

**CHAPTER 907
Drainage Ditches**

**907.01 Screening or planting permit;
fee.**

**907.02 Storm drainage upgrade
program.**

**907.03 Lot storm drainage relief
program.**

CROSS REFERENCES

Driveway drainage - see S.U. & P.S. Ch. 903

Drainage and sanitation - see BLDG. Ch. 1337

Grading and drainage - see BLDG. Ch. 1363

907.01 SCREENING OR PLANTING PERMIT; FEE.

(a) Any resident or owner wishing to plant or establish any type of screening or planting within any area of their property which is subject to an easement granted to or in favor of the City for drainage purposes shall submit a plan for such screening or planting to the Director of Engineering. Such plan shall be drawn to scale and contain the following details:

- (1) The dimensions of the property subject to the easement;
- (2) The area of the easement;
- (3) The location of the proposed plantings within the easement area;
- (4) The types and kinds and size of the proposed plants within the easement area.

(b) The Director of Engineering shall review the plans and may request review of the plans by any other department of the City. The Director of Engineering after such review may approve or reject the plans in whole or in part and thereafter shall issue a permit for the plantings and/or screening as he approves. (Ord. 1994-132. Passed 6-2-94.)

(c) The fee for such permit shall be five dollars (\$5.00) payable to the City and delivered to the Director of Engineering. The Director of Engineering shall record said permits. The filing fee for recording the same shall be paid by the owner or resident to whom the permit is issued.

(Ord. 1994-149. Passed 7-7-94.)

(d) Any person found responsible for placement of plantings of any type within an area of property subject to an easement to or in favor of the City for drainage purposes without a permit as described herein shall be fined not more than one hundred dollars (\$100.00) for each individual item planted.

(e) The City shall not be responsible to repair or replace any screening or planting placed within an area subject to an easement for drainage purposes whether planted or erected pursuant to this section or otherwise if the removal of the same is necessary by the City or its agent for the cleaning or reconstruction of the drainage ditch.
(Ord. 1979-186. Passed 12-6-79.)

907.02 STORM DRAINAGE UPGRADE PROGRAM.

(a) A residential property owner of the City may contact the Department of Public Service should the property owner wish to have the front footage storm drainage ditch upgraded, subject to the approval of the Director of Engineering. The Director of Public Service shall schedule the order in which the upgrades are completed and his determination shall be final. The Director of Engineering may declare certain areas and/or individual properties of the City ineligible for this program.

(b) Upgrading of the front footage of the storm drainage ditch shall include the installation of a twelve inch in diameter plastic pipe and catch basin. A pipe greater than twelve inches in diameter may be installed if determined necessary by the Director of Engineering.

(c) The plastic pipe will be connected to the storm water outlet and all hookups for the residential structure. (Ord. 1998-103. Passed 4-16-98.)

(d) The costs to the property owner for such upgrading to be performed by the City or its agents as described in subsections (a) to (c) hereof shall be fifteen dollars (\$15.00) per lineal foot of lot frontage as determined by the Cuyahoga County Tax Map. No project may commence after January 1, 2011, unless Council authorizes the continuation of this program for up to an additional three years after consideration of the amount to charge property owners in light of changes in construction costs and the historical and projected net costs of the program to the City.
(Ord. 2008-97. Passed 7-3-08.)

(e) Prior to the start of any individual upgrade, the property owner shall be notified of the total cost which he/she will be responsible for and a copy of such notice signed by the property owner and acknowledging his/her agreement to pay within the terms of this section must be received by the Director of Finance. Property owners must pay the costs as described in subsection (d) hereof in one lump sum within sixty days of receiving a notice of completion of the job from the City. Payments shall be made to the Finance Department.
(Ord. 1998-103. Passed 4-16-98.)

(f) Should a property owner fail to pay the sums as set forth hereinabove and as agreed to by the property owner prior to the commencement of action under this section, the Director of Finance shall be authorized without further ordinance, resolution or action of Council to enter a lien upon the tax duplicate against the lots or lands effected by the improvements as set forth herein and shall certify to the County Auditor for recording such lien in the following manner:

- (1) The cost of the improvement shall be divided into eight semi-annual payments and paid with the tax payments collected on said schedule.

- (2) The Director of Finance shall add to the amount due interest at a rate corresponding to the cost of City funds as projected over the time period for the assessment, but in no event shall the interest rate be less than three percent (3%) per annum or more than twelve percent (12%) per annum. (Ord. 2001-4. Passed 3-1-01.)

(g) Whoever violates any provisions of this section shall be fined not more than five hundred dollars (\$500.00) per day and each day's violation shall constitute a separate offense. Nothing herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy a violation. (Ord. 1998-103. Passed 4-16-98.)

907.03 LOT STORM DRAINAGE RELIEF PROGRAM.

(a) The Director of Engineering may identify lots within the City which are in need of storm drainage relief based on the following criteria:

- (1) The causes of storm drainage issues for which relief is desired are related to the original design and construction of the developments on the properties and not related to changes in the property and its topography by individual owners of lots of record since the original construction on the property;
- (2) That the storm drainage problem for which relief is desired cannot be attributed, based on engineering analysis, to actions by individual property owners as opposed to the original developer or the natural topography of the area for which relief is requested; (Ord. 2000-87. Passed 5-18-00.)
- (3) The benefit service area shall be a minimum of three parcels; (Ord. 2008-97. Passed 7-3-08.)
- (4) The cause of the lot drainage problem cannot be attributed to a single entity;
- (5) Any and all easements or rights of way from all affected property owners shall be made available at no cost to the City; and
- (6) That all affected property owners upon which the relief program is determined necessary by the City Engineer shall agree to the proposed remediation and the cost sharing as set forth in this section. (Ord. 2000-87. Passed 5-18-00.)

(b) The Mayor, based upon a determination by the Director of Engineering, shall have final approval of all such projects and shall schedule the order in which the work is completed by the City or its agents and his determination shall be final. Based upon findings by the Director of Engineering and other analysis as appropriate, the Mayor may declare certain areas and/or individual properties of the City ineligible for this program.

(c) The cost to the individual property owners for their assessment for the private property benefit for such relief as described above shall be fifteen dollars (\$15.00) per lineal foot of the installed improvement. All applications for such projects shall be filed no later than the close of business on December 31, 2009. (Ord. 2008-97. Passed 7-3-08.)

(d) Prior to the start of any work, the affected property owners shall be notified of the total cost for which they will be responsible and a copy of such notice signed by the property owners and acknowledging their agreement to pay within the terms of this section must be received by the Director of Finance. Property owners shall pay in three annual installments with interest on the unpaid amount due at the same rate or rates of interest as shall be borne by securities to be issued in anticipation of the collection of the total of the unpaid amount due, provided the property owner may pay the total amount due in cash within thirty days after receiving a notice of completion of the job.

(e) Should a property owner fail to pay as set forth herein, the City shall place said monies due as a lien on the property owner's tax duplicate.

(f) All affected property owners shall be required to sign a joint agreement with the City setting forth the terms and conditions contained in this section and further providing that the property owners shall be responsible for all future maintenance and repairs to the system after its installation. Such agreement shall be in a form so that, if the City elects to do so, it can be recorded on the records of the subject property with the County Recorder of Cuyahoga County.

(g) The application of this program to any particular parcel within the City shall not create a right in other property owners regarding a similar application. The number of applications that may be approved in any year during the term of this section shall be limited by the funds available as established in the annual budget by Council, the availability of City workers for construction of the project, the review of each application by the Director of Engineering, and the discretion of the Mayor in establishing the priority and scheduling of projects.
(Ord. 2000-87. Passed 5-18-00; Ord. 2004-74. Passed 6-3-04.)