that a temporary sediment trap is to be installed within the sediment settling pond. The SWP3 should have been revised to eliminate the temporary sediment trap and modifying the outlet structure of the sediment settling pond with a dewatering skimmer or riser pipe.</li> <li>• The SWP3 does not include a cover page or title identifying the name and location of the site, the name and contact information of all construction site operators, the name and contact information for the person responsible for authorizing and amending the SWP3.</li> <li>• The SWP3 does not include a log documenting grading and stabilization activities as well as amendments to the SWP3, which occur after construction activities commence.</li> <li>• The SWP3's site map does not depict the limits of earth-disturbing activity of the site including associated off-site spoil areas that are not addressed by a separate NOI and associated SWP3.</li> </ul>
<p>Design specifications and details for all BMPs included on the plans?</p>	<p style="text-align: center;"><b>YES</b></p> <p>Although installed at the site, the sediment</p>

<b>Construction Project #1 Name: Niles Lincoln K-2 Elementary School (9.4 ac.) #3GC05027*AG</b>	
	<p>settling pond had a temporary riser pipe installed that was not detailed on the SWP3.</p> <p>The current edition of ODNR's <i>Rainwater and Land Development Manual</i> is referenced for BMP specification requirements.</p>
Maintenance requirements specified?	<p><b>YES</b></p> <p>A brief description of maintenance requirements and their frequency of completion are listed under storm water pollution prevention plan notes, but no other information is available such as the responsible party, etc.</p>
Have any NOVs or other enforcement actions issued for this site. <i>Obtain copies of NOVs. If none, why not?</i>	<p><b>YES</b></p> <ul style="list-style-type: none"> <li>• January 17, 2012 – A NON was issued for offsite tracking of sediment, failure to install sediment settling ponds, failure to repair inlet protection, failure to perform inspections, and installing bioretention cells too early.</li> <li>• March 15, 2012 – A deficiency letter was issued for deficiencies that include the need to install baffles within the sediment settling pond, silt fence maintenance, failing inlet protection, lack of a concrete wash out pit, offsite tracking of sediment, and failure to perform inspections.</li> <li>• April 19, 2012 – A NON was issued for offsite tracking of sediment, failure to temporarily stabilize, the need to install baffles within the sediment settling pond, failing inlet protection, installing bioretention cells too early, and an offsite soil stockpile area.</li> <li>• June 1, 2012 – A NON was issued for offsite tracking of sediment, failure to temporarily stabilize, the need to install baffles within the sediment settling pond, failing inlet protection, and an offsite soil stockpile area.</li> <li>• June 18, 2012 – A NON was issued for the failure to temporary stabilize, the need to install a baffle within the sediment settling pond, failing inlet protection, fuel storage tank maintenance, and installing the</li> </ul>

<b>Construction Project #1 Name: Niles Lincoln K-2 Elementary School (9.4 ac.) #3GC05027*AG</b>	
	<p>bioretention cells too early.</p> <ul style="list-style-type: none"> <li>• July 23, 2012 – A NON was issued for the failure to temporarily stabilize, the need for baffles within the sediment settling pond, failure to install a concrete washout pit, and installing the bioretention cells too early.</li> <li>• August 13, 2012 – A NON was issued for the failure to temporarily stabilize, the need to install baffles within the sediment settling pond, failure to install a concrete washout pit, installing the bioretention cells too early, and the offsite tracking of sediment.</li> </ul>

<b>Construction Project #2 Name: Niles Bonham Elementary School (8.9 ac.) #3GC05028*AG</b>	
BMPs adequately incorporated into the plan to address erosion control, sediment control, and housekeeping?	<p style="text-align: center;"><b>YES</b></p> <ul style="list-style-type: none"> <li>• BMPs used during construction include inlet protection, silt fence, temporary sediment settling ponds, construction entrance, rock channel protection, and temporary stabilization. The BMPs appeared to be sufficient enough to prevent sediment laden runoff from entering “waters of the State.”</li> </ul> <p><b>Room For Improvement:</b></p> <ul style="list-style-type: none"> <li>• The SWP3 does not include a cover page or title identifying the name and location of the site, the name and contact information of all construction site operators, the name and contact information for the person responsible for authorizing and amending the SWP3.</li> <li>• The SWP3 does not include a log documenting grading and stabilization activities as well as amendments to the SWP3, which occur after construction activities commence.</li> </ul>
Design specifications and details for all BMPs included on the plans?	<p style="text-align: center;"><b>YES</b></p> <p>The current edition of the <i>Rainwater and Land Development Manual</i> is referenced for BMP specification requirements.</p>
Maintenance requirements specified?	<p style="text-align: center;"><b>YES</b></p> <p>A brief description of maintenance requirements and their frequency of completion</p>

**Construction Project #2 Name: Niles Bonham Elementary School (8.9 ac.) # 3GC05028\*AG**

are listed under storm water pollution prevention plan notes, but no other information is available such as the responsible party, etc.

Have any NOV's or other enforcement actions been issued against this site?  
*Obtain copies of NOV's. If none, why not?*

**YES**

- June 29, 2011 – A NON was issued for the failure to install sediment settling ponds, failure to install inlet protection, failure to install a construction entrance, failure to maintain silt fence, failure to temporarily stabilize.
- August 26, 2011 – A deficiency letter was issued for deficiencies that include the failure to maintain inlet protection and temporarily stabilize.
- October 17, 2011 – A NON was issued for failure to install a construction entrance, failure to maintain silt fence, failure to install inlet protection, failure to install sediment settling ponds, and the failure to temporarily stabilize.
- January 17, 2012 – A NON was issued for the failure to install outlet protection on sediment settling ponds, failure to install inlet protection, the offsite tracking of sediment, the failure to temporarily stabilize.
- February 22, 2012 – A NON was issued for failure to treat sediment-laden runoff prior to discharge, failure to install inlet protection, fuel storage tank maintenance, failure to maintain silt fence, failure to temporarily stabilize, installing the bioretention cells too early.
- March 15, 2012 – A deficiency letter was issued for deficiencies that include the failure to install outlet protection, failure to install a concrete wash out pit, failure to properly dispose of solid waste, failure to install inlet protection, and failure to temporarily stabilize.
- April 20, 2012 – A deficiency letter was issued for deficiencies that include the

**Construction Project #2 Name: Niles Bonham Elementary School (8.9 ac.) # 3GC05028\*AG**

	<p>failure to install a concrete washout pit, failure to have a spill kit at the fuel tank, failure to install inlet protection, failure to temporarily stabilize, failure to have a properly functioning dewatering device, failure to install a construction entrance, and the offsite tracking of sediment.</p> <ul style="list-style-type: none"> <li>• June 1, 2012 – A deficiency letter was issued for deficiencies that include the failure to install a concrete wash out pit, failure to install inlet protection, and the failure to temporarily stabilize.</li> <li>• June 22, 2012 – A deficiency letter was issued for deficiencies that include the failure to install a concrete wash out pit, failure to install inlet protection, failure to temporarily stabilize, failure to maintain the dewatering device, failure to maintain silt fence, and installing the bioretention cells to early.</li> <li>• July 20, 2012 – A deficiency letter was issued for deficiencies that include the failure to install inlet protection, failure to temporarily stabilize, installing the bioretention cells to early, and the offsite tracking of sediment.</li> <li>• August 15, 2012 – A deficiency letter was issued for deficiencies that include the failure to install inlet protection, installing the bioretention cell too early, the offsite tracking of sediment, and the failure to temporarily stabilize.</li> </ul>
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Now, select up to 3 projects from the NOI list that have been completed since the date that the community enacted its post-construction ordinance. Pick projects from a variety of project types (commercial, residential, institutional) and sizes (< 5 acres and 5 or more acres). If one exists, review a public project to ensure that plans included provisions for post-construction BMPs.

<b>Post-Construction Project #1 Name: Niles Bonham Elementary School (8.9 ac.) # 3GC05028*AG</b>	
Date that project was accepted by community or otherwise deemed "completed"	N/A (Site is still active)
Were post-construction BMPs provided for all drainage areas associated with the developed site?	YES

<b>Post-Construction Project #1 Name: Niles Bonham Elementary School (8.9 ac.) # 3GC05028*AG</b>	
List the post-construction BMPs provided:	DA #1: Western portion of the site (1.55 ac.) Bioretention Cell  DA #2: Eastern portion of the site (10.0 ac.) Dry Extended Detention Basin
Design specifications and details for all BMPs included on the plans?	<b>YES</b>  Design specifications are provided for the bioretention cell and the dry extended detention basin.
Were post-construction BMPs selected appropriate for their drainage areas, site and soil conditions?	<b>YES</b>
Did the community verify the installation of post-construction BMPs per the approved plan at the time the project was completed?	<b>N/A</b> (Site is still active)
Does MS4 have a copy of the long-term maintenance plan?  Who does the plan say is responsible for long-term maintenance?  Has the MS4 conducted any long-term maintenance inspections or collected any long-term maintenance inspection reports from the responsible party? <i>Obtain copy of latest inspection report.</i>	<b>YES</b>  The City of Niles School District  <b>N/A</b> Niles Bonham Elementary School is still an active site.

<b>Post-Construction Project #2 Name: Tru-Niles Greenway Bike Path (13.14 ac.) 3GC02307*AG</b>	
Date that project was accepted by community or otherwise deemed "completed"	<b>N/A</b> (Still active)
Were post-construction BMPs provided for all drainage areas associated with the developed site?  List the post-construction BMPs provided:	<b>NO</b>  <b>N/A</b>
Design specifications and details for all BMPs included on the plans?	<b>NO</b>
Were post-construction BMPs selected appropriate for their drainage areas, site and soil conditions?	<b>N/A</b>
Did the community verify the installation of post-construction BMPs per the approved plan at the time the project was completed?	<b>N/A</b>

<b>Post-Construction Project #2 Name: Tru-Niles Greenway Bike Path (13.14 ac.) 3GC02307*AG</b>	
Does the MS4 have a copy of the long-term maintenance plan?	NO
Who does the plan say is responsible for long-term maintenance?	N/A
Has the MS4 conducted any long-term maintenance inspections or collected any long-term maintenance inspection reports from the responsible party? <i>Obtain copy of latest inspection report.</i>	NO

## CONSTRUCTION FIELD REVIEW WORKSHEET

**Name of MS4:** City of Niles  
**MS4 Permit No:** 3GQ00002\*BG

<b>Name of Site:</b> Niles Lincoln K-2 Elementary School (9.4 ac.)	
<b>Location:</b> 960 Frederick Street	<b>NPDES Permit #:</b> 3GC05027*AG
<b>Date of Inspection:</b> September 5, 2012	
<b>Name of Inspector:</b> Marcus Hollenbank, Trumbull SWCD	
<b>Others Present During Inspection:</b> Chris Moody, DSW, NEDO John Nemet, City of Niles Amy Reeher, Trumbull SWCD Sat Adlaka, ES&C International, LLP Siddharth Mistri, ES&C International, LLP	

1. Did MS4 inspector identify himself to the project superintendent or site foreman and state the purpose of his inspection?

NO

**The inspector failed to identify himself to the project superintendent or site foreman.**

2. Did the MS4 inspector ask if any amendments have been made to the SWP3 since his or her last inspection?

N/A

**The inspector failed to identify himself to the project superintendent or site foreman and as a result was unable to ask if any amendments have been made to the SWP3 since the last inspection.**

3. Did the MS4 inspector review the site inspection reports required of the developer once every 7 days and within 24 hours of a 0.5-inch or greater rainfall?

NO

**The inspector failed to identify himself to the project superintendent or site foreman and as a result was unable to review the site inspection reports required of the developer once every 7 days and within 24 hours of a 0.5-inch or greater rainfall.**

4. Did the inspector reference the approved SWP3 or use it as the basis of his or her inspection?

NO

**The inspector failed to reference the approved SWP3 or use it as the basis of his inspection. The City needs to ensure that the approved SWP3 is always referenced while conducting site inspections and that the inspector is aware of any amendments which may have been made since the last site visit.**

5. Did the inspector follow-up on any compliance issues found during his or her last inspection?

NO

**The inspector performed an inspection and did not follow-up on any compliance issues found during his last inspection. Compliance issues and corrective actions,**

including a compliance schedule, must be communicated with the project superintendent or site foreman.

6. Compliance issues identified by inspector during this inspection:

- Various portions of the site were idle and needed to be temporarily stabilized.
- The construction entrance to the site was not being utilized.
- Offsite tracking of sediment was occurring.
- No geotextile was placed underneath the stone.
- The rock within the sediment settling pond must be repaired.
- The outlet rip-rap must be redressed.
- No concrete washout pit was installed and concrete washout was discharging offsite.
- The silt fence requires maintenance throughout the site.
- Improperly silt fence is installed.
- Inlet protection requires maintenance throughout the site.
- No silt fence has been installed along the northwestern portion of the site.
- The bioretention cell was installed too early in the construction sequence.
- Silt fence was incorrectly installed around the bioretention cell.

7. Deficiencies or NPDES violations not noted by the MS4 inspector during this inspection:

- Leachate was being discharge from the uncovered solid waste dumpster.
- Five gallon pails were turned upside down to drain the residual materials.

8. Did the MS4 inspector ask the project superintendent or site foreman to accompany him or her on the inspection?

**NO**

**The inspector failed to identify himself to the project superintendent or site foreman.**

9. Did the MS4 inspector recap his findings upon completion of his or her inspection?

**NO**

**The inspector failed to identify himself to the project superintendent or site foreman. The inspector did recap her findings with Ohio EPA upon completion of the inspection.**

10. Is the community planning on taking any enforcement actions based on the results of today's inspection? If so, what are those actions? *(NOTE: Ask community to send you a copy of the enforcement action.)* Did the inspector provide a deadline for corrective action? If so, provide details.

**YES**

**The inspector stated that a formal NON will be issued to the operator. Trumbull SWCD issued a September 7, 2012 NON.**

## CONSTRUCTION FIELD REVIEW WORKSHEET

**Name of MS4: City of Niles**

**MS4 Permit No: 3GQ00002\*BG**

<b>Name of Site:</b> Niles Bonham Elementary School (8.9)	
<b>Location:</b> 120 East Margaret Avenue	<b>NPDES Permit #:</b> 3GC05028*AG
<b>Date of Inspection:</b> September 5, 2012	
<b>Name of Inspector:</b> Marcus Hollenbank, Trumbull SWCD	
<b>Others Present During Inspection:</b> Chris Moody, DSW, NEDO John Nemet, City of Niles Amy Reeher, Trumbull SWCD Sat Adlaka, ES&C International, LLP Siddharth Mistri, ES&C International, LLP	

1. Did MS4 inspector identify himself to the project superintendent or site foreman and state the purpose of his inspection?

**NO**

**The inspector failed to identify himself to the project superintendent or site foreman.**

2. Did the MS4 inspector ask if any amendments have been made to the SWP3 since his or her last inspection?

**N/A**

**The inspector failed to identify himself to the project superintendent or site foreman and as a result was unable to ask if any amendments have been made to the SWP3 since the last inspection.**

3. Did the MS4 inspector review the site inspection reports required of the developer once every 7 days and within 24 hours of a 0.5-inch or greater rainfall?

**NO**

**The inspector failed to identify himself to the project superintendent or site foreman and as a result was unable to review the site inspection reports required of the developer once every 7 days and within 24 hours of a 0.5-inch or greater rainfall.**

4. Did the inspector reference the approved SWP3 or use it as the basis of his or her inspection?

**NO**

**The inspector failed to reference the approved SWP3 or use it as the basis of his inspection. The City needs to ensure that the approved SWP3 is always referenced while conducting site inspections and that the inspector is aware of any amendments which may have been made since the last site visit.**

5. Did the inspector follow-up on any compliance issues found during his or her last inspection?

**NO**

**The inspector performed an inspection and did not follow-up on any compliance issues found during his last inspection. Compliance issues and corrective actions,**

including a compliance schedule, must be communicated with the project superintendent or site foreman.

6. Compliance issues identified by inspector during this inspection:

- Inlet protection was failing, not installed, and improperly on storm sewer inlets throughout the site.
- Offsite tracking of sediment was occurring.
- A construction entrance was not installed at the site.
- Leachate was discharging from an uncovered solid waste dumpster.
- No tarp has been placed over the material stockpiles located in the concrete mix area that are exposed to precipitation events.
- The secondary containment around the gasoline tank is filled with gasoline contaminated water.
- Idle areas must be temporarily stabilized.
- No inlet protection was installed on the old storm sewer inlet.
- Concrete wash out pit is not installed in the concrete mix area.
- No silt fence has been northeast corner of the site.
- The sediment settling pond riser pipe is discharge faster than the minimum 48-hour drain time.
- Trash and solid waste materials are not being properly being disposed of within a solid waste dumpster.
- A diversion channel was constructed to divert runoff directly into the bioretention cell.
- The bioretention cell was installed too early in the construction sequence.

7. Deficiencies or NPDES violations not noted by the MS4 inspector during this inspection:

- A contractor was washing out concrete within the mix area in an area that was discharging directly to the storm sewer system. The inspector failed to immediately notify the contractor to eliminate the unpermitted discharge.

8. Did the MS4 inspector ask the project superintendent or site foreman to accompany him or her on the inspection?

**NO**

**The inspector failed to identify himself to the project superintendent or site foreman.**

9. Did the MS4 inspector recap his findings upon completion of his or her inspection?

**NO**

**The inspector failed to identify himself to the project superintendent or site foreman. The inspector did recap her findings with Ohio EPA upon completion of the inspection.**

10. Is the community planning on taking any enforcement actions based on the results of today's inspection? If so, what are those actions? *(NOTE: Ask community to send you a copy of the enforcement action.)* Did the inspector provide a deadline for corrective action? If so, provide details.

**YES**

**The inspector stated that a formal NON will be issued to the operator. Trumbull SWCD issued a September 7, 2012 NOV.**

Additional Comments:

- **The September 7, 2012 NOV failed to document that that concrete washout was being performed by a contractor in an area that was resulting in a discharge to the storm sewer system.**