CITY OF ALBION
ORDINANCE 2013-12

AN ORDINANCE TO AMEND THE CITY OF ALBION, MICHIGAN CODE OF ORDINANCES; TO ADD A NEW SECTION TO CHAPTER 86, SECTION 173 THROUGH STORMWATER MANAGEMENT REGULATIONS TO PROVIDE AUTHORITY FOR STORMWATER MANAGEMENT ENFORCEMENT, AND TO REPEAL ALL OTHER ORDINANCES OR PARTS THEREIN INCONSISTENT OR CONTRARY TO THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE FOR THIS ORDINANCE.

Purpose and Finding:

Chapter 86 regulates utilities. Currently only Section 171 regulates stormwater. (*1984, § 9-1*). There is a growing public interest in defining the standards and expanding the protective measures pertaining to stormwater runoff in the City of Albion. This ordinance specifies the stormwater management regulations which will be applied to protect the local environment as well as property owners from the hazards of stormwater sources and to offer relief to those areas and those residents who have been injured by stormwater. These regulations are also required at the state level per the Department of Environmental Quality (DEQ).
The purpose of this article is to protect the public health, safety and welfare of city residents and to protect property values, quality of life, and natural systems relating to storm water runoff control and management. The city finds it is a matter of public concern and benefit to protect water bodies and properties within the city and to reduce the future need for public expenditures relating to flooding, water quality, and storm water system maintenance. Both the quality and quantity of storm water runoff are a matter of public concern.

Sec. 1 - Definitions

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context in which they are used specifically indicates otherwise.

Best Management Practices (BMPs) - A practice, or combination of practices and design criteria that comply with the Michigan Department of Environmental Quality's Guidebook of BMPs for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this article (including, but not limited to minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the city engineer, and, when applicable, the standards of the Calhoun County Drain Commissioner.

Detention Basin - A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a predetermined rate. A detention basin may drain completely after a storm event, or it may be a pond with a fixed minimum water

Runoff - The portion of precipitation which does not infiltrate or percolate into the ground, but rather moves over the land, eventually reaching a body of water, wetland, or low area.

Secondary Drainage System - Facilities, structures, and areas which convey, store or receive runoff from storms up to a 100-year frequency without causing serious damage to adjacent properties.

Sediment - Any solid particulate matter, both mineral and organic, which has been moved from the site of origin by erosion, is being transported by water, is in suspension in water, or has been deposited in a body of water, wetland or floodplain.

Site - Any tract, lot, or parcel of land or combination of tracts, lots, or parcels, which compose an area proposed for development and/or earth change.

Soil Erosion - The stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, and enabling formation of new sedimentary deposits.

Storm Water Facility - Methods, structures, BMP's, areas, or related items, which are used to control, store, receive, infiltrate, or convey runoff.

Storm Water Runoff - The runoff and drainage of precipitation resulting from rainfall, snowmelt or other natural event or process.

Storm Water Management Plan - Maps and written information which describe the way in which stormwater will be controlled, both during and after construction.

Watercourse - Any waterway or other body of water having reasonably well defined banks, including rivers, streams, creeks and brooks, whether continually or intermittently flowing; and lakes and ponds, as shown on the official maps of the Michigan Department of Natural Resources and Calhoun County Drain Commissioner.

Wetland - Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation and/or aquatic life. Also known as a bog, swamp, marsh, etc. (from § 324.30301 of Michigan Complied Laws, Part 303 of NREPA, Wetlands Protection). The Michigan Department of Environmental Quality is the authority on the presence and regulatory status of wetlands. (Amend. Of 1-13-2003(2), § 1-3)

Sec. 2 - Performance Standards

(1) The requirements of these Performance Standards shall apply to all new and redeveloped sites with projects that fall under Site Plan Review. These requirements shall apply to all public and private sites within the City, regardless of whether the stormwater outlet(s) from the site discharge to a designated county drain, City storm

sewer system, waters of the state or any other types of conveyance. These requirements shall also apply to sites under the control of public agencies such as schools, Federal and State governmental facilities, and other entities that might not otherwise be subject to site plan review procedures and requirements as set forth in other sections of the City's codified ordinances. The applicant, in his plan submittals for Site Plan Approval, shall demonstrate compliance with these performance standards and shall be responsible for evaluating the elected best management practices.

(2) Stormwater management areas and facilities, whether on-site or off-site, shall be designed, constructed, and maintained to prevent flooding and protect water quality.In order to be approved, all stormwater management plans must meet the following performance standards:

(a) The design of retention stormwater management systems shall be based upon a 25-year frequency 24-hour duration storm event.

(b) Runoff leaving the site shall be controlled to a non-erosive velocity, both during and after construction.

(c) Minimum Treatment Volume. A minimum treatment volume is established to provide pollutant removal (pre-treatment) for common precipitation events. The minimum treatment volume standard shall be one half inch of runoff from the entire site.

(d) Channel Protection Criteria. Channel protection criteria is established to protect stream channel bed and banks from excessive flows. The channel protection criteria is to maintain post-development site runoff volume and peak flow rate at or below existing levels for all storms up to the 2-year, 24-hour event. "Existing levels" means the runoff flow volume and rate for the last land use prior to the planned new development or redevelopment.

(e) Riparian Buffers. A riparian buffer shall be considered for lands adjacent to streams and rivers and wetlands which are contagious to these natural features. Riparian buffers shall also be considered for noncontiguous wetlands if the full extent of the wetland as a natural feature is five (5) acres or greater.

Where applicable the following guidelines shall apply. The riparian buffer shall serve as a natural conservation area, where the principle best management practice is vegetative filtering and the conservation of trees, shrubs and herbaceous vegetation. The riparian buffer is a storm water management measure to control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, sediment and runoff The riparian buffer shall begin at the edge of the stream bank of the active channel or the wetland boundary. The riparian buffer shall be composed of two distinct management zones in order to proscribe both permitted and restricted uses that provide progressive best management practices for storm water quality protection.

a. Zone 1 - Stream Side Protection. Zone 1 begins at the edge of the stream bank

or wetland and extends 25 feet upgradient and perpendicular to the protected natural feature. Zone 1 shall contain undisturbed natural vegetation. Allowable uses within this zone are restricted to flood control structures, utility right of ways, foot paths, and road crossings where permitted. Highly restricted vegetative trimmings and removal of woody brush/trees is allowed to provide a limited viewshed of the protected natural feature.

b. Zone 2 - Outer Zone. The Outer Zone (Zone 2) begins at the outer limit of the Stream Side Protection Zone (Zone 1) and extends 25 feet. Allowable uses within the Outer Zone are biking or hiking paths, approved storm water management facilities, approved recreational facilities, and removal of mature tree cover. Shrub and herbaceous ground cover are to be protected from disturbance.

(f) Riparian Buffer Permitted Activities. The following actions are permitted within Zones 1 and 2, provided the activity is undertaken in accordance with recognized best management practices. Other regulatory restrictions may apply, such as actions that may require separate federal, state or local permit or permit-by-rule provisions.

a. Stream restoration projects conducted with advice and guidance of the county conservation district.

b. Removal of individual trees that are in danger of falling, causing damage to structures, or causing blockage of the stream.

c. Timber cutting techniques approved by state agencies, under advice and guidance, for purposes of forest management due to pest infestation, disease or threat from fire.

d. Riparian buffers are intended to grow into their vegetative target state naturally, however active methods to enhance successional process, reforestation or to ensure preservation and propagation of the buffer are allowed.

(g) Riparian Buffer Width. The width of each Zone may need to be increased if steep slopes are within close proximity of the protected natural feature. Guidelines of the US Geological Service may be used to determine the required equivalent length of vegetative filter capacity needed for slopes in excess of 15%.

(h) Encouragement of voluntary measures. Lands adjacent to the outer edge of the Outer Zone (Zone 2) are hereby defined as riparian lands. Riparian property owners have a unique and critical role in protecting water quality, preserving critical natural features and accommodating wildlife whose survival depends upon water features and conservation corridors. For example, some studies suggest that riparian buffers of 150 feet may be required for certain Michigan threatened species to successfully move between larger conservation areas and maintain healthy breeding populations. Therefore, it is a policy of the City to educate, outreach and otherwise assist riparian

land owners in the implantation of additional voluntary storm water best management practices.

(3) Storm water storage facilities which protect water quality and prevent adverse flooding on-site and off-site shall be required for all sites of one acre or more. In order to improve the quality of stormwater runoff and reduce the discharge of sediment into wetlands, watercourses, roadways, structures and other property within, and downstream of the city of, the following techniques (a) through (f) and standards (g) through (i) shall be used:

(a) Infiltration of runoff provided that soils and groundwater conditions are suitable.

(b) Retention basins with a fixed minimum water elevation between runoff events (e.g., wet ponds).

(c) Detention basins which drain completely after a storm event (e.g., dry basins) but which discharge stormwater to wetlands or constructed basins which trap sediment carried by stormwater runoff.

(d) Detention basins which hold stormwater for more than 24 hours before completely draining to become a dry basin (Extended detention basins).

(e) Detention basins with a positive outlet shall be designed to hold runoff from a 10-year storm event, as a minimum. Retention basins without a positive outlet shall be designed to hold runoff from a 100-year storm event.

(f) Natural watercourses shall not be dredged, cleared of vegetation, deepened, widened, straightened, stabilized or otherwise altered without approval from the Michigan Department of Natural Resources and Calhoun County Drain Commissioner.

(g) Discharge of runoff from commercial and industrial sites which may contain oil, grease, toxic chemicals, or other polluting materials shall be prohibited unless approval has been obtained from the Michigan Department of Natural Resources and Calhoun County Drain Commissioner.

(h) The use of stormwater management areas and vegetated buffer areas as open space, recreation, and conservation areas shall be encouraged.

(i) *Right of entry; furnishing information.* Representatives of the city, State of Michigan DEQ, and Calhoun County Drain Commission shall have the right to enter at any reasonable time any property served by a storm water drainage facility for inspections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the drainage system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of unlawful discharge.

(4) Pipes, conduits, ditches, drains, or other conveyance facilities shall not discharge directly to the following receiving waters without providing the minimum treatment volume and channel protection criteria:

(a) Any natural watercourses, including lakes, ponds, rivers and streams.

(b) Wetlands with unique or natural wildlife or habitat characteristics as defined by a professional wetlands delineation specialist, biologist or ecologist.

(c) Wetlands which are within a 500 foot distance of any natural lake or pond.

(d) Wetlands which are within a 100 foot distance of any river or stream.

(5) Discharges from storm water conveyance facilities shall be routed through swales, vegetated buffer strips, stormwater basins, hydrologically isolated wetlands, and other facilities designed to decrease runoff velocity and volume, allow for natural infiltration, allow suspended solids to settle, and remove pollutants.

(6) If wetlands are proposed for stormwater detention, runoff must be diffused to non-erosive velocities before it reaches the wetlands.

Sec. 3 - Monitoring and Access of discharges

(1) As a condition to having a direct connection to waters of the State or to the municipal storm sewer system an industrial or commercial facility shall permit the City to enter and inspect at reasonable times and in a reasonable manner to determine compliance with this document. Such entry and inspection may include but not be limited to sampling, analysis, dye testing, smoke testing, remote video inspection (TV-ing), and examination and/or copying of records that are required by this document to be maintained.

(2) The City may require a commercial or industrial facility that discharges into the stormwater system to install devices as are reasonably necessary to monitor and/or sample the facility's stormwater discharge. In the alternative, and at the City's option, the City may install such devices. All such devices shall be calibrated to ensure accuracy.

(3) The City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining entry to a facility if the City has been refused access to any part of the premises from which stormwater originates and/or is discharged, and if the City is able to demonstrate probable cause to believe that there may be a violation of this document, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this document or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community. In addition, or in the alternative, the City, if denied entry, may terminate

the facility's connection to the stormwater system. Such termination must be preceded by written notice to the facility of such intent.

Sec. 4 - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices

(1) If the owner or operator of a facility does not provide reasonable protection from illicit discharge, the City may require best management practices (BMP's) and/or stormwater pollution prevention plans (SWPPP's) for a facility that discharges, or is reasonably suspected of discharging, pollution into the stormwater system, at the facility's expense. A BMP shall be consistent with the guidelines set forth in the most current MDEQ Guidebook of BMP's for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this document, as approved by the Department. A BMP and/or a SWPPP, which may be imposed even if the facility is subject to a NPDES permit, shall be communicated in writing by the City to the facility.

Sec. 5 - Notification of spills

(1) Notwithstanding other requirements of law, as soon as any person responsible for a facility, or responsible for emergency response for a facility, has information of a release, or suspected release, of pollutants into the stormwater system, said person shall take all reasonable and necessary steps to discover, contain, and clean up such release, including, if necessary, contacting emergency response agencies. Said person shall also notify the City of the discharge either in person, by telephone, or by facsimile as soon as possible, but in no event more than six hours after learning of the release.

(2) All spill notifications provided to the City in person or by telephone shall be documented by said person in writing and mailed to the City Manager, at 112 W. Cass St., Albion, MI 49224, within five (5) business days of said incident. Such written notice shall specify the following: the composition of the discharge and the cause thereof; the exact date, time, and estimated volume of the discharge; all measures taken to clean up the discharge, and all measures proposed to be taken to reduce and prevent any recurrence; the name and telephone number of the person making the report, and the name of the person who may be contacted for additional information on the matter. The person shall also provide the City Manager with copies of all documents the person submits to state or federal agencies relating to the same release.

Sec. 6 - Enforcement

(1) Whenever the City finds that a person has violated a provision of this ordinance, the City may order compliance by issuing a written notice of violation to the responsible person. Such notice may require one or more of the following:

a. The performance of monitoring, analyses, and reporting;

b. The elimination of an illicit connection or discharge;

City may petition the appropriate court for injunctive relief restraining the person from activities which would create further violations, or compelling the person to perform necessary abatement or remediation.

Sec. 8 - Violations deemed a public nuisance

(1) In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this document is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

Sec. 9 - Existing Ordinances

(1) All Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

Sec. 10 - Severability

(1) Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court of competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

This ordinance shall take effect on October 3, 2013 after publication in the Albion Recorder.

First Reading:
September 3, 2013

Ayes 7
Nays 0
Absent 0

Second Reading & Adoption
September 16 ,2013

Ayes 7
Nays 0
Absent 0

Jill Domingo

Jill Domingo,
City Clerk