



# City of Mount Vernon, Ohio Stormwater Maintenance Service District Rules and Regulations

Draft Report for Public Comment  
Stormwater Utility  
August 5, 2021

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## Introduction

In accordance with Chapter 920 of the Mount Vernon Code of Ordinances, the Utility Commission has established the following Maintenance Area Rules and Regulations to provide for the implementation of the provisions of Chapter 920 of the Code and ensure proper ongoing operation and maintenance of privately owned Stormwater Control Measures.

### 1. Frequently Used Terms

Stormwater Control Measures (SCM): Schedule of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and to control stormwater volume and rate. This includes practices to control runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage. (From City Code 920.01)

Code of Federal Regulations (CFR): The codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government

City: The City of Mount Vernon, Ohio 43050

City Code: The Codified Ordinances of the City of Mount Vernon, Ohio

Maintenance Inspection: A maintenance inspection that is performed when the time allotted to address a non-emergency stormwater management issue that is on private property has expired as outlined to the owner in the letter sent through certified mail, or an email, after the Secondary Maintenance inspection identified deficiencies.

Emergency Repairs: Improvements needed at a SCM where the malfunction or other immediate need for maintenance such could result in potential loss of life or property. (From City Code 920.30)

Inspection and Maintenance Plan: Document which identifies the SCMs under the responsibility of the owner, the drainage area served by each SCM, and a schedule of inspection and maintenance for each SCM. (From City Code 920.21)

Inspection Report: A summary of findings generated by the City Engineer or his/her representative summarizing the field findings following inspection of one or many SCMs. The Inspection Report summarizes the status of maintenance and repair and identifies areas of deficiency. Authority to perform inspections is provided in City Code 920.30

Maintenance Area: A developed parcel, or group of parcels, which owns but is unable to properly operate and maintain the Stormwater Control Measures present on their parcels, requiring an agreement for City operation and maintenance with full reimbursement to the City for expenses incurred.

Maintenance Enforcement Procedures: Processes to enforce the rules and regulations applicable to non-emergency Stormwater Control Measures through corrective actions if deemed necessary.

May: is permissive, allowed but not obligatory.

Municipal Separate Storm Sewer System (MS4): A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that are:

- (1) Owned or operated by the municipality
- (2) Designed or used for collecting or conveying solely stormwater,
- (3) Which is not a combined sewer, and
- (4) Which is not part of a publicly owned treatment works.

Operations and Maintenance Agreement: Document required to provide guidance on how to operate and maintain a Stormwater Control Measure. This document is an agreement between the City of Mount Vernon and the owner of the SCM. A copy of this document is attached to the property deed. (From City Code 920.21)

Owner (or Responsible Party): Entity (individual, corporation, or other legal entity) in charge of the maintenance and operation of a Stormwater Control Measure.

Recommended Maintenance: Category assigned based on the experience and professional opinion of the inspector. Maintenance needs that are minor, able and likely to be easily completed by the owner of the SCM.

Required Maintenance: Category assigned based on the experience and professional opinion of the inspector. Maintenance needs that require follow up to ensure that they are addressed. These needs could be repairs or items that are more difficult in nature, require monetary investment, could impact the overall function of the SCM.

Secondary Maintenance Inspection: The first maintenance inspection within a 2-week window after the time allotted to address a non-emergency stormwater management issue that is on private property has expired as outlined to the owner in the letter sent through certified mail, or an email.

Shall: is always mandatory and is not discretionary.

Should: is allowed but not obligatory, however, indicates strong suggestion.

## **2. Background of Maintenance Responsibilities**

### **2.1 City Role and Responsibility**

The City of Mount Vernon (City) is responsible for enacting rules for flood risk management and reducing water pollution from entering the stormwater. This responsibility comes directly from federal, state, and local regulations. The basis for municipal storm system regulation is the Clean Water Act (CFR Title 40, Part 122) which requires development of a permit program to regulate stormwater discharges. The City operates the stormwater system in accordance with a Municipal Separate Storm Sewer System (MS4) Permit from the Ohio EPA, in keeping with the Clean Water Act. The Permit requires that the City perform inspections of all post-construction SCMs, including those on private property.

System maintenance, including maintenance of SCMs, is a focus of the MS4 Permit as such maintenance is important to on-going system function. The Permit requires that the City inspect each SCM at least one time during each 5-year permit cycle. In keeping with permit

requirements, the City has established a schedule for inspection of all public SCMs as well as all SCMs on private property.

City Code also regulates developments to the storm system and as such requires that all developments, including commercial, industrial, and subdivisions, submit a Stormwater Management Plan to the City (City Code section 920.21). The plan must include both an Operations and Maintenance Agreement and an Inspection and Maintenance Plan which outline the responsibility of the owner for on-going maintenance and inspection as follows:

The Operations and Maintenance Agreement is an agreement between the City and the property owner. The agreement is recorded part of the property deed and identifies the owner for long term operations and maintenance. The agreement authorizes the City Engineer with the authority to enter the property with notice, to inspect and verify if maintenance is being performed.

An Inspection and Maintenance Plan is developed by the owner and approved by the City Engineer. This document provides a schedule of regular maintenance, a description of routine and non-routine maintenance tasks. The plan shall include a maintenance inspection checklist along with clear direction of required maintenance tasks.

These plans must be reviewed and approved by the City Engineer as part of final inspection for the development. Specific requirements pertaining to industrial/commercial, multi-family and subdivision developments are detailed in City Code sections 920.22, 920.23, and 920.24, respectively.

## **2.2 Stormwater Control Measures (SCM) Owner Responsibility**

The owner is responsible for ensuring that the private SCM on their property is maintained and functions properly. Maintenance shall include regular house-keeping activities, such as removing weeds and invasive vegetation or removing excess sediment or removing clogs from outlets. Regular maintenance (like keeping the oil changed in your car) helps to keep the SCM working and prevents costly future repairs due to issues like outlet system clogs, or failed spillways.

There may also be non-routine maintenance which is required periodically and may be more costly than typical routine maintenance. This non-routine maintenance is also the responsibility of the property owner and shall be included in the overall maintenance budget for the property. The Inspection and Maintenance Plan for your facility provides a list of routine maintenance required for each Stormwater Control Measure on your private property.

When substantial maintenance is needed to an existing SCM, such as, work on a SCM that changes the characteristics of the water retention/detention time, changes the water quantity or quality holding capacities such that the SCM would no longer be acceptable under the Ohio EPA and City regulations, changing the elevation or size of the outlet(s), changes to the up or downstream watershed such that the size of the SCM would no longer be acceptable under the Ohio EPA and City regulations. Where there is an earth disturbance greater than 600 square feet, changes are being made in basin characteristics or in discharge timing, or a modification is being made to the drainage area on the SCM, then the owner shall notify the City that this substantial maintenance is being made.

Owners are responsible for facilitating City inspections by providing access to SCMs no later than sixty (60) days before the work is scheduled to commence. Following inspections owners shall address identified maintenance or repair items in a timely manner. The Basic Inspection Checklist used as the basis for inspections on SCMs completed by the city can be referenced in Appendix C.

See City Code sections 920.24 for owner financial requirements.

### **3. Maintenance Service District**

As explained in section 2, the City has responsibility for the function of the overall stormwater system. Municipal responsibility includes maintenance and improvement of the storm system and control facilities located within public property or easement.

The maintenance of the system and Stormwater Control Measures (SCMs) on private property is the responsibility of the property owner or association of property owners (as outlined in the Operation and Maintenance Agreement with the City). The responsibility to maintain the control measures on a property transfers with the property deed.

If at any point, the owner is unable to perform such maintenance, the owner shall apply for maintenance service support from the City. The City requires submittal and approval of a written application to be designated as a Maintenance Service District. This agreement will transfer responsibility for operation and maintenance to the City with full reimbursement to the City by the owner for all specified expenses incurred.

#### **3.1 Maintenance Service District Creation**

The City of Mount Vernon will only provide maintenance on private SCMs located within an approved Maintenance Service District. Authority for development of a Maintenance Service District is derived from Ohio Law (ORC 6137.04) which authorizes a municipal authority to provide engineering and maintenance services on a drainage system on private property with agreed upon payment for services.

Figure 1 in Appendix A illustrates the voluntary and mandatory Maintenance Service Districts, which are described in this section. An overall flow chart for inspections, maintenance, and Maintenance Service Districts is also located in Appendix A

##### **3.1.1 Voluntary Maintenance Service Districts**

If the owner of a SCM is no longer viable, an application may be made on behalf of the former entity but must include approval from all parties required to pay the additional maintenance service fee. This would include all parties within a subdivision or watershed.

**Application Filed.** Maintenance Services Districts can be created through an application to the City Engineer which must be filled out by the owner, or organization, or group of individuals identified as being responsible for long-term operation and maintenance in the Operations and Maintenance Agreement.

Applications shall include a copy of the Operations and Maintenance Agreement, and the Inspection and Maintenance Plan. If such documents are not in the owner's files, any efforts to locate these documents by City Engineer will be reimbursed as part of the Administration Fee. If these documents cannot be located, the owner must have an Operations and Maintenance

Agreement and Inspection and Maintenance Plan developed and signed by all parties. The application can be found in Appendix B.

**Utility Commission Review.** The City Engineers office will review the application for completeness and provide a recommendation to the Utility Commission. This review will include any current maintenance issues, the estimated cost of ongoing maintenance, City administrative fees, and the risk associated with the potential future needs. A fee will be proposed by the City Engineer for a monthly charge to be levied to the parties within the Maintenance Service District. In instances where the City has been historically performing maintenance for the area, the City Engineer may include reimbursement for up to 5 years of past maintenance, providing proper documentation and presentation to the Utility Commission. The City Engineer may also propose a payment plan for the Maintenance Service District charges. An annual review of all of the Voluntary Maintenance Service Districts will be completed by the Utility Commission. Fees, costs forecasted, and adjustments made will be reviewed as well as a recommendation by the City engineer in coordination with the City Auditor.

**Service Charges.** Following thorough review of the application and proposed Maintenance Service District charges, the Utility Commission will approve or deny the applications. The assessed fee for service will be presented to the applicant along with a Maintenance Service Agreement for approval, and service charges will be included as part of the Stormwater Utility billing. This Maintenance Service Agreement will specify the fee and maintenance services to be provided. The fee and agreement may be updated on an annual basis.

### **3.1.2 Mandatory Maintenance Service Districts**

In cases where emergency repairs have been required by the City Engineer, the Engineer may also require that the owner enter into a Maintenance Service Agreement with the City. In this case, the Maintenance Service District is mandatory.

**Utility Commission Review.** Each Mandatory Maintenance Service District will be reviewed by the city engineer and then presented to The Utility Commission. The Utility Commission will review any recommendations by the City Engineer for inclusion into a Maintenance Service District. They will review any information provided by the City Engineer, the owner(s), or other interested parties and a recommendation will be made by the commission. An annual review of all of the Mandatory Maintenance Service Districts will be completed by the Utility Commission. Fees, costs forecasted, and adjustments made will be reviewed as well as a recommendation by the City engineer in coordination with the City Auditor.

**Determination of Cost.** The City Engineer will prepare for the Utility Commission an estimate of costs for the repairs and ongoing maintenance. If there are no Operations and Maintenance Agreements or Inspection and Maintenance Plans on record for the owner, and the owner is unable to produce them, the City Engineer will determine an appropriate fee for the creation of these documents so that proper ongoing care for SCMs is documented.

**Service Charges.** The Utility Commission will determine the appropriate service charge, and the duration of the service charge, based on the cost estimates provided by the City Engineer. The service charges will be billed monthly by the Stormwater Utility, which will be in addition to any other Stormwater charges.

### **3.1.3 Administration Fee**

Applicants shall pay an administration fee which shall reimburse the City for all consultants, contractors, internal expenses, staff time and other associated expenses incurred while developing supporting documents for the application to become a Maintenance Service District. This is an annual fee which may be rolled into the monthly service fee over each year of service. This fee paid will be used to fund all support services needed to complete in the Engineering Department.

### **3.1.4 Past Fines and Fees**

All past maintenance fines and Stormwater Utility fees must be paid at the time of application to become a Maintenance Service District. Fines shall not count toward the assessed fee for on-going maintenance efforts.

Fines and fees that cannot be paid at the time of application may be incorporated into the Maintenance Service Payment, at the discretion of the Utility Commission.

## **3.2 Maintenance Service District Charges and Billing Practices**

The assessed Maintenance Service District payments shall be included on the Stormwater Utility bill for all parties of the district, as specified in the application or agreement. The funds for Maintenance Service District shall be held in a separate funding account for each Maintenance Service District.

Funds collected will be utilized only to fulfill the agreed upon maintenance in the Maintenance Service District as specified in the application.

Billing rates shall be evaluated annually as part of the agreement renewal. Any funds that are in excess shall be corrected over the following 12-months. Any funds that are insufficient means that the City can no longer do any work unless there is an emergency. Emergency work needed will be completed with a possible 1% interest rate in this scenario.

Stormwater Utility funds shall not be used to fund the Maintenance Service District.

## **3.3 Maintenance Service District Fee Appeals**

All appeals pertaining to the Maintenance Service District payments shall be addressed to the Utility Commission.

The appeal process will be used for appeals by Maintenance Service District customers, to disagree with the status of maintenance, or to challenge the estimated cost of maintenance.

Appeals may be filed with the City Engineer, using the Stormwater Facility Maintenance Service District Customer Appeal Form (Appendix B). There is a \$250 application fee to begin the appeal. Only one appeal can be made per year per mailing address.

The Utility Commission will review the appeal and have 60 days to render a written determination. The determination shall be forwarded to the user by a letter sent through certified mail, or an email, return receipt requested.

If the appeal is denied, the customer may appeal to the Knox County Court of Common Pleas pursuant to Ohio Revised Code section 2505.07.

### **3.4 Delinquencies and Collection**

Maintenance Service District Fees are based off an annual written agreement with the owner. The failure to receive a bill shall not be a valid reason for non-payment of the bill by the customer. Per the Maintenance Service District Agreement, the customer is responsible to pay and appeals must be submitted in writing and filed with the Utility Commission prior to the due date of the bill.

Delinquent Stormwater Maintenance Service District bills shall be managed in accordance with the Stormwater Utility bills.

- Bills are due 15 days from the issuance of the bill.
- All service bills shall be subject to a collection or late charge of ten (10%) percent of the outstanding balance.
- If a bill is unpaid after 30 days a double bill (including previous month and current month) shall be issued to the customer along with delinquent and additional charges.

Where the property having a delinquent account on charges for stormwater and the charges are not paid within 90 days, the Utility Commission shall certify to the Auditor of the County where the property is located, who shall place a lien on the tax duplicate of said County with the interest and penalties allowed by law to be collected as other utility service charges are collected.

Checks returned for nonsufficient funds will be subject to reimbursement of the fee the banking institution charges the City of Mount Vernon and an administrative charge per account affected, for a total of \$25.00.

In addition to the foregoing remedies, the Utility may foreclose liens established under section 920.99.

### **3.5 Withdrawal from Maintenance Service Districts**

Maintenance Service Districts can request to be removed, and thus released from the payments associated with the Maintenance Service Districts. This will no way absolve the area from participation in the Stormwater Utility or the required operation and maintenance of private SCMs.

#### **To withdraw from the program:**

1. The Maintenance Service District must provide written documentation to the City Engineer outlining their intention to meet all the owner's requirements to operate and maintain their SCMs. This includes compliance with the Operations and Maintenance Agreement, the Inspection and Maintenance Plan, and performing all responsibilities contained within those documents. The Maintenance Service District must have paid all service fees, and reimbursed the City for all emergency repairs made by the City on behalf of the owner.
2. Upon review of the documentation provided, the City Engineer will bring the Maintenance Service District Withdrawal Proposal to the Utility Commission for review and approval.

3. If approved by the Utility Commission and the withdraw has been completed, then the owner(s) will take full responsibility for the operation and maintenance of their SCMs and will not be required to pay the City service charges, as additional services will no longer be provided by the City.

#### **4. Inspection and Enforcement Process**

As detailed within the Operation and Maintenance Agreement and specified in City Code section 920.21, the City Engineer has both the responsibility to inspect and the authority to inspect all Stormwater Control Measures, including those on private property.

The typical inspection and enforcement processes are discussed in this section.

If at any point during or following the inspection, the City Engineer determines that the SCM requires immediate, emergency repairs, the City will complete the repairs and invoice owner for payment as detailed in section 5.

A written appeal shall be filed with the Utilities Commission within thirty (30) days of the date of the fine being assessed, listing particularly the basis (or bases) for the appeal (i.e. why the fine should be lowered or cancelled). The Utilities Commission will set the appeal for a public hearing. The fined person or organization must appear at the public hearing and explain their reason for the appeal and answer any questions about the appeal from the Utilities Commission. If the fined person or organization fails to appear or request a continuance of the public hearing the appeal will be denied. After the public hearing, the Utilities Commission will vote on the appeal and provide the person or organization who appealed the fine a written decision within thirty (30) days of the hearing. Subsequent appeals would be to the Knox County Court of Common Pleas pursuant to Ohio Revised Code section 2505.07.

**Notification and Inspection.** The inspection process begins with notification of a pending inspection to the property owner with a private SCM. A letter will be sent to the owner to notify them of a pending inspection of their SCM. This letter will not provide an exact day or time but rather serve as notification that the City will be coming to inspect in the near future. City Staff will then visit the property to perform a visual assessment of the facility. The owner does not need to be present for the inspection but is required to provide access. If the City cannot complete the inspection for any reason, the City will notify the owner by standard mail or email, requesting assistance in scheduling the inspection.

**Inspection Results.** Following inspection, the City will send an Inspection Report via certified and/ or standard mail to the owner. The Inspection Report will categorize the inspections observations as requiring:

- No Additional Maintenance
- Recommended Maintenance
- Required Maintenance

**No Additional Maintenance.** If no additional maintenance is recommended, the City will update inspection records and close the file. The City will encourage the owner to continue to perform regular and routine maintenance and to keep an inspection log. (See Figure 2 in Appendix A)

**Recommended Maintenance.** If there is recommended maintenance, the Inspection Report will include detailed description of the recommended tasks. These are typically maintenance

tasks that are recommended to extend the life and function of the SCM. It is the responsibility of the owner to perform such maintenance in accordance with the recommendations provided. (See Figure 3 in Appendix A)

Figure 4 in Appendix A illustrates the process if required maintenance is needed for a private SCM.

**Required Maintenance.** If there is required maintenance following inspection of a private SCM, the Inspection Report will notify the owner of the maintenance required. The owner has 30-days to coordinate with the City Engineer regarding plans and a schedule for conducting the required repairs. Following the agreed upon completion date for the repairs, the City will send a notification letter of the pending second inspection to the owner.

**Second Inspection.** Following the second inspection, the City Engineer will send a Second Inspection Report to the owner which either closes the file as the repair has been completed or notifies the owner of the deficient maintenance. The report for this second inspection will be sent by both certified and regular mail to the property owner and will specify if the SCM improvements made by the owner are complete or deficient. If the required maintenance has been addressed by the second inspection, the City will mark the repair as complete and have no further action at the site until the next inspection.

**Deficient Maintenance.** If maintenance has not been completed by the second inspection, the property is moved towards enforcement. The Second Inspection Report will specify a required date for completion of the repairs and date for a Third Inspection. The report will also specify fines that will be instituted if the required repairs are not completed by the Third Inspection.

**Enforcement.** If the owner does not complete maintenance by the Third Inspection, the property owner will be notified that the property is in enforcement and fines are being assessed. City Code (section 920.99) requires that an owner remedy any orders issued pursuant to this Chapter in the time prescribed or a fine of \$500 to \$1000 per acre per day (or a portion thereof) can be levied until the violation is corrected.

Fines will be assessed daily for the violation for the entire period from the first inspection to a future inspection showing completion of the required maintenance.

It is the responsibility of the owner to complete the required repairs, and to then contact the City to schedule a Second Inspection. The City staff inspector shall review proof of completion in advance of scheduling a Second Inspection. At the Second Inspection, the inspector will determine if required maintenance items have been addressed sufficiently to achieve proper performance of the SCM. Fines will continue to accrue until the City accepts the required repairs as complete, following the Second Inspection.

A written appeal shall be filed with the Utilities Commission within 30 days of the date of the fine being assessed, listing particularly the basis for the appeal (i.e. why the fine should be lessened or removed). The Utilities Commission will then set a public hearing. The fined person or organization must appear at the public hearing and explain their reason for the appeal and answer any questions from the Utilities Commission. Failure to appear or request a continuance means the appeal will be denied. The Utilities Commission will vote on the appeal and give the person who appealed the fine a written decision within 30 days of the hearing.

Subsequent appeals would be to the Court of Common Pleas pursuant to Ohio Revised Code section 2505.07.

## **5. Emergency Repair Procedure**

As shown in Appendix A, Figure 1, if at any point, the City Engineer determines that emergency repairs are required, the emergency repair process can be initiated. Upon determination of emergency conditions, the City Engineer will notify the owner via verbal notice, telephone, certified mail, standard mail, and/or email. Emergency conditions are those where continued maintenance deferral could result in loss of life or property. For such situations, emergency corrective actions will be determined by the City Engineer.

Per City Code section 920.21, in emergency conditions, the City Engineer has the authority perform any corrective actions as deemed necessary. This code section also stipulates that the City shall be reimbursed by the owner, operator, or municipality, for all expenses within 10 days of receipt of invoice from the City.

In cases where emergency repairs are required on SCMs owned by multiple parties, the Engineer may recommend that the owners enter into a Maintenance Service District administered by the City (see Section 3, *supra*)

An appeal process is available for any levied fines and is part of the Rules and Regulations under the Utility Commission.

## **6. Enforcement Procedure**

In accordance with section 920.99, the power to enforce the provisions of Chapter 920 that are not specifically dealt with elsewhere shall be vested in the City Engineer and such designees as they may appoint for such purposes.

Whenever the City Engineer, or designee, shall deem it appropriate to charge any person with a violation of section 920, they may issue to such person a Notice of Violation and/or Summons.

All actions taken by the City requiring a response by the user shall be made in writing and sent by letter through certified mail, or an email, return receipt requested.

## **7. Review**

The Utility Commission reserves the right, by appropriate action, to amend, modify, delete, change, or otherwise revise these Stormwater Maintenance Service District Rules and Regulations as it may deem, to be desirable and/or necessary.

## Appendix A: Overall Inspection, Maintenance, and Municipal Service District Flow Charts

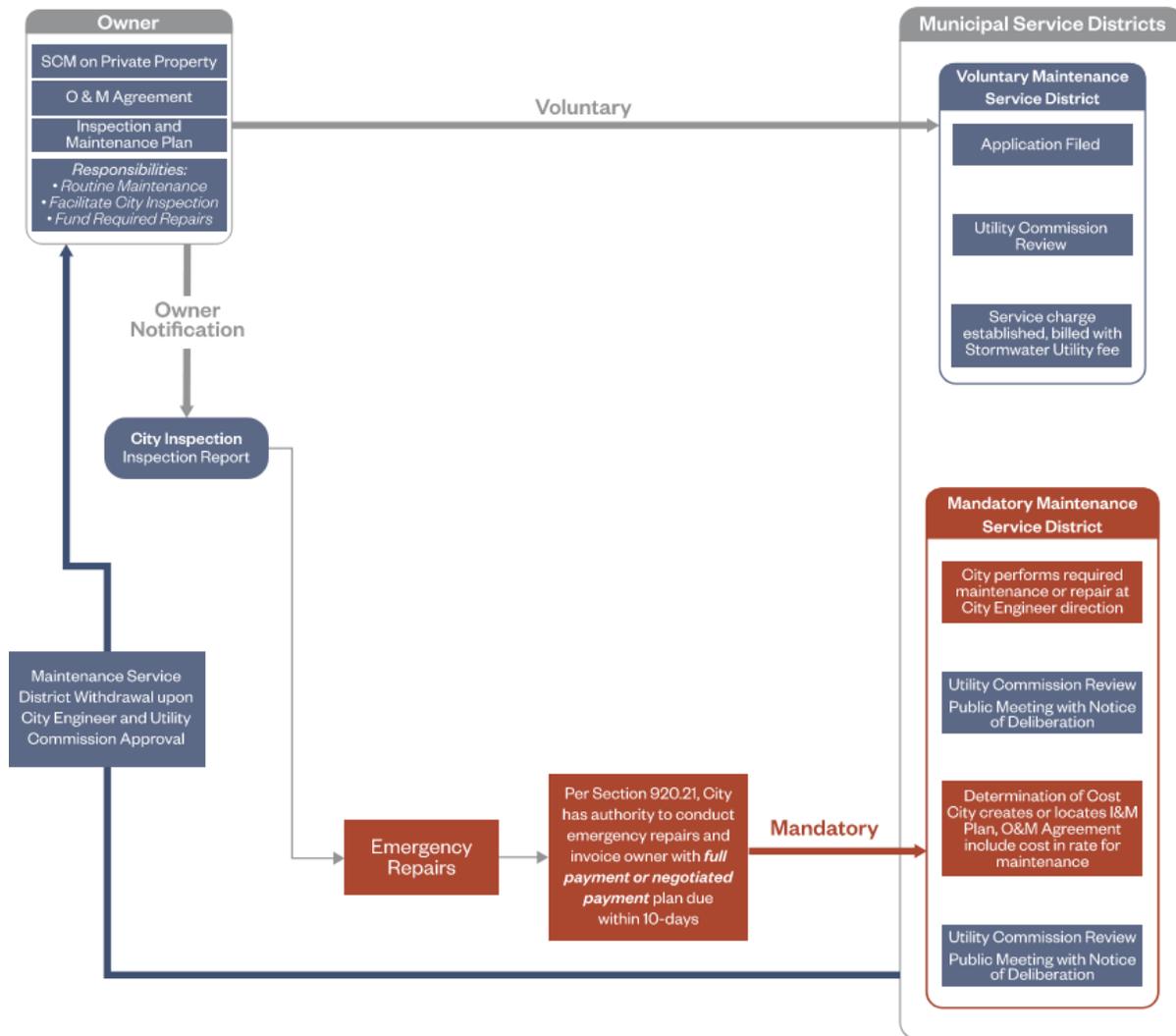


Figure 1. Voluntary and Mandatory Maintenance Service Districts

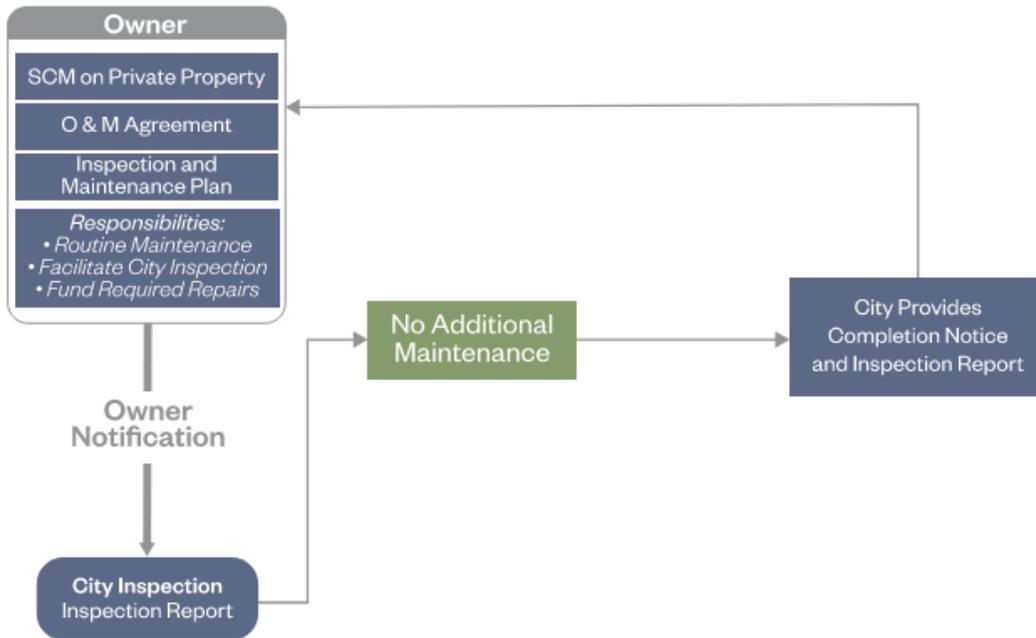


Figure 2. No Additional Maintenance

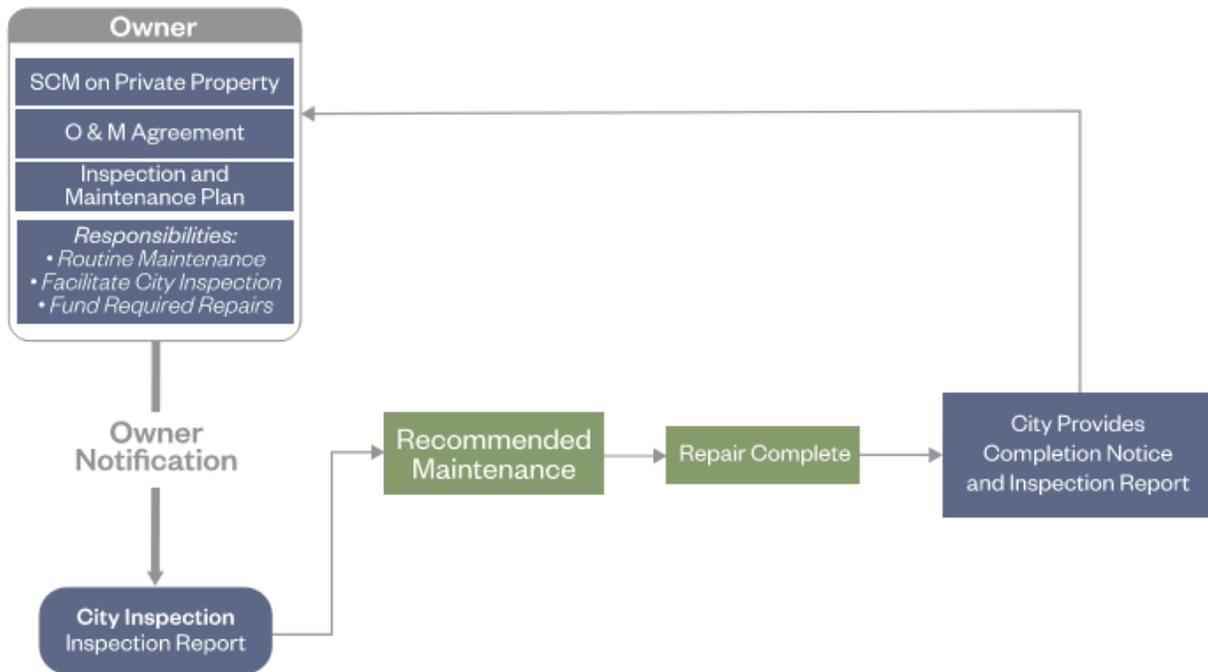


Figure 3. Recommended Maintenance

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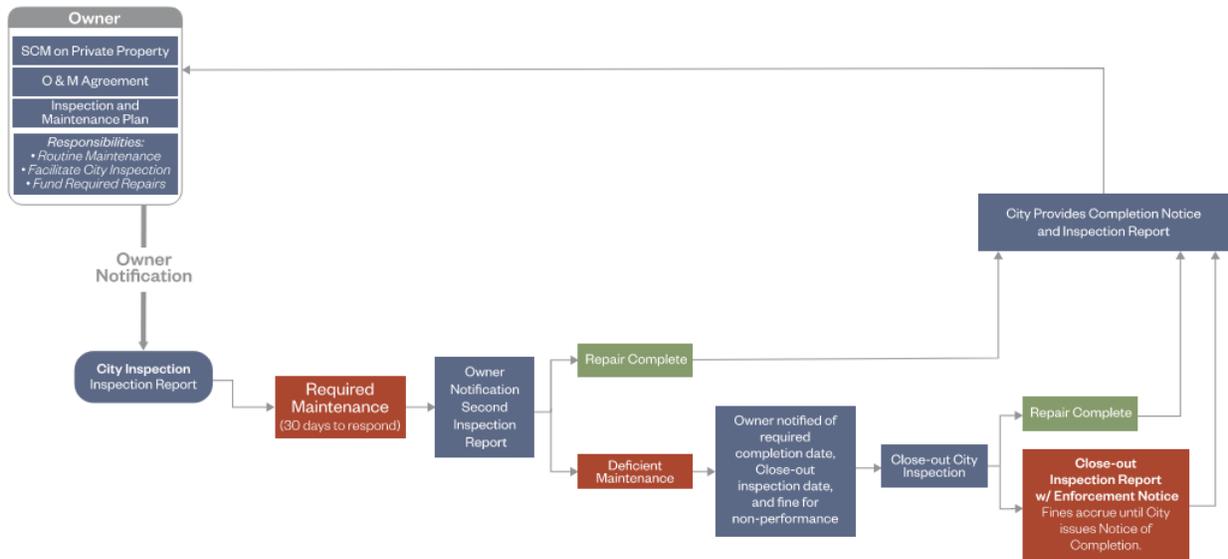


Figure 4. Required Maintenance

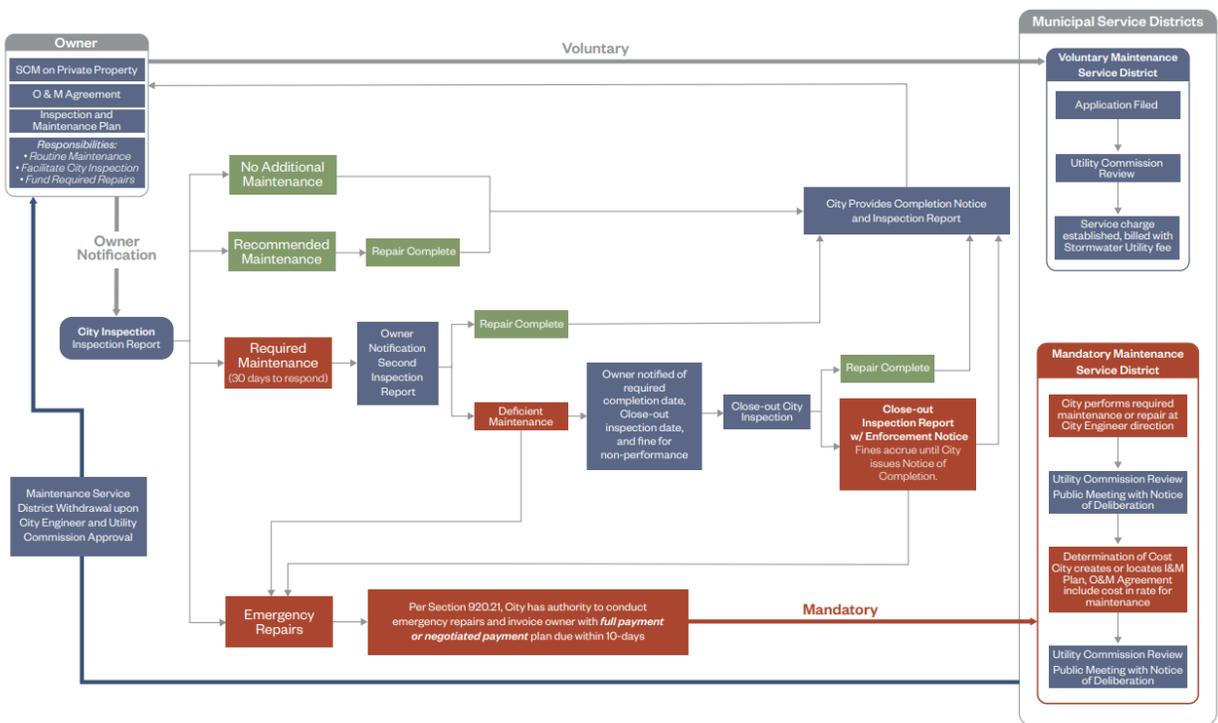


Figure 5. Overall Inspection, Maintenance, and Municipal Service District Flow Chart

## **Appendix B: Maintenance Service District Voluntary Application and Appeal Forms**

### **Stormwater Facility Maintenance Area Application**

1. Applicant Name
2. Contact Name (if different than applicant)
3. Parcel Number
4. Mount Vernon Water/Sewer/Stormwater Account Number
5. Property Address
6. Mailing Address (if different)
7. Phone Number
8. Email Address
9. Reason Stormwater Facilities Cannot be Maintained by Responsible Party
10. Include the Following Documents
  - a. Stormwater Management Plan
  - b. Operations and Maintenance Agreement
  - c. Inspection and Maintenance Plan
11. Describe the Current Maintenance Deficiencies at the Stormwater Facility
12. Provide Cost Estimates for Performing the Maintenance

### **Stormwater Facility Maintenance Customer Appeal**

1. Applicant Name
  
2. Contact Name (if different than applicant)
  
3. Parcel Number
  
4. Mount Vernon Water/Sewer/Stormwater Account Number
  
5. Property Address
  
6. Mailing Address (if different)
  
7. Phone Number
  
8. Email Address
  
9. Decision being Appealed Including Date of the Decision
  
  
10. Statement with Specific Reasons why the Decision is Incorrect, Provide Additional Documents as Necessary

## **Appendix C: Basic Inspection Checklist**

To be developed by Engineering Department.