

CHAPTER 53: STORMWATER REGULATIONS

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§ 53.10 ESTABLISHMENT OF THE DEPARTMENT OF STORMWATER MANAGEMENT

It is the intent of this chapter to establish a stormwater utility to be responsible for the operation, construction and maintenance of stormwater facilities; for stormwater system planning, and for review of stormwater development plans for compliance with stormwater management codes.

(A) LEGISLATIVE FINDINGS AND POLICY

The Common Council of the City of Decatur finds, determines and declares that the stormwater system which provides for the collection, treatment, storage and disposal of stormwater provides benefits and services to all property within the incorporated city limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvements in general health and welfare through reduction of undesirable stormwater conditions; and improvements to the water quality in the stormwater and surface water system and its receiving waters.

(B) CREATION OF STORMWATER UTILITY

For those purposes of the Federal Clean Water Act and of Indiana Code Annotated, §8-1.5-5-1 et seq. there is hereby created a Department of Stormwater Management which shall be governed by a board of three (3) directors, who shall be appointed by the Mayor of the City of Decatur, not more than two of whom shall be of the same political party. As provided in Indiana Code I.C. 8-1.5-5-4 and 6, the term of each director shall be for a period of four (4) years, however, the initial term of each director shall be staggered, so that one (1) director shall be appointed for one (1) year; a second director for two (2) years; and a third director for a term of three (3) years. The Mayor may remove a director at any time when, in the judgment of the mayor, it is for the best interest of the department. The Department of Stormwater Management shall

consist of a manager and such staff as deemed necessary by the board of directors.

The Department of Stormwater Management, under the legislative policy, supervision and control of the Common Council of the City of Decatur, shall:

- (1) Administer the acquisition, design, construction, maintenance and operation of the Department of Stormwater Management system, including capital improvements designated in the capital improvement program;
- (2) Administer and enforce this ordinance and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility stormwater system, including, but not limited to, the quantity, quality and/or velocity of the stormwater conveyed thereby;
- (3) Advise the municipality's Common Council and other city departments on matters relating to the utility;
- (4) Prepare and revise a comprehensive drainage plan for adoption by the municipality's Common Council;
- (5) Review plans and approve or deny, inspect and accept extensions and connections to the system;
- (6) Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended;
- (7) Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility.

(C) DEFINITIONS

For the purpose of this ordinance, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) "Base rate" means the stormwater user's fee for a detached single family residential property in the city.
- (2) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities;
- (3) "Developed property" means real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement or other improvements.
- (4) "Equivalent residential unit" or "ERU" means the average square footage of a detached single family residential property determined pursuant to this ordinance.
- (5) "Exempt property" means all properties of the federal, state, county, and city governments, and any of their divisions or subdivisions, and property that does not

- discharge stormwater runoff into the stormwater or flood control facilities of the municipality.
- (6) “Fee” or “Stormwater user’s fee” means the charge established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the municipality. The stormwater user’s fee is in addition to any other fee that the municipality has the right to charge under any other rule or regulation of the municipality.
 - (7) “Fiscal year” means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.
 - (8) “Impervious surface” means a surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.
 - (9) “Impervious surface area” means the number of square feet of horizontal surface covered by buildings, and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.
 - (10) “Other developed property” means developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches.
 - (11) “Person” means any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.
 - (12) “Property owner” means the property owner of record as listed in the county’s assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.
 - (13) “Single family residential property” means a developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.
 - (14) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.
 - (15) "Stormwater management fund" or “fund” means the fund created by this ordinance to operate, maintain, and improve the city’s stormwater system.
 - (16) “Stormwater management” means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control.
 - (17) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.
 - (18) “User” shall mean the owner of record of property subject to the stormwater user’s fee imposed by this ordinance.

(D) FUNDING OF DEPARTMENT OF STORMWATER MANAGEMENT

Funding for the Department of Stormwater Management's activities may include, but not be limited to, the following:

- (1) Stormwater user's fees.
- (2) Civil penalties and damage assessments imposed for or arising from the violation of the city's stormwater management ordinance.
- (3) Stormwater permit and inspection fees.
- (4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds..

To the extent that the stormwater drainage fees collected are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such city funds as may be determined by the municipality's Common Council.

(E) STORMWATER FUND

All revenues generated by or on behalf of the Department of Stormwater Management shall be deposited in a Department of Stormwater Management fund and used exclusively for the Department of Stormwater Management.

(F) OPERATING BUDGET

The municipality's Common Council shall adopt an operating budget for the Department of Stormwater Management each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

(G) STORMWATER USER'S FEES ESTABLISHED

There shall be imposed on each and every developed property in the city, except exempt property, a stormwater user's fee, which shall be set from time to time by ordinance or resolution, and in the manner and amount prescribed by this ordinance.

Prior to establishing or amending user's fees, the municipality shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the city at least thirty (30) days in advance of the meeting of the municipality's Common Council which shall consider the adoption of the fee or its amendment.

(H) EQUIVALENT RESIDENTIAL UNIT (ERU)

(1) Establishment. There is established for purposes of calculating the stormwater user's fee the equivalent residential unit (ERU).

- (2) Definition. The ERU is the average square footage of a detached single family residential property.
- (3) Setting the ERU. The ERU shall be set by the municipality's Common Council from time to time by ordinance or resolution.
- (4) Source of ERU. The municipality's Common Council shall have the discretion to determine the source of the data from which the ERU is established, taking into

consideration the general acceptance and use of such source on the part of other stormwater systems, and the reliability and general accuracy of the source. The municipality's Common Council shall have the discretion to determine the impervious surface area of other developed property through property tax assessor's rolls or site examination, mapping information, aerial photographs, and other reliable information.

(I) PROPERTY CLASSIFICATION FOR STORMWATER USER'S FEE

a) Property classifications. For purposes of determining the stormwater user's fee, all properties in the city are classified into one of the following classes:

- (a) Single family residential property;
- (b) Other developed property;
- (c) Exempt property.

- (2) Single family residential fee. The municipality's Common Council finds that the intensity of development of most parcels of real property in the municipality classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single family residential properties in the city shall be charged a flat stormwater management fee, equal the base rate, regardless of the size of the parcel or the improvements.
- (3) Other developed property fee. The fee for other developed property (i.e., non-single-family residential property) in the municipality shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one ERU. The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property. The minimum stormwater management fee for other developed property shall equal the base rate for single family residential property.
- (4) Exempt property. There shall be no stormwater user's fee for exempt property.

(J) BASE RATE

The municipality's Common Council shall, by ordinance or resolution, establish the base rate for the stormwater user's fee. The base rate shall be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the city.

(K) ADJUSTMENTS TO STORMWATER USER'S FEES

The Department of Stormwater Management shall have the right on its own initiative to adjust upward or downward the stormwater user's fees with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of stormwater, or any significant variation in the quality of stormwater, emanating from the property, compared to other similar properties. In making determinations of the similarity of property, the Department of Stormwater Management shall take into consideration the location, geography, size, use, impervious area, stormwater facilities on the property, and any other factors that have a bearing on the variation.

(L) PROPERTY OWNERS TO PAY CHARGES

The owner of each non-exempt lot or parcel shall pay the stormwater user's fees and charges as provided in this ordinance.

(M) BILLING PROCEDURES AND PENALTIES FOR LATE PAYMENT

- (1) Rate and collection schedule. The stormwater user's fee must be set at a rate, and collected on a schedule, established by ordinance or resolution.
- (2) Delinquent bills. The stormwater user's fee shall be paid in person or by mail at Decatur City Hall, 225 W. Monroe St., Decatur, IN 46733 and shall become delinquent as of seventeen (17) days following the billing date . Any unpaid stormwater user's fee shall bear interest at the legal rate if it remains unpaid after the due date.
- (3) Penalties for late payment. Stormwater user's fees shall be subject to a late fee established by ordinance or resolution. The municipality shall be entitled to recover attorney's fees incurred in collecting delinquent drainage fees. Any charge due under this ordinance which shall not be paid may be recovered at law by the municipality.

(N) APPEALS OF FEES

(1) Generally. Any person who disagrees with the calculation of the stormwater user's fee, as provided in this ordinance, or who seeks a stormwater user's fee adjustment based upon stormwater management practices, may appeal such fee determination to the Department of Stormwater Management within thirty (30) days from the date of the last bill containing stormwater user's fees charges. Any appeal shall be filed in writing and shall state the grounds for the appeal. The Department of Stormwater Management director may request additional information from the appealing party.

(2) Adjustments. Stormwater user's fee adjustments for stormwater management practices may be considered for: reductions in runoff volume including discharge to a non-city drainage system; and properly designed constructed and maintained existing retention facilities, i.e. evaporation and recharge. Based upon the information provided by the utility and the appealing party, the Department of Stormwater Management shall make a final calculation of the stormwater drainage fee. The Department of Stormwater Management shall notify the parties, in writing, of its decision.

§ 53.20 ESTABLISHMENT OF STORMWATER USER FEE

It is the intent of this chapter to establish a fair, equitable and dependable source of funds to manage the stormwater program in the City of Decatur consistent with federal and state law and our local ordinance.

(A) DEFINITIONS

For the purpose of this Chapter, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall

include the future tense. The word “shall” is mandatory and not discretionary. The word “may” is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster’s Dictionary.

“Board” means the City of Decatur Board of Directors for the Department of Stormwater Management.

“Bonds” means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the Costs of Construction.

“Calendar Year” means a 12-month period commencing on the first day of January of any year.

“Costs of Construction” means costs reasonable incurred in connection with providing capital improvements to the System or any portion thereof, including, but not limited to, the costs of (1) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefore, (2) physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith, (3) architectural, engineering, legal and other professional services, (4) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction, (5) any taxes or other charges which become due during construction, (6) expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against any contractor or bus-contractor in respect of any default under a contract relating to construction, (7) principal of and interest of any Bonds, and (8) miscellaneous expenses incidental thereto.

“Debt Service” means, with any particular series of Bonds, an amount equal to the sum of (I) all interest payable on such Bonds during such Calendar Year, plus (ii) any principal installments of such Bonds during such Calendar Year.

“Developed Property” means real property other than Undisturbed Property and Vacant Improved Property.

“Director” means a member of the Board of Directors for the Department of Stormwater Management.

“Dwelling Unit” means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Equivalent Residential Unit” or ERU means the average Impervious Area of Residential Developed Property per Dwelling Unit located within the City and as established by the Board.

“ERU Rate” means a Utility Fee charged on each ERU as established by the Common Council of the City of Decatur.

“Exempt Property” means public rights of way, public streets, public alleys and public sidewalks.

“Extension and Replacement” means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the System, or land acquisitions for the System and any related costs thereto, or paying extraordinary maintenance and repair, including the Costs of Construction, or any other expenses which are not costs of Operation and Maintenance or Debt Service.

“Impervious Area” means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as Undisturbed Property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as Undisturbed Property, including, but not limited to, roofs, roof extensions, patios, porches, driveway, sidewalks, pavement, stone and gravel.

“Manager” means the department head for the Department of Stormwater Management.

“Nonresidential Developed Property” means developed property that is not utilized for dwelling units within the City.

“Operating Budget” means the annual operating budget adopted by the City for the succeeding Fiscal year.

“Operations and Maintenance” means the current expenses, paid or accrued, of operation, maintenance and current repair of the System, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

“Revenues” means all rates, fees, assessments, rentals or other charges or other income received by the Stormwater User Fee Fund, in connection with the management and operation of the System, including amounts received from the investment or deposit of monies in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.

“Stormwater Management System” or **“System”** means the existing Stormwater Management of the City and all improvements thereto which by this Chapter are constituted as the property and responsibility of the City, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such System.

“Stormwater User Fee” means a fee authorized by Ordinance(s) established to pay Operations and Maintenance, Extension and Replacement and Debt Service.

“Stormwater User Fee Fund” means the Special Revenue Fund created by this Chapter to operate, maintain and improve the System and for such other purposes as stated in this Chapter.

“Undisturbed Property” means real property, which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities, which have disturbed or altered the topography or soils on the property.

“User Fee District” means the area or property within the Corporate Limits of the City of Decatur.

“Vacant Improved Property” means vacant property, which is, or could reasonably be, served by any subdivision improvements that allow egress.

(B) FEE ESTABLISHED

Subject to the provisions of this Chapter, each and every Residential Developed Property, Nonresidential Developed Property and Vacant Improved Property, other than Exempt Property, within the Corporate Limits of the City, and the owners and non-owner users thereof, have imposed upon them a Stormwater User Fee. In the event the owner and non-owner users of a particular Property are not the same, the liability for each the owner and non-owner for the User Fee attributable to that Property shall be joint and several. The Stormwater User Fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this Chapter and the ERU and ERU Rate which shall be established and changed from time to time by the Common Council of the City of Decatur.

(C) STORMWATER USER FEE COLLECTION

The Stormwater User Fee for residential and non-residential property shall be billed and collected monthly with the monthly utility services bill for those properties within the Corporate Limits of the City. The Stormwater User Fee for those properties utilizing City utilities is part of a consolidated statement for utility customers, which is generally paid by a single payment to the utility department. In the event that a partial payment is received, the payment shall be applied pro-rata to each account billed on the consolidated statement in the proportion that an individual account bears to the total consolidated statement of all current charges for all accounts. All bills for Stormwater User Fees shall become due and payable in accordance with the rules and regulations of the Utilities Department pertaining to the collection of the Stormwater User Fees.

(D) USER FEE DETERMINATION

There is hereby established the following uniform schedule of rates for the services and use of facilities of the Stormwater Management System by the owner, tenant, or occupant of the premises using the services and facilities of said system:

- (a) The Common Council of the City of Decatur upon recommendation of the Board of Directors for the Department of Stormwater Management shall establish reasonable rates for Stormwater Management Systems for each single family residence; each single family residence shall be billed at a flat fee established by the Common Council for an equivalent residential unit (ERU).
- (b) For all nonresidential properties, that is enterprise, business establishment, building, or other occupancy not covered by subsections (a) and (b) of this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of an equivalent residential unit times the rate established for an equivalent residential unit. The billing amount shall be updated by the Manager based on any additions to the impervious areas as approved through the building permit process.

(E) ERU ESTABLISHED

The Equivalent Residential Unit is hereby established to be **2,840 square feet** of impervious area.

(F) ERU RATE ESTABLISHED

The ERU Rate to be charged for Stormwater Management Utility Fees for each ERU is hereby established to be **\$1.80 per month**.

§ 53.30 ILLICIT DISCHARGE AND CONNECTION

It is the intent of this chapter to prohibit the connection of non-stormwater discharges to the stormwater system.

(A) PURPOSE/INTENT

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Decatur, Indiana through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.

This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (25) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
- (26) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

(B) DEFINITIONS

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: City of Decatur Department of Stormwater Management.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more, as defined in 327 IAC 15-5. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Department. City of Decatur Department of Stormwater Management.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this ordinance.

Illicit Connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge

to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

Manager. Department head for the Department of Stormwater Management.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan. A document which describes the Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(C) APPLICABILITY

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(D) RESPONSIBILITY FOR ADMINISTRATION

The Department shall administer, implement, and enforce the provisions of this ordinance.

(E) SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

(F) ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(G) DISCHARGE PROHIBITIONS

Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one part per million chlorine), fire fighting activities, irrigation water, street wash water, and any other water source not containing Pollutants.

- (2) Discharges specified in writing by the Department as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the Department prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(H) SUSPENSION OF MS4 ACCESS

Suspension due to Illicit Discharges in Emergency Situations

The Department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

(I) INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Department prior to the allowing of discharges to the MS4.

(J) MONITORING OF DISCHARGES

1. Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

2. Access to Facilities.

- (1) The Department shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- (2) Facility operators shall allow the Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- (3) The Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- (4) The Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Department access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Department reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (7) If the Department has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, 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 ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the

community, then the Department may seek a Court Order to access the premises.

(K) REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The Department will establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(L) WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(M) NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Department in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(N) ENFORCEMENT

1. Notice of Violation.

Whenever the Department finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Department may order compliance by written notice of violation to the responsible person. Emergency notifications may be made by the Manager. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(O) APPEAL OF NOTICE OF VIOLATION

Any person receiving a Notice of Violation may appeal the determination of the Department. The notice of appeal must be received within thirty days from the date of the Notice of Violation. Hearing on the appeal before the Decatur Board of Works shall take place within sixty days from the date of receipt of the notice of appeal. The decision of the Decatur Board of Works shall be final.

(P) ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected within ten days of the Notice of Violation, or , in the event of an appeal, within ten days of the decision of the Decatur Board of Works upholding the decision of the Department, then representatives of the Department may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Q) COST OF ABATEMENT OF THE VIOLATION

Within thirty days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the Department or the Decatur Board of Works as the case may be or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(R) INJUNCTIVE RELIEF AND CIVIL PENALTY

It shall be unlawful for any person to violate any provision or fail to comply with any of the

requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized Department may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Additionally, any person that has violated or continues to violate this ordinance shall be liable for civil penalties to the fullest extent of the law, and shall be subject to a fine of up to One Hundred Dollars per violation per day.

The Department may recover all attorney's fees court costs, consultant costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

(S) COMPENSATORY ACTION

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(T) VIOLATIONS DEEMED A PUBLIC NUISANCE

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 Ordinance 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.

(U) REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Department to seek cumulative remedies.

§ 53.40 CONSTRUCTION SITE AND POST CONSTRUCTION CONTROL

It is the intent of this chapter to require Stormwater Pollution Prevention Plans which includes erosion and sediment control measures and materials handling procedures to be submitted as part of the construction plans and specifications in order to be issued a land disturbance permit for construction sites disturbing one acre or more of land. The ordinance also requires the development of Post-Construction stormwater control measures for new development and redevelopment to be submitted and approved as part of the construction plans and specifications.

(A) PURPOSE/INTENT

I. Site Construction Control

The purpose of this ordinance is to establish requirements for stormwater discharges from construction activities of one acre or more so that the public health, existing water uses, and aquatic biota are protected. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with

requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (8) To regulate construction activities disturbing more than one acre of land as governed by 327 IAC 15-5.
- (9) To require construction site operators to develop and implement a Construction Plan including a Storm Water Pollution Prevention Plan in order to receive a land disturbance permit from the City.

II. Post-Construction Control

The purpose of this ordinance is to implement planning procedures that promote and improve water quality. The planning procedures will include, at a minimum, the post-construction requirements of 327 IAC 5-5-6.5(a)(8). The City may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants on stormwater runoff. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

- (1) Buffer strip and riparian zone preservation.
- (2) Filter strip creation.
- (3) Minimization of land disturbance and surface imperviousness.
- (4) Minimization of directly connected impervious areas.
- (5) Maximization of open space.
- (6) Directing the community's growth away from sensitive areas and towards areas that can support growth without compromising water quality.

(B) DEFINITIONS

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: City of Decatur Department of Stormwater Management.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more, as defined in 327 IAC 15-5.

Such activities include but are not limited to clearing and grubbing, land disturbance, excavating, and demolition.

Department: City of Decatur Department of Stormwater Management.

Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in City Ordinance Number 2006-3 Illicit Discharge and Connection Stormwater Ordinance.

Illicit Connections: An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Indiana Stormwater Quality Manual: A reference manual developed by the State of Indiana that provides guidance on planning principals, as well as criteria for specific structural and non-structural stormwater management practices.

Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

Manager: Department head for City of Decatur Department of Stormwater Management.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

Person: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid

and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(C) APPLICABILITY

This ordinance covers any new development or re-development construction site resulting in the disturbance of one acre or more of total land area. Persons must meet the general permit rule applicability requirements under 327 IAC 15-2-6. This ordinance also applies to disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land within the corporate limits of the City.

All terms, conditions, definitions, and other measures defined in 327 IAC 15-5 shall apply except for state permitting process references and submittal deadlines of construction plans.

This ordinance does not apply to persons who obtain an individual NPDES permit under 327 IAC 15-2-6.

This ordinance does not apply to the Indiana Department of Transportation when it conducts its business within the City corporate limit under its NPDES permit under 327 IAC 15.

This ordinance does not apply to the following types of activities:

1. Agricultural land disturbance activities.
2. Forest harvesting activities.

This ordinance does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

1. Landfills that have been issued a certification of closure under 329 IAC 10.
2. Coal mining activities permitted under IC 14-34.
3. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(D) RESPONSIBILITY FOR ADMINISTRATION

The Department shall administer, implement, and enforce the provisions of this ordinance.

(E) SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

(F) ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will not be violations of NPDES permits.

(G) RESPONSIBILITY OF CONSTRUCTION SITE OWNER

The project site owner has the following responsibilities:

1. Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the Department.
2. Complete a sufficient notice of intent letter submitted to the Department with a copy sent to the Indiana Department of Environmental Management.
3. Make application for a land disturbance permit in accordance with procedures established by the Department.
4. Ensure compliance with this ordinance during:
41 the construction activity; and
42 implementation of the construction plan.
5. Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this rule and the approved construction plan.
6. Notify the Department with a sufficient notice of termination letter with a copy sent to the Indiana Department of Environmental Management.

For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be

considered a part of the permitted project site when the activity is under the control of the project site owner.

For an individual lot where land disturbance is expected to be one acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:

1. Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the Department.
2. Complete his or her own notice of intent letter and submit it to the Department.
3. Apply for a building permit in accordance with the procedures established by the Department.

For an individual lot where the land disturbance is less than one acre and the lot lies within a project site permitted under this rule, the individual lot operator shall:

1. Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the Department.
2. Comply with the provisions set forth in Section 11 of this ordinance.
3. Not need to submit a notice of intent letter.
4. Apply for a building permit in accordance with the procedures established by the Department.

(H) GENERAL REQUIREMENTS FOR STORMWATER QUALITY CONTROL

All storm water quality measures and erosion and sediment controls necessary to comply with this ordinance must be implemented in accordance with the construction plan and sufficient to satisfy the following conditions.

A project site owner shall, at least, meet the following requirements:

1. Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.
2. Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.
3. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
4. Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
5. Storm water run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.
6. The project site owner shall post a notice near the main entrance of the project site.

For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:

61 Copy of the completed NOI letter and the NPDES permit number, where applicable.

62 Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.

63 Location of the construction plan if the project site does not have an on-site location to store the plan.

7. This permit and posting of the notice under subdivision (6) does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.

8. The storm water pollution prevention plan shall serve as a guideline for storm water quality, but should not be interpreted to be the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this rule, all measures necessary to adequately prevent polluted storm water run-off.

9. The project site owner shall inform all general contractors, construction management firms, land disturbance or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this rule and the conditions and standards of the storm water pollution prevention plan and the schedule for proposed implementation.

10. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.

11. Appropriate measures shall be planned and installed as part of an erosion and sediment control system.

12. All storm water quality measures must be designed and installed under the guidance of a trained individual.

13. Collected run-off leaving a project site must be either discharged directly into a well-defined, stable receiving channel or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.

14. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.

15. Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water run-off.

16. Unvegetated areas that are scheduled or likely to be left inactive for fifteen (15) days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent (70%) shall be restabilized using appropriate methods to minimize the erosion potential.

17. During the period of construction activities, all storm water quality measures necessary to meet the requirements of this rule shall be maintained in working order.

18. A self-monitoring program that includes the following must be implemented:

. A trained individual shall perform a written evaluation of the project site:

- . by the end of the next business day following each 0.5 inch of rain; and
 - i. at a minimum of one time per week.
- b. The evaluation must:
 - i. address the maintenance of existing storm water quality measures to ensure they are functioning properly; and
 - ii. identify additional measures necessary to remain in compliance with all applicable laws and ordinances.
 - c. Written evaluation reports must include:
 - i. the name of the individual performing the evaluation;
 - ii. the date of the evaluation;
 - iii. problems identified at the project site; and
 - iv. details of corrective actions recommended and completed.
 - d. All evaluation reports for the project site must be made available to the inspecting authority within forty-eight (48) hours of a request.
- 19. Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
- 20. Final stabilization of a project site is achieved when:
 - 201 all land disturbance activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and
 - b. construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use or disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in clause (A).

(I) GENERAL REQUIREMENTS FOR INDIVIDUAL BUILDING LOTS WITHIN A PERMITTED PROJECT

All storm water quality measures, including erosion and sediment control, necessary to comply with this ordinance must be implemented in accordance with the plan and sufficient to satisfy the following conditions.

Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

1. The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.
2. Installation and maintenance of a stable construction site access.
3. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
4. Sediment discharge and tracking from each lot must be minimized

throughout the land disturbance activities on the lot until permanent stabilization has been achieved.

5. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.
6. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
7. For individual residential lots, final stabilization meeting the criteria in section 7(b)(20) of this rule will be achieved when the individual lot operator:
 - a. completes final stabilization; or
 - b. has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization

(J) MONITORING OF DISCHARGES

The Department shall have the authority to monitor discharges from construction sites covered under this ordinance as described in City Ordinance Number 2006-3 Illicit Discharge and Connection Stormwater Ordinance.

(K) REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The Department will establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(L) POST-CONSTRUCTION CONTROLS FOR NEW DEVELOPMENT OR REDEVELOPMENT

On areas that undergo new development or redevelopment, site construction resulting in disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or non-structural best management practices are required. Specifically, post-construction storm water pollutant loading should not exceed pre-construction pollutant loading. Pre-construction refers to the site immediately before the planned land disturbance and development activities occur. Pre-construction is not intended to be interpreted as that period before any human-induced land disturbance activity has occurred. Post-construction pollutant loadings will be controlled through the six minimum control measures under the City's storm

water NPDES permit. Post-construction storm water best management practices (BMPs) shall follow Indiana's Storm Water Quality Manual as a guidance document. The City shall have full technical and administrative approval authority on the application and design of all post-construction BMPs, conditions definitions, and submittal requirements of construction plans and specifications and other related documents. The minimum measures are implemented to meet the terms defined in 327 IAC 15-5-6.5(a)(8) which are enumerated below.

The Post-construction Storm Water Pollution Prevention Plan (SWP3). The SWP3 must include the following information:

- (A) A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to storm water discharges.
- (B) Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality measures.
- (C) A description of measures that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and storm water retention and detention ponds.
- (D) A sequence describing when each post-construction storm water quality measure will be installed.
- (E) Storm water quality measures that will remove or minimize pollutants from storm water run-off.
- (F) Storm water quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.
- (G) Storm water quality measures that will be implemented to prevent or minimize adverse impacts to stream or riparian habitat.
- (H) A narrative description of the maintenance guidelines for all post-construction storm water quality measures to facilitate their proper long term function. This narrative BMP description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction storm water quality measures.

(M) ENFORCEMENT

Enforcement of this ordinance shall be subject to the severity of the infraction and the construction site operator's efforts to comply. The Department shall reserve the right to interpret enforcement on a case by case basis. Tiered enforcement will be practiced at the Manager's discretion. The tiered enforcement may include:

1. Verbal warning to the construction site operator to make corrections.
2. Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.
3. Written warning of Non-Compliance with directions to the construction site operator that site conditions require immediate action.
4. Stop Work Order.

If abatement of a violation and/or restoration of affected property is required, the notice of violation shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(N) INJUNCTIVE RELIEF AND CIVIL PENALTY

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Department may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Additionally, any person that has violated or continues to violate this ordinance shall be liable for civil penalties to the fullest extent of the law, and shall be subject to a fine of up to one hundred dollars per violation per day.

The Department may recover all attorney's fees court costs, consultant costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

(O) COMPENSATORY ACTION

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the Department may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(P) VIOLATIONS DEEMED A PUBLIC NUISANCE

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 Ordinance 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.

(Q) REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.