

CHAPTER 152: STORMWATER MANAGEMENT

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GENERAL PROVISIONS

§ 152.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCIDENTAL DISCHARGE. A discharge or release prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence.

BASE FLOOD ELEVATION. The elevation delineating the level of flooding from the 100-year frequency flood.

BEST MANAGEMENT PRACTICE (BMP). A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

BOARD. Board of Sanitary Commissioners.
(Ord. 2008-57, § 9)

CAPACITY OF A STORM DRAINAGE FACILITY. The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

CHANNEL. A natural or artificial watercourse which periodically or continuously contains moving water or which forms a connecting link between 2 bodies of water. It has a defined bed and banks which serve to confine the water.

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CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Land disturbance activities subject to state NPDES general construction permits related to “Rule 13” or “Rule 5” or local permits. The activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

CONTIGUOUS. Adjoining or in actual contact with.

CULVERT. A closed conduit used for the passage of surface drainage water under a roadway, railroad, canal or other impediment.

DEPARTMENT. Department of Stormwater Management.
(Ord. 2008-57, § 9)

DETENTION BASIN. A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to temporarily detain concurrently the excess waters that accumulate behind the outlet.

DETENTION STORAGE. The temporary storage of stormwater in detention basins which could include rooftops, streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions. The release rate from the detention storage area is regulated by designed and installed devices.

DISTRICT. Corporate boundaries of the City of Hobart.
(Ord. 2008-57, § 9)

DRAINAGE AREA. The area from which water is carried off by a drainage system; a watershed or catchment area.

DROP MANHOLE. A manhole having a vertical drop pipe connecting the inlet pipe to the outlet pipe. The vertical drop pipe shall be located immediately outside the manhole.

DRY BOTTOM DETENTION BASIN. A basin designed to completely drain after providing detention of excess runoff during a storm event.

DURATION. The time period of a rainfall event.

ENFORCEMENT OFFICIAL. The official designated by the City of Hobart with the responsibilities to enforce the provisions of this chapter.

EROSION PROTECTION AND SEDIMENT CONTROL (EPSC). A practice, or a combination of practices, designed to prevent and control erosion and resulting sedimentation from contributing to off-site damages or negative impacts to receiving streams.

FLOOD PROTECTION ELEVATION. The base flood elevation (100-year flood) plus 2 feet.

FLOODWAY. The channel of a river or stream and those portions of the floodplain adjacent to the channel which are reasonably required to convey the 100-year flood discharge without increasing the water surface elevation of the 100-year flood more than 0.1 feet at any point.

FLOODWAY FRINGE. The area between the floodway and the boundary of the 100-year flood.

FOOTING DRAIN. A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

GRADE. The inclination or slope of a channel, canal, conduit and the like or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance.

ILLICIT DISCHARGE. Any discharge to a municipal separate storm sewer system (MS4) that is not composed entirely of stormwater except discharges pursuant to a national pollutant discharge elimination system permit (other than the city's NPDES stormwater permit) or otherwise defined by this chapter.

IMPERVIOUS AREA. A hard surface area that does not readily absorb water. Impervious surfaces would include pavement, parking lots, driveways, rooftops and other hard surfaces that do not absorb water.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

INLET. An opening into a storm sewer system for the entrance of surface stormwater runoff, more completely described as a storm sewer inlet.

ISSUING AUTHORITY. The official designed by the City of Hobart with the responsibilities to review and issue stormwater quality management permits.

LATERAL STORM SEWER. A sewer that has inlets connected to it and empties into another storm sewer or channel.

MAJOR DRAINAGE SYSTEM. A drainage system carrying runoff from an area of 1 or more square miles.

MANHOLE. Storm sewer structure through which a person may enter to gain access to an underground storm sewer or enclosed structure.

MINOR DRAINAGE SYSTEM. A drainage system having an area of less than 1 square mile.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). Any facility designed or used for collecting and/or conveying stormwater, including, but not limited to, any roads with drainage systems, highways, streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs and other drainage structures, and which is:

- (1) Owned or maintained by the (jurisdiction);
- (2) Not a combined sewer; and
- (3) Not part of a publicly-owned treatment works.

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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A program established by the Clean Water Act which regulates the discharge of pollutants to waters of the United States via the issuance of operating permits by either the Indiana Department of Environmental Management (IDEM) under delegated authority by the United States Environmental Protection Agency (USEPA) on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE. Any discharge to the storm drainage system that is not composed entirely of stormwater.

OFF-SITE. Everything outside the developing right-of-way.

ON-SITE. Located within the developing right-of-way where runoff originates.

OUTFALL. The point or location where storm runoff discharges from a sewer or drain. Also applies to the outfall sewer or channel which carries the storm runoff to the point of outfall.

PEAK FLOW. The maximum rate of flow of water at a given point in a channel or conduit resulting from a particular storm or flood.

PERSON. Except to the extent exempted from this chapter, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, town, county or other political subdivision of the state, any interstate body or any other legal entity.

POLLUTANT. Anything of a chemical component or nature which causes or contributes to pollution.

POLLUTION. The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent.

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

QUALIFIED PROFESSIONAL. An individual who is trained and experienced in stormwater treatment techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of course work that enable the individual to make sound, professional judgments regarding stormwater control or treatment and monitoring, pollutant fate and transport, and drainage planning.

RAINFALL INTENSITY. The cumulative depth of rainfall occurring over a given duration, normally expressed in inches per hour.

REACH. Any length of river, channel or storm sewer.

REGULATED AREA. All of the land under the jurisdiction of the city.

REGULATORY FLOOD. That flood having a peak discharge that has a 1% probability of being equaled or exceeded in any given year, as calculated using a method that is acceptable to the Indiana Department of Natural Resources.

RELEASE RATE. The amount of stormwater released from a stormwater control facility per unit of time.

RETURN PERIOD. The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a 1% probability of being equaled or exceeded in any 1 year.

RUNOFF COEFFICIENT. A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drainage system to the total amount of rain falling. A coefficient of 0.5 implies that 50% of the rain falling on a given surface appears as stormwater runoff.

SEDIMENT. Material of soil and rock origin, transported, carried or deposited by water.

SIPHON. A closed conduit or portion of which lies above the hydraulic grade line, resulting in a pressure less than atmospheric and requiring a vacuum within the conduit to start flow. A **SIPHON** utilizes atmospheric pressure to effect or increase the flow of water through a conduit. An inverted siphon is used to carry stormwater flow under an obstruction such as sanitary sewer.

SPILLWAY. A waterway in or about a hydraulic structure, for the escape of excess water.

STORAGE DURATION. The length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

STORM SEWER. A closed conduit for conveying collected stormwater.

STORMWATER DRAINAGE FACILITY. All means, natural or man-made, including conduits and appurtenant features, canals, channels, ditches, streams and culverts, used for conveying stormwater runoff.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP). The plan required as part of the Stormwater Quality Management Permit application which meets the requirements of [§ 152.041](#).

STORMWATER QUALITY MANAGEMENT PERMIT (SWQMP). A legal document that allows the permit holder to break ground or disturb soil on an entire construction site within the provisions of a thorough construction plan and a stormwater pollution prevention plan. The permit addresses erosion prevention, sediment control and non-sediment pollution prevention activities.

STORMWATER RUNOFF OR STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from the precipitation.

TRIBUTARY. Any watercourse that flows into a larger watercourse.

UNDILUTED DISCHARGES. A discharge that has not been mixed with that of another source such as another septic tank.

WATERS OF THE STATE. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells and other bodies of surface and subsurface water, natural

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or artificial, lying within or forming a part of the boundaries of the State of Indiana which are not entirely confined and retained completely upon the property of a single person.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or man-made drainage way in or into which stormwater runoff or floodwaters flow.

WATERSHED. A geographic area from which water drains to a specific concentration point at the furthest downstream (lowest elevation) point.

WET BOTTOM RETENTION BASIN. A basin designed to retain a permanent pool of water after having provided its planned temporary detention of runoff during a storm event.
(Ord. 2004-37)

§ 152.002 AUTHORITY.

(A) The City of Hobart, Indiana, hereinafter referred to as the “city”, is empowered and resolute to establish an ordinance for the purpose of managing stormwater.

(B) The city, as mandated by 327 I.A.C. 15-13 to develop and implement a stormwater management program within its jurisdiction, desires:

(1) To prohibit illegal discharges to the stormwater drainage system;

(2) To require erosion and sediment controls to be installed during construction to minimize negative impacts on water quality; and

(3) To establish a regulatory mechanism and process for the review, approval and issuance of permits for construction, development and redevelopment activities, which disturb 1 or more acres of land, in compliance with this chapter.
(Ord. 2004-37)

§ 152.003 TITLE.

This chapter shall be known as the “Stormwater Management Ordinance” of the City of Hobart, Indiana, and may be so cited.
(Ord. 2004-37)

§ 152.004 FINDINGS.

(A) Every parcel of property within the city, both private and public, uses or benefits from the city’s stormwater drainage system, including, but not limited to, the provision of adequate collection, conveyance, detention, retention and treatment of stormwater and the reduction of hazards to life and property.

(B) The city finds that uncontrolled stormwater drainage or discharges may have a significant adverse impact on the health, safety and welfare of the citizens of the City of Hobart, Indiana.

(C) Adverse water quantity and quality consequences may result in substantial economic losses. Potential losses include, but are not limited to, increased wastewater and drinking water treatment costs, diminished property values, as well as state and federal fines associated with water quality violations.

(Ord. 2004-37)

§ 152.005 PURPOSE.

(A) This chapter establishes methods for managing the quality of stormwater entering the city's stormwater drainage system.

(B) The objectives of this chapter are:

(1) To prohibit non-stormwater discharges to the stormwater drainage system;

(2) To minimize the discharge of pollutants to the stormwater drainage system; and

(3) To minimize the discharge of sediment and related pollutants to the stormwater drainage system from construction activities.

(Ord. 2004-37)

§ 152.006 CONFLICTING ORDINANCES.

The provisions of this chapter shall be deemed as additional requirements to minimum standards required by other city ordinances, and as supplemental requirements to Indiana's Rule 5 program (327 I.A.C. 15-5). In the case of conflicting requirements, the most restrictive shall apply.

(Ord. 2004-37)

§ 152.007 EFFECTIVE DATE.

The provisions of this chapter shall become effective January 1, 2005, after final passage, approval and publication, as required by law.

(Ord. 2004-37)

DEPARTMENT OF STORMWATER MANAGEMENT

§ 152.010 STORMWATER MANAGEMENT BOARD ESTABLISHED TO OPERATE STORMWATER MANAGEMENT SYSTEM.

(A) *Adoption of State Law.* The provisions of I.C. 8-1.5-5 are hereby adopted in their entirety, and the following entities are established in the City of Hobart:

(1) A Department of Stormwater Management to be governed by the Board of Sanitary Commissioners as established under [§ 31.003](#) of the Hobart Municipal Code.

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(2) A Stormwater Management District extending to the corporate boundaries of the City of Hobart for the purpose of providing for the collection and disposal of stormwater of the city in a manner which protects the public health, welfare and safety, and for the purpose of assessing fees to pay for the cost of stormwater management facilities and services. In the event that the corporate boundaries of the city change, whether through annexation or otherwise, the boundaries of the Stormwater Management District shall likewise change.

(B) *Powers of the Board.* The Board of Sanitary Commissioners of the Department of Stormwater Management shall have exclusive jurisdiction over the collection and disposal of stormwater within the Stormwater Management District, and shall possess all of the powers and duties set forth in I.C. 8-1.5-3-4 and 8-1.5-5-6 including but not limited to the power to:

(1) Establish and enforce rules and regulations governing the Department of Stormwater Management.

(2) Hold hearings following public notice.

(3) Make findings and determinations.

(4) Install, maintain and operate a stormwater collection and disposal system.

(5) Make all necessary or desirable improvements of the grounds and premises under its control.

(6) Subject to the approval of the Common Council, establish, assess, and collect user fees from all the property located within the Stormwater District for the operation and maintenance of the stormwater management system. The user fees shall be established, assessed and collected in such amounts as are determined necessary for the operation and maintenance of the stormwater management system.

(Ord. 2008-35, § 2)

§ 152.011 PURPOSE OF DEPARTMENT OF STORMWATER MANAGEMENT.

(A) The function of the Department of Stormwater Management is to provide for the safe and efficient capture and conveyance of stormwater runoff; mitigate the damaging effects of stormwater runoff; correct stormwater collection and conveyance problems; and fund the activities of stormwater management including design, planning, regulation, education, coordination, construction, operation, maintenance, inspection and enforcement activities, all for the protection of the public health, welfare and safety of residents of the City of Hobart, all in keeping with other provisions of the City of Hobart Municipal Code and the Stormwater Management Ordinance which may be amended from time to time. It is the further purpose of the Department of Stormwater Management to insure the city's compliance with its NPDES stormwater discharge permit(s).

(B) It is hereby determined necessary for the protection of public health, welfare and safety of residents of the City of Hobart and to conform with federal, state and local laws and regulations that a system of charges for stormwater management services in the city be established which allocates the cost of providing stormwater management services to each user in

such a manner that the charges assessed are proportionate to the cost of providing stormwater management services to that user, insofar as those costs can reasonably be determined.

(Ord. 2008-35, § 1)

ILLICIT DISCHARGES

§ 152.020 APPLICABILITY.

This chapter shall apply to all discharges, entering the city's stormwater drainage system, regardless of whether the discharge's origin, including indirect discharges, contaminated runoff, direct connections, and illegal dumping.

(Ord. 2004-37)

§ 152.021 ILLICIT DISCHARGES.

(A) Prohibition of illegal discharges.

(1) Pursuant to the desires of the city, illicit discharges to the city's stormwater drainage system are hereby defined as illegal. This chapter identifies both allowable and illegal non-stormwater discharges in a manner that is in the best interest of the City of Hobart, Indiana.

(2) Except as hereinafter provided, all non-stormwater discharges into the stormwater drainage system are prohibited and declared to be unlawful.

(3) It is unlawful for any person to connect any pipe, open channel, or any other conveyance system that discharges anything except stormwater or unpolluted water, which is approved by the city based on allowable discharges listed in division (B) below, to the stormwater drainage system.

(4) It is unlawful for any person to discharge waters from residential construction activities that do not comply with [§§ 152.040 et seq.](#) of this chapter or with the Indiana Department of Natural Resource's guidance documents, including the *Handbook for Erosion Control in Developing Areas, 1985* or the *Indiana Stormwater Quality Manual*.

(5) In addition to illicit discharges, the discharge of spills and the dumping and/or disposal of materials other than stormwater, including, but not limited to, industrial and commercial wastes, commercial car wash wastes, sewage, garbage, yard waste, trash, petroleum products, including used motor vehicle fluids, as well as leaf litter, grass clippings and animal wastes into the stormwater drainage system, whether directly or indirectly, are prohibited, unless authorized under a NPDES permit.

(B) Allowable discharges. Unless the city has identified a discharge as an unacceptable source of pollutants to the *Waters of the State of Indiana*, the following non-stormwater discharges into the stormwater drainage system are considered lawful:

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- (1) Discharges from emergency fire fighting activities;
- (2) Diverted stream flows;
- (3) Rising ground waters;
- (4) Uncontaminated groundwater infiltration to separate storm sewer systems (as defined by 40 C.F.R. § 35.2005(b)(20);
- (5) Uncontaminated pumped ground water;
- (6) Discharges from potable water sources as required for system maintenance;
- (7) Drinking water line flushing;
- (8) Air conditioning condensate;
- (9) Uncontaminated landscape irrigation;
- (10) Uncontaminated irrigation water;
- (11) Lawn watering;
- (12) Uncontaminated springs;
- (13) Uncontaminated water from crawl space pumps;
- (14) Uncontaminated water from footing drains and pumps;
- (15) Individual residential car washing;
- (16) Flows from riparian habitats and wetlands;
- (17) Dechlorinated swimming pool discharges;
- (18) Controlled flushing stormwater conveyances (contained and treated by appropriate best management practices);
- (19) Discharges made from residential construction sites fully and completely utilizing guidance provided comply [§§ 152.020](#) *et seq.* and with the Indiana Department of Natural Resource's guidance documents, including the *Handbook for Erosion Control in Developing Areas, 1985* or the *Indiana Stormwater Quality Manual*;
- (20) Discharges within the constraints of a national pollutant discharges elimination system (NPDES) permit from the Indiana Department of Environmental Management (IDEM); and
- (21) Discharges approved at the discretion of the city.

(C) *Illegal discharges.*

(1) It shall be unlawful for any person to improperly dispose of any contaminant into the stormwater drainage system. Contaminants include, but are not limited to the following:

- (a) Trash or debris;
- (b) Construction materials or uncontrolled sediment;
- (c) Petroleum products, including but not limited to oil, gasoline, grease, fuel oil or hydraulic fluids;
- (d) Antifreeze and other automotive products;
- (e) Metals in either particulate or dissolved form;
- (f) Flammable or explosive materials;
- (g) Radioactive materials;
- (h) Batteries, including, but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries or mercury batteries;
- (i) Acids, alkalis or bases;
- (j) Paints, stains, resins, lacquers or varnishes;
- (k) Degreasers and/or solvents;
- (l) Drain cleaners;
- (m) Pesticides, herbicides or fertilizers;
- (n) Steam cleaning wastes;
- (o) Soaps, detergents or ammonia;
- (p) Swimming pool backwash including chlorinated swimming pool discharge;
- (q) Chlorine, bromine and other disinfectants;
- (r) Heated water;
- (s) Animal waste, either from domestic animals or from feeder lot operations;
- (t) Leaking sanitary sewers and connections that have remained uncorrected for more than 7 days;
- (u) Recreational vehicle waste;
- (v) Animal carcasses;

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- (w) Food wastes;
- (x) Medical wastes;
- (y) Bark and other fibrous materials;
- (z) Collected lawn clippings leaves or branches;
- (aa) Silt, sediment or gravel;
- (bb) Dyes, except with permission from the city;
- (cc) Chemicals not normally found in uncontaminated water;
- (dd) Washing of fresh concrete for cleaning and/or finishing, or to expose aggregates;
- (ee) Junk motor vehicles;
- (ff) Leading solid waste disposal containers;
- (gg) Sewage dumping or dumping of sewage sludge;
- (hh) Discharge of any polluted household wastewater, such as, but not limited to, laundry wash water and dishwater, except to a sanitary sewer or septic system;
- (ii) Leaking water lines that have remained uncorrected for 7 days or more;
- (jj) Commercial, industrial or public vehicle wash discharge;
- (kk) Garbage or sanitary waste disposal;
- (ll) Dead animals or animal fecal waste;
- (mm) Dredged or spoil material;
- (nn) Wrecked or discarded vehicles or equipment;
- (oo) Wash waters to the storm drain system from the cleaning of gas stations, auto repair garages or other types of auto repair facilities;
- (pp) Wastewater to the storm drain system from mobile autowashing, steam cleaning, mobile carpet cleaning and other such mobile commercial and industrial operations;
- (qq) Waters from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluids or coolants is undertaken;
- (rr) Waters from storage areas for materials containing grease, oil or hazardous materials or uncovered receptacles containing hazardous materials, grease or oil;

(ss) Washing of toxic materials from paved or unpaved areas to the stormwater drainage system;

(tt) Discharge from the washing or rinsing of restaurant mats, roof vents, grease traps, equipment or garbage bins or cans in such a manner that causes non-stormwater to enter the storm drain system;

(uu) Sewage, industrial wastes, or other wastes into a well or a location that is likely that the discharged substance will move into a well, or the underground placement of fluids and other substances which do or may affect the waters of the state; and

(vv) Any hazardous material or waste not listed above.

(2) It is not the intent of the city to impose penalties for de minimus discharges that have no significant adverse impact on safety, health, the welfare of the environment or the functionality of the stormwater drainage/collection system.
(Ord. 2004-37)

§ 152.022 ACCIDENTAL DISCHARGES.

(A) In the event of any discharge of a hazardous substance in amounts that could cause a threat to public drinking supplies, a spill beyond that of de minimus levels, or any other discharge that could constitute a threat to human health or the environment, as may be asserted by the city, the owner or operator of the facility shall give notice to the city and the IDEM as soon as practicable, but in no event later than 2 hours after discovery of the accidental discharge or the discharger becomes aware of the circumstances.

(B) If an emergency response by governmental agencies is needed, the owner or operator should call 911 immediately to report the discharge. Furthermore, as required by the Indiana Spill Rule (327 I.A.C. 2-6.1-7), reports must be made within 2 hours of discovery. A written report must be provided to the city within 5 days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by the city for good cause shown on a case-by-case basis, containing the following information:

- (1) A description of the discharge;
- (2) The exact dates and times of discharge; and
- (3) Steps being taken to eliminate and prevent recurrence of the discharge.

(C) The discharger shall take all reasonable steps to minimize any adverse impact to the stormwater drainage system or the waters of state, including accelerated or additional monitoring necessary to determine the nature and impact of the discharge. It shall not be a defense for the discharger in an enforcement action to claim that it would have been necessary to halt or reduce the business or activity of the facility in order to maintain water quality and minimize any adverse impact that the discharge may cause.
(Ord. 2004-37)

§ 152.023 AUTHORITY AND RIGHT OF ENTRY.

(A) The city or its designated representative shall have right-of-entry on or upon the property of any person subject to this chapter and any permit/document issued hereunder. The city or its designated representative shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this chapter.

(B) Where a property, site or facility has security measures in force which require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the city or its designated representative will be permitted to enter without delay for the purposes of performing specific responsibilities.

(C) The city or its designated representative shall have the right to set up on the person's property such devices necessary to conduct sampling and/or metering of the person's stormwater operations or discharges.

(D) Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the person at the written or verbal request of the city. The costs of clearing such access shall be borne by the person.

(E) The city or its designated representative may inspect the facilities of any user in order to ensure compliance with this chapter. The inspection shall be made with the consent of the owner, manager or signatory official. If the consent is refused, denied or not promptly addressed, the city may seek issuance of an administrative search warrant.

(F) The city has the right to determine and impose inspection schedules necessary to enforce the provisions of this subchapter. Inspections may include, but are not limited to, the following:

- (1) An initial inspection prior to stormwater management plan approval;
- (2) An inspection prior to burial of any underground drainage structure;
- (3) Erosion control inspections as necessary to ensure effective control of sediment prior to discharge to the municipal separate storm sewer system;
- (4) A finish inspection when all work, including installation of storm management facilities, has been completed; and
- (5) An inspection to determine the effectiveness or operational viability of a permanent or long-term stormwater quality management practice.
(Ord. 2004-37)

§ 152.024 APPEALS.

(A) The Board of Sanitary Commissioners shall function as the Stormwater Appeals

Committee and shall be charged with addressing appeals related to violations, permits and other matters under this chapter.

(Ord. 2008-57, § 7)

(B) In order to have an appeal considered, the interested party shall submit a written request for a review or hearing by the Stormwater Appeals Committee. Upon issuance of a permit decision, citation or notice of violation of this chapter, it shall be conclusive and final, unless the interested party submits a written request for a review or hearing to the Stormwater Appeals Committee within 10 days after the violation notice has been served or the permit decision has been made. The Stormwater Appeals Committee shall have the authority to consider appeals related to violations, permits and other matters under this chapter and override decisions made by the city; provided that, any action by the Stormwater Appeals Committee must be consistent with the objectives and policies of this chapter. The Stormwater Appeals Committee does not have the authority to permit actions by the applicant that are based on lack of proper planning or lack of proper site development as defined in this chapter.

(C) The Stormwater Appeals Committee shall consider appeals on an as-needed basis by conducting either a review or hearing at the regularly scheduled meetings of the Board of Sanitary Commissioners. The Stormwater Appeals Committee has the exclusive authority to determine whether it shall conduct a hearing on an appeal. If a hearing is requested, the request for hearing shall be in writing and shall state the specific reasons why the decision of the city is alleged to be in error and the specific reasons why a hearing is necessary and shall be accompanied by a cost bond in the amount of \$500 with sufficient surety to secure the costs of the hearing, including the cost of court reporter, transcript, plan reviews and other costs. The Stormwater Appeals Committee shall make its findings and decision within 5 business days after the review or hearing is completed. The decision of the Stormwater Appeals Committee is final and conclusive, but may be reviewed in a county court of general jurisdiction provided that a petition for review is filed within 10 days after the decision of the Stormwater Appeals Committee. The court shall review the decision of the Stormwater Appeals Committee for clear abuse of discretion and the review shall not be by trial de novo.

(Ord. 2004-37) (Ord. 2008-57, § 8)

STORMWATER QUALITY MANAGEMENT

§ 152.040 APPLICABILITY.

All development or redevelopment activities that result in the disturbance of 1 or more acres of land within the City of Hobart, Indiana, including land disturbing activities on individual lots of less than 1 acre as part of a larger common plan of development or sale, must obtain a stormwater quality management permit (SWQMP).

(Ord. 2004-37)

§ 152.041 STORMWATER QUALITY MANAGEMENT PERMIT.

(A) A SWQMP must be issued by the issuing authority prior to the initiation of any land disturbing activities to ensure the protection of the city's stormwater drainage system, public health, water quality and aquatic life.

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(B) It will be the responsibility of the project site owner to complete a SWQMP application and to ensure that a sufficient construction plan, including a stormwater pollution prevention plan (SWPPP), is completed and submitted to the city in accordance with this chapter.

(C) It will be the responsibility of the project site owner to ensure compliance with this chapter, to implement the SWPPP during the construction activity, to notify the city of project initiation via a notice of intent (NOI) letter and to notify the city of project termination via a notice of termination (NOT) letter upon completion and stabilization of the site. However, all persons engaging in construction and land disturbing activities on a permitted project site must comply with the requirements of this chapter.

(D) In order to be considered a complete application, submittal of a SWQMP application must include a NOI letter with proof of publication of a public notice, construction plans, a stormwater pollution prevention plan and any other necessary information or documentation requested by the city.

(E) The notice of intent (NOI) letter is a standard form that includes the following information:

(1) Name, mailing address and location of the project site for which the notification is submitted;

(2) The project site owner's name, address, telephone number, e-mail address (if available) and ownership status as federal, state, public, private or other entity;

(3) Contact person (if different than project site owner), person's name, company name, address, e-mail address (if available) and telephone number;

(4) A brief description of the construction project, including a statement of the total acreage of the project site. Total acreage claimed in the NOI letter shall be consistent with the acreage covered in the construction plan;

(5) Estimated dates for initiation and completion of construction activities;

(6) The latitude and longitude of the approximate center of the project site to the nearest 15 seconds, and the nearest quarter section, township, range and civil township in which the project site is located;

(7) Total impervious surface area, in square feet, of the final project site including structures, roads, parking lots and other similar improvements;

(8) The number of acres to be involved in the construction activities;

(9) Proof of publication of a public notice in a newspaper of general circulation in the city, Indiana notifying the public that construction activities are to commence, and that states the following:

“(Company name, address) is submitting an NOI letter to notify the city and the Indiana Department of Environmental Management of our intent to comply with the requirements the [name of Ordinance] and the requirements of 327 I.A.C. 15-5 to discharge stormwater

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from construction activities for the following project: (name of the construction project, address of the location of the construction project). Runoff from the project site will discharge to (stream(s) receiving the discharge(s)).”

(10) As applicable, a list of all MS4 areas designated under 327 I.A.C. 15-13 in which the project site lies;

(11) A signed certification by the project site owner indicating that:

(a) The stormwater quality measures included in the construction plan comply with the requirements of this chapter and that the SWPPP complies with all applicable federal, state and local stormwater requirements;

(b) The measures required by this chapter will be implemented in accordance with the SWPPP;

(c) Stormwater quality measures beyond those specified in the stormwater pollution prevention plan will be implemented during the life of the permit if necessary to comply with this chapter; and

(d) Installation and maintenance of stormwater quality measures will be inspected by a qualified professional.

(12) The name of the receiving water(s) or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water;

(13) The NOI letter must be signed by a qualified professional; and

(14) The NOI letter must be submitted to the city at the following location/address: City of Hobart, 414 Main Street, Hobart, IN 46342.

(F) Construction plan sheets and an accompanying narrative report shall be submitted describing existing and proposed site conditions, including the following:

(1) Project narrative and supporting documents, including the following information:

(a) An index indicating the location in the construction plans of all information required by this division;

(b) Description of the nature and purpose of the project;

(c) Legal description of the project site. The description should be to the nearest quarter section, township and range, and include the civil township;

(d) Soil properties, characteristics, limitations and hazards associated with the project site and the measures that will be integrated into the project to overcome or minimize adverse soil conditions;

(e) General construction sequence of how the project site will be built, including phases of construction;

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(f) Fourteen-Digit Watershed Hydrologic Unit Code (HUC);

(g) A reduced plat or project site map showing the lot numbers, lot boundaries and road layout and names. The reduced map must be legible and submitted on a sheet or sheets no larger than 11 inches by 17 inches for all phases or sections of the project site;

(h) A general site plan exhibit with the proposed construction area superimposed on ortho-aerial map at a scale of 1-inch equals 100 feet. The exhibit should provide 2-foot contour information and include all roads and buildings within a minimum 500-foot radius beyond the project boundaries; and

(i) Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site.

(2) Vicinity map depicting the project site location in relationship to recognizable local landmarks, counties and major roads, such as a USGS topographic quadrangle map or county or municipal road map;

(3) An existing project site layout that must include the following information:

(a) Location, name and normal water level of all wetlands, lakes, ponds and water courses on, or adjacent to, the project site;

(b) Location of all existing structures on the project site;

(c) One hundred-year floodplains, floodway fringes and floodways. Please note if none exists;

(d) Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Survey or as determined by a soil scientist. A soil legend must be included with the soil map;

(e) Identification and delineation of vegetative cover, such as grass, weeds, brush and trees on the project site;

(f) Location of storm, sanitary, combined sewer and septic tank systems and outfalls;

(g) Location of regulated drains, farm drains, inlets and outfalls, if any exist of record;

(h) Land use of all adjacent properties; and

(i) Existing topography at a contour interval appropriate to indicate drainage patterns.

(4) Final project site layout, including the following information:

(a) Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures and common areas;

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(b) One hundred-year floodplains, floodway fringes and floodways. Please note if none exists; and

(c) Proposed final topography at a contour interval appropriate to indicate drainage patterns.

(5) Grading plan, including the following information:

(a) Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site;

(b) Locations of all soil stockpiles and borrow areas;

(c) Information regarding any off-site borrow, stockpile or disposal areas that are associated with a project site and under the control of the project site owner; and

(d) Existing and proposed topographic information.

(6) Drainage plan, including the following information:

(a) An estimate of the peak discharge, based on the 10-year storm event, of the project site for both pre-construction and post-construction conditions;

(b) Calculation showing that the peak runoff rate post-development for the 10-year and 100-year return period storms of critical duration will not exceed the 2-year and 10-year return period pre-development peak runoff rates, respectively;

(c) Location, size and dimensions of all stormwater drainage systems, such as culverts, storm sewers and conveyance channels;

(d) Locations where stormwater may be directly discharged into ground water, such as abandoned wells or sinkholes. Please note if none exists;

(e) Locations of specific points where stormwater discharge will leave the project site;

(f) Name of all receiving waters. If the discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water;

(g) Location, size and dimensions of features, such as permanent retention or detention facilities, including existing or manmade wetlands, used for the purpose of stormwater management. Include existing retention or detention facilities that will be maintained, enlarged or otherwise altered and new ponds or basins to be built and the basis of their design; and

(h) The estimated depth and amount of storage required by the design of the new pond(s) or basin(s).

(7) A stormwater pollution prevention plan (SWPPP) for construction activities must be designed to, at a minimum, meet the requirements of this chapter, and must include the following:

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(a) Location, dimensions, detailed specifications and construction details of all temporary and permanent stormwater quality measures;

(b) Temporary stabilization plans and sequence of implementation;

(c) Permanent stabilization plans and sequence of implementation;

(d) Temporary and permanent stabilization plans shall include the following:

1. Specifications and application rates for soil amendments and seed mixtures; and

2. The type and application rate for anchored mulch.

(e) Construction sequence describing the relationship between implementation of stormwater quality measures and stages of construction activities;

(f) Anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of waste concrete);

(g) A description of potential pollutant sources associated with the construction activities that may reasonably be expected to add a significant amount of pollutants to stormwater discharges, including:

1. Waste concrete management;

2. Material delivery, handling and storage;

3. Sanitary/septic waste management;

4. Solid waste/trash and debris management;

5. Spill prevention control and countermeasures;

6. Vehicle and equipment cleaning, fueling and maintenance;

7. Sensitive and vegetated area preservation;

8. Material delivery, handling and storage associated with construction activities shall meet the spill prevention and spill response requirements of 327 I.A.C. 2-6.1; and

9. The SWPPP must include provisions for addressing the following issues as applicable to the site-specific construction activities:

a. Dewatering operations;

b. Contaminated soil management;

c. Hazardous materials and waste management;

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- d. Pesticides, herbicides and fertilizer use;
- e. Collection system maintenance;
- f. Drainage system flushing;
- g. Over-water activities;
- h. A typical erosion and sediment control plan for individual lots;
- i. Self-monitoring program including plan and procedures;
- j. The Indiana Department of Natural Resource's guidance documents, including the *Handbook for Erosion Control in Developing Areas, 1985* or the *Indiana Stormwater Quality Manual*, should be reviewed and considered when preparing construction plans and the stormwater pollution prevention plan; and
- k. The city reserves the right to develop or adopt other guidance documents to serve as design and implementation standards. Other guidance documents distributed by the City of Hobart, Indiana may need to be reviewed and considered when preparing the SWQMP.

(G) (1) The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of stormwater quality measures that are to remain on the project site.

(2) The project site owner shall submit a notice of termination (NOT) letter to the city in accordance with the following:

(a) The project site owner shall submit an NOT letter when the following conditions have been met:

- 1. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized; and
- 2. All temporary erosion and sediment control measures have been removed.

(b) The NOT letter must contain a verified statement that each of the conditions in this division has been met.

(c) The project site owner may submit an NOT letter to obtain early release from compliance with this chapter, if the following conditions are met:

- 1. The remaining, undeveloped acreage does not exceed 5 acres, with contiguous areas not to exceed 1 acre;
- 2. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots;

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3. All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the city or another appropriate local entity;

4. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties or water quality; and

5. All permanent stormwater quality measures have been implemented and are operational.

(d) Following acceptance of the NOT letter and written approval for early release, the project site owner shall notify all current individual lot owners and all subsequent individual lot owners of the remaining undeveloped acreage and acreage with construction activity that they are responsible for complying with this chapter. The remaining individual lot owners do not need to submit an NOI letter or NOT letter. The notice must contain a verified statement that each of the conditions herein have been met. The notice must also inform the individual lot owners of the requirements to:

1. Install and maintain appropriate measures to prevent sediment from leaving the individual building lot; and

2. Maintain all erosion and sediment control measures that are to remain on-site as part of the construction plan.

(e) The Soil and Water Conservation District (SWCD), Department of Natural Resources - Division of Soil Conservation (DNR-DSC) or a designated representative of the city may inspect the project site to evaluate the adequacy of the remaining stormwater quality measures and compliance with the NOT letter requirements. If the inspection finds that the project site owner has sufficiently filed an NOT letter, the city shall forward notification to the IDEM. Upon receipt of the verified NOT letter and receipt of written approval from IDEM, the project site owner shall no longer be responsible for compliance with this chapter.

(f) After a verified NOT letter has been submitted for a project site, maintenance of the remaining stormwater quality measures shall be the responsibility of the individual lot owner or occupier of the property.

(3) A SWQMP shall be considered open and active until a time when the city accepts the site conditions and as-built requirements have been completed.

(4) Acceptance of site conditions shall be made by the city or its designated representative based upon an inspection. If any of the following items are deemed to be insufficient, not appropriate and/or inconsistent with construction plans, the stormwater pollution prevention plan or objectives stated in this chapter, the approval will not be granted.

(a) Pipes, channels, catch basins, water quality treatment devices and other infrastructure are clear of sediment, obstructions and debris and are designed and operating as appropriate for final site conditions;

(b) Slopes are permanently stabilized;

(c) Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection and the like) have been removed (as appropriate) and any resulting soil disturbance stabilized;

(d) Temporary pollution prevention practices have been demobilized or removed and affected areas stabilized;

(e) Sediment has been removed and slopes stabilized for permanent flood control and water quality control practices;

(f) Detention pond grading is stabilized and/or excess sediment removed so that actual volume is at least equal to designed volume and condition; and

(g) Other items as deemed to be important by the city or its designate.
(Ord. 2004-37)

§ 152.042 OVERSIGHT INSPECTIONS AND RIGHT OF ENTRY.

(A) Oversight inspections may be initiated by the city to ensure compliance with this chapter, as follows.

(1) The city, or the city’s designated representative, has the authority to periodically inspect the site of land disturbing activities for which permits have been issued. The city may make inspections of the site at its discretion and shall either approve the portion of the work completed or shall notify the permittee wherein the work fails to comply with the any aspects of the construction plan or the SWPPP as approved, or is ineffective (regardless of consistency with an approved plan).

(2) The city or its designated representative’s inspections and findings will be presented and reviewed with the permittee at the time of inspection (as available to site personnel), and will be available in the city permit file with in 7 days.

(3) In order to obtain inspections, the permittee shall notify the city at least 2 working days before the following activities:

(a) Bond release inspections; and

(b) Upon completion of the project in order to receive approval to cease permittee inspections in compliance with the SWQMP.

(4) The city or its designated representative may identify any repairs, sediment/debris removal or replacement of all or portions of the stormwater system(s) necessary to comply with the objectives of this chapter and the SWQMP;

(5) The city or its designated representative may develop and require the implementation of an action plan and compliance schedule that prevents premature stormwater quality management system failure as consistent with the SWQMP provisions; and

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(6) The city or its designated representative may develop and require the implementation of an action plan to prevent the premature system failure that exceeds the SWQMP provisions, but are necessary to prevent stormwater pollution from leaving the site.

(B) (1) Designated representatives from the city shall have the right-of-entry on or upon the property of any person subject to this chapter and any permit/document issued hereunder. The city or its designated representatives shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this chapter.

(2) Where a property, site or facility has security measures in place which require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, designated representatives from the city will be permitted to enter without delay for the purposes of performing specific responsibilities.

(3) Designated representatives from the city shall have the right to set up on a person's property such devices necessary to conduct sampling and/or metering of the person's stormwater operations or discharges.

(4) Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the person at the written or verbal request of the city. The costs of clearing the access shall be borne by the owner/project site owner.

(5) The city or a designated representative may inspect the facilities of any person in order to ensure compliance with this chapter. The inspection shall be made with the consent of the owner, manager or signatory official. If the consent is refused, denied or not promptly addressed, the city may seek issuance of an administrative search warrant.

(6) The city has the right to determine and impose inspection schedules necessary to enforce the provisions of this subchapter. Inspections may include, but are not limited to:

- (a) An initial inspection prior to stormwater management plan approval;
- (b) An inspection prior to burial of any underground drainage structure;
- (c) Inspections as necessary to ensure effective control of sediment prior to discharge to the municipal separate storm sewer system;
- (d) Inspections to verify that action plans identified in previous site visits were successfully implemented; and
- (e) A final inspection when all work, including installation of storm management facilities, has been completed.

(Ord. 2004-37)

§ 152.043 SELF INSPECTIONS.

(A) Permittee performed inspections (self inspections) must be performed by a qualified professional.

(B) Inspections shall be performed at all control measures every 7 days and within 24 hours of a 1/2-inch rain event. The inspections will determine the overall effectiveness of the construction and stormwater pollution prevention plans, needed maintenance activities and the need for additional control measures.

(C) All inspections shall be documented in written form and be made available to the city or submitted at the time interval specified in the approved permit.

(D) Inspections shall be performed in a manner consistent with a visual maintenance checklist approved by the city.

(E) Documentation of permittee performed inspections and inspection findings shall be kept on site, if appropriate facilities (such as a project trailer or building) are available. In the event, that appropriate facilities are not available then a copy of the most recent inspection shall be displayed at the site along with other documents that must be displayed to the public per other local, state and federal regulations.

(F) Documentation of permittee performed inspections and inspection findings shall be made available within 48 hours of a request by the city or designated representative. Failure to post or timely submit documentation, as requested, will be assumed to indicate that inspections were not performed and may result in corresponding enforcement procedures.

(G) Inspection reports shall include, but are not limited to:

- (1) The address of the site;
- (2) The parcel identification number;
- (3) The name of the owner or owner's representative;
- (4) The location of the stormwater system(s);

(5) A description of the current operational or functional status of the stormwater system(s). For sediment control structures, an indication of used and remaining, capacity (fraction, percentage, depth or volume) shall be given to identify when the control must be cleaned out;

(6) Identification of any necessary repairs, sediment/debris removal or replacement of all or portions of the stormwater system(s);

(7) The results of any field or laboratory analyses performed;

(8) Other relevant or unusual observations related to the system(s);

(9) An action plan to prevent premature stormwater system failure as consistent with the SWQMP provisions; and

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(10) An action plan to prevent premature system failure that exceeds the SWQMP provisions, but are necessary to prevent stormwater pollution from leaving the site.
(Ord. 2004-37)

§ 152.044 MAINTENANCE.

(A) Maintenance must be performed under the direction and/or supervision of a qualified professional.

(B) Maintenance of erosion prevention, sediment control and pollution prevention practices shall be performed according to the construction plan and stormwater pollution prevention plan.

(C) Maintenance activities shall be performed in accordance with action plans developed through the course of permittee-performed inspections. This may represent activities that exceed provisions of the construction plan and the stormwater pollution prevention plan, but are necessary to prevent stormwater pollution from leaving the site.
(Ord. 2004-37)

§ 152.045 APPEALS.

(A) The Board of Public Works and Safety shall function as the Stormwater Appeals Committee and shall be charged with addressing appeals related to violations, permits and other matters under this chapter.

(B) (1) In order to have an appeal considered, the interested party shall submit a written request for a review or hearing by the Stormwater Appeals Committee.

(2) Upon issuance of a permit decision, citation or notice of violation of this chapter, it shall be conclusive and final, unless the interested party submits a written request for a review or hearing to the Stormwater Appeals Committee within 10 days after the violation notice has been served or the permit decision has been made.

(3) The Stormwater Appeals Committee shall have the authority to consider appeals related to violations, permits and other matters under this chapter and override decisions made by the city, provided that any action by the Stormwater Appeals Committee must be consistent with the objectives and policies of this chapter. The Stormwater Appeals Committee does not have the authority to permit actions by the applicant that are based on lack of proper planning or lack of proper site development as defined in this chapter.

(C) The Stormwater Appeals Committee shall consider appeals on an as-needed basis by conducting either a review or hearing at the regularly scheduled meetings of the Board of Public Works and Safety. The Stormwater Appeals Committee has the exclusive authority to determine whether it shall conduct a hearing on an appeal. If a hearing is requested, the request for hearing shall be in writing and shall state the specific reasons why the decision of the city is alleged to be in error and the specific reasons why a hearing is necessary and shall be accompanied by a cost bond in the amount of \$500 with sufficient surety to secure the costs of the hearing, including the cost of court reporter, transcript, plan reviews and other costs. The Stormwater Appeals Committee shall make its findings and decision within 5 business days after the review or hearing

is completed. The decision of the Stormwater Appeals Committee is final and conclusive, but may be reviewed in a county court of general jurisdiction provided that a petition for review is filed within 10 days after the decision of the Stormwater Appeals Committee. The court shall review the decision of the Stormwater Appeals Committee for clear abuse of discretion and the review shall not be by trial de novo.
(Ord. 2004-37)

POST-CONSTRUCTION STORMWATER MANAGEMENT

§ 152.060 APPLICABILITY.

All new development and redevelopment activities that result in the disturbance of 1 or more acres of land within the City of Hobart, Indiana, including land disturbing activities on individual lots of less than 1 acre as part of a larger common plan of development of sale, shall develop a post-construction SWPPP which includes provisions necessary for minimizing the impacts of pollutants from the proposed land use.
(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.061 POST-CONSTRUCTION SWPPP REQUIREMENTS.

(A) A stormwater quality management permit may only be issued after the review and acceptance of a post-construction stormwater pollution prevention plan (SWPPP).

(B) The post-construction SWPPP is part of the stormwater quality management permit and must include the following information:

(1) A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to stormwater discharges;

(2) Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality BMPs. Reference [§ 152.063](#) for acceptable stormwater quality BMPs;

(3) A description of BMPs that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration of runoff, 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 stormwater retention and detention ponds;

(4) A sequence describing when each post-construction stormwater quality BMP will be installed;

(5) Stormwater quality BMPs that will remove or minimize pollutants from stormwater runoff;

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(6) Stormwater BMPs that will be implemented to prevent or minimize adverse impact to stream and riparian habitat; and

(7) A narrative description of the maintenance guidelines for all post-construction stormwater quality measures to facilitate their proper long-term function. This narrative description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction stormwater quality measures.

(C) In addition to the above requirements, the following shall apply as appropriate.

(1) Residential development plans shall address maintenance of common areas, as well as overall trash collection and disposal, landscaping maintenance and structural BMP maintenance.

(2) Commercial development plans shall address trash containment and disposal, grounds maintenance and landscaping and structural BMP maintenance.
(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.062 BUFFER REQUIREMENTS.

The Post-Construction SWPPP shall include provisions for buffers for developments or redevelopments created after the effective date of this ordinance.

(A) *No-disturbance buffer.*

(1) The no-disturbance buffer will be used to define areas where land disturbance activities shall not be permitted. Grading clearing and grubbing shall not be permitted in this area, but pruning, trimming and partial removal of standing vegetation is permitted.

(2) The no-disturbance waterway buffer shall be defined as 25 feet from the top of the waterway bank as defined by geomorphic shape (not by the current water surface elevation) for United States Geological Survey (USGS) blue line streams.

(3) The no-disturbance waterway buffer shall be applied to all waterways and open-air drainage systems that drain more than 25 acres of tributary area and is presented on a United States Geological Survey map as a blue line stream.

(B) *Waterway buffer.*

(1) The waterway buffer will be used to define areas where land disturbance activities shall be permitted, but construction of any building or structure shall not be permitted.

(2) A waterway buffer shall be applied to all waterways serving more than 25 acres of tributary area and is presented on a United State Geological Survey map as a blue line stream.

(3) (a) Automatic exemptions are approved provided erosion prevention and sediment control, water quality and cut-fill policies are adequately addressed. Those automatic exemptions are:

1. Roads and utilities crossing waterways; and

2. Pedestrian trails and walkways proximate to waterways.

(b) Other exemptions may be applied for.

(4) The waterway buffer shall be defined as the area contained within a boundary established 25-feet beyond the floodplain boundary as defined by FEMA or 50-feet from the top of waterway bank as defined by geomorphic shape (not by the current water surface elevation) which ever is lamer.

(5) At a minimum the waterway buffer shall be at least the width of the no-disturbance buffer.

(6) The waterway buffer and floodplain may be used for application of water quality devices. This may only be permitted provided erosion prevention and sediment control, water quality and cut fill-policies are adequately addressed as determined by the city according to the provisions of this chapter.

(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.063 APPROVED STORMWATER BEST MANAGEMENT PRACTICES (BMPS).

(A) The post-construction SWPPP shall include provisions for stormwater quality BMPs functioning independently or in combination.

(B) Approved stormwater quality BMPs include:

- (1) Vegetated filter swales;
- (2) Bioretention strips;
- (3) Vegetated and forested buffer strips;
- (4) Level spreaders;
- (5) Infiltration systems;
- (6) Dry detention ponds;
- (7) Wet detention ponds;
- (8) Retention ponds;
- (9) Constructed and pocket wetlands;
- (10) Media filtration and screening systems;
- (11) Baffle boxes and grit separators;
- (12) Hydrodynamic separator systems;

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- (13) Sediment forebays;
- (14) Oil/water separators;
- (15) Vault storage/recycling; and

(16) Other measures reviewed and accepted by Hobart, Indiana, are also appropriate stormwater quality BMPs.

(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.064 BMP DESIGN REQUIREMENTS AND CRITERIA.

(A) The post-construction SWPPP shall include provisions for stormwater quality BMP(s) that are designed to achieve the following design/performance objectives:

(1) Reduce total suspended solids (TSS) from the first flush as defined by land use characteristics and contributing area; or, capture and treatment of at least 1/2-inch of precipitation applied over the contributing area;

(2) Reduce or buffer increases in storm runoff temperature caused by contact with impervious surfaces; and

(3) Hobart, Indiana reserves the right to require superceding or additional treatment criteria or objectives for specific pollutant(s) as necessary to meet overall stormwater quality management program objectives or directives under a watershed improvement or total maximum daily load (TDML) program.

(B) Stormwater detention facilities shall be designed to address the rate at which flow is released over the entire runoff discharge period and the volume of discharge over the critical design-storm period. The outlet structure shall be designed as a v-notch weir or other multiple stage configurations capable of controlling the discharge rates for the 2-, 10- and 100-year design-storm events.

(C) The guidance document(s), the *Indiana Drainage Handbook* or the *Indiana Stormwater Quality Manual*, should be reviewed and considered when preparing the post-construction SWPPP.

(D) Hobart, Indiana, reserves the right to develop or adopt other guidance documents to serve as design and implementation standards. Other guidance documents distributed by the city should be reviewed and considered when preparing the post-construction SWPPP. These documents may be applied by Hobart, Indiana, as standards by which designs are to be prepared and controls implemented. The city shall have authority to implement this chapter by appropriate regulations, guidance or other related materials. In this regard, technical, administrative or procedural matters may be modified as needed to meet the objectives defined herein, so long as such modifications as to technical, administrative or procedural matters are not contrary or beyond the intent of the objectives defined above.

(1) Regulations, guidance or other related materials that may be given authority by this chapter may include, but are not limited to: best management practice (BMP) manuals, design

regulations and requirements, submittal checklists, review checklists, inspection checklists, certifications, stormwater management manuals and operation and maintenance manuals.

(2) Materials may include information deemed appropriate by the city including guidance and specifications for the preparation of grading plans, selecting environmentally sound practices for managing stormwater, minimum specifications and requirements, more complete definitions and performance standards.

(3) The above referenced documents shall not in any way require specific commercially available products. However, they may refer to performance specifications, class of devices, construction or management practice.

(4) The above referenced documents may restrict or prevent the use of specific products, techniques or management practices (that are to be accepted by the public or are deemed to have a negative impact on public infrastructure or the MS4) that have been identified as unacceptable for performance, maintenance or other technically based reasons.

(5) Documents referenced above may be updated periodically to reflect the most current and effective practices and shall be made available to the public. However, the failure to update the manual shall not relieve any applicant from the obligation to comply with this chapter, and shall not prevent the city from imposing the most current and effective practices.

(E) Soil bioengineering, “green” and other “soft” slope and stream bank stabilization methods shall receive preference over rip rap, concrete and other hard armoring techniques. “Hard” alternatives shall only be permitted when their necessity can be demonstrated given site-specific conditions.

(F) Retention-supportive data must be submitted to justify the type of facility selected. If the facility is designed to retain (volume control) all or a significant portion of runoff (as opposed to temporarily detain), then appropriate soils analyses findings shall be submitted to the city. This submission shall also discuss the impacts the facility will have on local karst topography as found through a geotechnical investigation of the site. The facility may be designed to infiltrate runoff to groundwater rather than transmit it downstream under conditions up to a 10-year storm event. It must be able to bypass all other storms up to a 100-year event with a discharge rate equivalent to or less than pre-development conditions without negatively impacting the 100-year floodplain above or below the site. If data indicates that the facility can not retain a significant portion of the runoff (95%) then the facility must be sized to detain runoff.

(G) Detention facilities may, and are encouraged to, be designed to serve multiple purposes. For example, runoff may be detained under wet-weather conditions, but also serve as common or recreational areas during dry-weather conditions. Where multi-purpose facilities are provided, or where flat grades or poorly draining soils are encountered, provisions for adequate low-flow stormwater management system may be required. Where the retention/detention facility is planned to be used as a lake, pond or stormwater quality management practice with a permanent pool, water budget calculations shall be performed and submitted to demonstrate that an adequate pool is expected during dry summer months.

(H) A licensed, professional engineer shall stamp all proposed plans for construction. This shall include all proposed improvements or modifications to existing or new stormwater infrastructure and other related improvements or modifications.
(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.065 BMP OWNERSHIP AND EASEMENTS.

(A) Any stormwater management facility or BMP which services individual property owners or subdivisions shall be privately owned. General routine maintenance (controlling vegetative growth and removing debris) shall be provided by the owner(s). The owner shall maintain a perpetual, non-exclusive easement, which allows for access for inspection and emergency maintenance by the City of Hobart, Indiana. The city has the right, but not the duty to enter premises for emergency repairs.

(B) Any stormwater management facility or BMP which services an individual subdivision in which the facility or BMP is within designated open areas or an amenity with an established homeowners association shall be privately owned and maintained consistent with provisions of this chapter. The owner shall maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by Hobart, Indiana. The city has the right, but not the duty, to enter premises for emergency repairs.

(C) Any stormwater management facility or BMP which services commercial or industrial development shall be privately owned and maintained. The owner shall maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by Hobart, Indiana. The city has the right, but not the duty, to enter premises for emergency repairs.

(D) All regional stormwater management control facilities proposed by the owners, if approved and accepted by Hobart, Indiana for dedication as a public regional facility, shall be publicly owned and/or maintained.

(E) All other stormwater management control facilities and BMP's shall be publicly owned and/or maintained only if accepted for maintenance by Hobart, Indiana.

(F) Hobart, Indiana may require dedication of privately owned stormwater facilities, which discharge to the city stormwater system.
(Ord. 2006-21, § 1)

§ 152.066 COORDINATION WITH REGIONAL BMPS.

(A) All properties are expected to implement on-site stormwater quality control measures, but the extent of application may be reduced given the availability, proximity and nature of regional stormwater quality BMPs.

(B) The extent and type of on-site stormwater quality management practices implemented must be proportionate to the land use, pollutant discharge potential and proximity to regional stormwater quality management practices.

(C) For properties where stormwater quantity management practices are either not feasible or are not necessary in lieu of regional stormwater quantity controls, Hobart, Indiana has the right to require on-site controls for stormwater quality.

(D) Hobart, Indiana encourages regional stormwater quantity and/or quality management practices, serving 25 to 250 acres of tributary area, which may be consistently and efficiently managed and maintained. These types of practices will be encouraged in order to replace or

reduce the implementation of on-site stormwater quantity and/or quality management practices, as determined to be appropriate by Hobart, Indiana.

(E) Where a regional stormwater management facility has been established by one or more local governments, or by an authority operating on behalf of one or more local governments, a development or property may participate in the program in lieu of runoff control required by this chapter.

(F) This may be permitted provided that:

(1) Runoff from the development drains to an approved existing or proposed public regional stormwater management facility that will be operational within 1 year;

(2) Participation in the form of contribution of funds, contribution of land, contribution of stormwater management facility construction work, or a combination of these, the total value of which shall be in accordance with a fee schedule adopted by the local governments;

(3) The city finds that the stormwater quality management plans are in compliance with all other applicable requirements and ordinances; and

(4) Each fiscal or in kind contribution from a development owner participating in a regional stormwater quality management facility shall be used for acquisition, design, construction or maintenance of one or more such facilities in the same watershed in which the development is located.

(G) Redevelopment of properties containing on-site stormwater quantity management practices may be permitted, at the discretion of Hobart, Indiana, provided the property and downstream public and private properties, infrastructure or “Waters of the State” are adequately protected by a regional facility(s) from stormwater quantity or quality impacts.

(Ord. 2006-21, § 1)

§ 152.067 COORDINATION WITH MASTER PLANS AND WATERSHED STUDIES.

(A) If available, each post-construction SWPPP shall be evaluated for consistency with the stormwater master plan or watershed study for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if stormwater quantity and quality management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which quantity and/or quality controls will be necessary.

(B) Special design criteria or requirements may be applied to stormwater quality BMPs based on the direction or results of master plans, watershed studies and/or total maximum daily load (TMDL) requirements.

(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.068 STORMWATER QUALITY MANAGEMENT PERMIT CLOSURE.

(A) A SWQMP shall be considered open and active until a time when Hobart, Indiana, accepts the site conditions, as-built requirements have been completed and a long-term operation

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and maintenance agreement has been accepted.

(B) Acceptance of site conditions shall be made by Hobart, Indiana, through inspection. If any of the following items are deemed to be insufficient, not appropriate and/or inconsistent with the post-construction SWPPP or objectives stated in this chapter then approval will not be granted.

(1) Pipes, channels, catch basins, water quality treatment devices and other infrastructure are clear of sediment, obstructions and debris and are designed and operating as appropriate for final site conditions;

(2) Slopes are permanently stabilized;

(3) Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection and the like) have been removed (as appropriate) and any resulting soil disturbance stabilized;

(4) Temporary pollution prevention practices have been demobilized or removed and/or affected areas stabilized;

(5) Sediment has been removed and slopes stabilized for permanent flood control and water quality control practices;

(6) Detention pond grading is stabilized and/or excess sediment removed so that actual volume is at least equal to design volume and condition; and

(7) Other items as deemed to be important by Hobart, Indiana, or its designate.
(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.069 AS-BUILT REQUIREMENTS.

(A) Prior to issuance of a use and occupancy permit, recording of the final plat or final release of bond, the as-built condition (including: invert elevations, size shape and location) of critical stormwater management features must be identified and approved.

(B) The volume, slopes, configuration, condition and topographic information of all detention, retention and water quality practices shall be certified by a licensed professional engineer. This information shall be provided to Hobart, Indiana, in the form of an as-built drawing or other electronic form accepted/required by Hobart, Indiana. The as-built certification shall indicate if final conditions are consistent with, or exceed, the stormwater quality management permit provisions.

(C) If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed the stormwater quality management permit provisions, Hobart, Indiana reserves the right to withhold certification of occupancy or final bond. Furthermore, other enforcement mechanisms, as identified within this chapter, may be applied to the permittee or the person certifying the as-built information.

(D) If upon inspection by Hobart, Indiana, or its designated representative it is determined that there is an item that must be addressed to receive acceptance of site conditions, then the

permittee shall be required to continue inspections and maintenance as described in the stormwater quality management permit.
(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.070 LONG-TERM OPERATION AND MAINTENANCE.

(A) A stormwater quality management permit may not be issued until a long-term operation and maintenance agreement has been executed by the owner and accepted by the city.

(B) A long-term operation and maintenance agreement shall include a plan for all stormwater quality BMPs in new development or redevelopment that require more than general maintenance (periodic mowing).

(1) The plan will be developed to ensure that the stormwater quality BMP(s) is (are) kept functional. The maintenance agreement will specify minimum operation and maintenance requirements and intervals to be performed by the property owner.

(2) The plan shall address schedules for inspections and techniques for operation and maintenance including vegetation clearing or mowing and removing accumulated trash, debris, sediment pollutants and other forms of pollution.

(3) The agreement shall be noted on the final plat with the appropriate notation on the particular lot(s).

(4) The agreement shall be included with property ownership title documents and shall be binding on the owner, its administrators, executors, assigns, heirs and any other successors in interest.

(5) The format for the long-term operational and maintenance agreement is attached to the ordinance codified herein.

(C) Care must be taken to ensure that any required detention facilities do not become nuisances or health hazards. Detention and retention facilities should be designed to require minimal maintenance, and maintenance expectations must be clearly stated in a long-term operation and maintenance agreement.

(D) When a stormwater quality BMP serves more than 1 parcel, an owners' association or binding contract for the purpose of operation and maintenance is required. The owners association shall be responsible for operation and maintenance as directed in [§ 152.044](#).

(E) (1) The maintenance responsibilities for permanent stormwater quality BMPs shall be determined based upon the type of ownership of the property which is controlled by the facilities.

(2) Where the permanent stormwater runoff control facilities are designed to manage runoff from property in a single entity ownership, the maintenance responsibility for the stormwater control facilities shall be with the single entity owner.

(a) A single entity shall be defined as an association, public or private corporation, partnership firm, trust, estate or any other legal entity allowed to own real estate exclusive of an individual lot owner.

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(b) The stated responsibilities of the entity shall be documented in the form of a long-term operation and maintenance agreement. Terms including owning, operating and maintaining the facilities shall be submitted with plans in application for a stormwater quality management permit for determination of their adequacy. Approval of a stormwater quality management permit shall be conditioned upon the approval of these terms. These terms shall be in writing, shall be in recordable form, and shall, in addition to any other terms deemed necessary by the city, contain a provision permitting inspection at any reasonable time by the city of all facilities deemed critical in the public welfare.

(c) Upon approval of the stormwater quality BMPs by the city, the facility owner(s) shall demonstrate the ability to garner and apply the financial resources necessary for long-term maintenance requirements. The funding mechanism shall be in a form approved by the city. The city will only accept funding mechanism(s) for long-term maintenance responsibilities that can be demonstrated to be permanent or transferable to another entity with equivalent longevity.

(d) In the event that proposed funding is through an owners association, then it must be demonstrated that the association may not dissolve unless long-term operation and maintenance activities are accepted by another entity with equivalent longevity and adequate funding. Furthermore, the owners association's responsibility must be stated in the association declaration.

(e) Unless made specifically clear in the preliminary stages of the site design and construction plan review procedure, it will be assumed that all stormwater detention, retention, treatment or storage facilities and/or devices shall be owned, operated and maintained by a single entity, as defined above.

(F) Where the city has accepted an offer of dedication of the permanent stormwater quality BMPs, the city shall be responsible for operation and maintenance.

(G) The city may require the posting of a maintenance bond to secure the structural integrity of the facilities as well as the functioning of the facilities in accordance with the approved stormwater quality management permit for a term of 18 months from the date of acceptance of dedication. A cash contribution can be used as the financial assurance in lieu of a maintenance bond although the contribution must be equivalent to the amount that would be estimated for the maintenance bond.

(Ord. 2004-37; Ord. 2006-21, § 1)

§ 152.071 QUALIFIED PROFESSIONALS.

(A) A qualified professional, as defined herein, is required to perform routine inspections and direct and/or supervise maintenance activities to ensure that the long-term operation and maintenance agreement(s) provisions are being implemented properly.

(B) The city reserves the right to require all qualified professionals performing inspections under this chapter to be registered with the city and certified prior to execution of those actions. Applicants may be required to file an application with the city and demonstrate knowledge of:

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- (1) Stormwater quality BMPs;
- (2) Operation and maintenance standards;
- (3) Cause and failure indicators; and
- (4) Maintenance measures used to prevent and correct failures.

(C) The city reserves the right to require that qualified professional applicants pay a registration fee.

(D) The city reserves the right to require that qualified professional applicants satisfactorily complete a training course approved by the city.

(E) The city reserves the right to require that qualified professional applicants be recertified as often as every 5 years.

(F) The city reserves the right to require that qualified professional applicants successfully pass a written exam covering stormwater quality BMPs, operational standards, causes and indicators of stormwater quality management system failures and corrective actions as approved by the city.

(G) The city may de-certify any qualified professional under 1 or more of the following circumstances:

- (1) The individual fails to comply with the regulation;
- (2) The city determines that the individual is incompetent;
- (3) The individual is unable to properly perform an evaluation of a stormwater quality BMP(s);
- (4) The individual is negligent in the discharge of his or her duties as outlined in the certification requirements;
- (5) The individual submits false or misleading information; and
- (6) The individual does not maintain the required certification as required by this chapter.

(H) (1) The city shall give written notice to a qualified professional before he or she is de-certified.

(2) The qualified professional shall be given an opportunity at an informal meeting with the city's Engineer to demonstrate why he or she should not be de-certified.

(3) Any qualified professional who is de-certified may appeal that decision by following the procedure in [§ 152.066](#).

(I) (1) If a qualified professional is de-certified, he or she may apply for re-certification contingent upon completing the requirements established in this chapter after a period of at least 1

year.

(2) Re-certification shall not be permitted prior.
(Ord. 2004-37; Ord. 2006-21, § 1)

PERMIT REQUIREMENTS AND PROCEDURES

§ 152.085 WHEN TO SUBMIT SWQMP APPLICATION.

(A) Applicants must submit drainage plans for review and approval prior to the initiation of any land disturbing activities on the site. Local drainage review as part of the land alteration process shall typically be accomplished as a 2-step process, in conjunction with the platting of land. A general drainage plan, including submittal of drainage calculations, and information for the entire parent tract shall be required with submittal of a primary plat. A detailed design drainage plan shall be submitted with the secondary plat. In addition to the information required by the platting process, other information shall be required, as noted in this section.

(B) In the case where the site has already been platted, but development plan approval has not been granted, the drainage review process shall be completed in conjunction with the initial site development plan review. In addition to the information required by the development review process, other information shall be required, as noted in this section.
(Ord. 2004-37)

§ 152.086 PRE-SUBMITTAL MEETING.

The city may require a pre-submittal meeting.
(Ord. 2004-37)

§ 152.087 SWQMP APPLICATION REVIEW AND PERMIT APPROVAL PROCESS.

(A) The city will review each application for an SWQMP to determine its conformance with the provisions of this chapter. Within 30 calendar days after receiving a complete application, stormwater pollution prevention plan (SWPPP), and permit review fee, the issuing authority shall, in writing:

(1) Approve the application and stormwater pollution prevention plan (SWPPP) and issue the SWQMP permit;

(2) Approve the application and stormwater. Pollution prevention plan (SWPPP), subject to such reasonable conditions as may be necessary to secure substantially the objectives of these regulations, and issue the SWQMP permit subject to these conditions; or

(3) Disapprove the permit application and stormwater pollution prevention plan (SWPPP), indicating the reason(s) and procedure for submitting a revised application and/or submission.

(B) The 30-day review period shall begin anew for resubmittals that were previously submitted and determined to be incomplete or disapproved.
(Ord. 2004-37)

§ 152.088 CHANGES TO PLANS.

Any revision, change or deviation in the detailed plans and specifications after formal approval by the city shall be filed in duplicate with and approved by the city prior to implementation of the revision or change. Copies of the revisions or changes, if approved, shall be attached to the original plans and specifications.
(Ord. 2004-37)

§ 152.089 SWQMP PERMIT FEE STRUCTURE.

(A) As a condition of the submittal and review of development plans by the city, applicants agree to pay the city for costs incurred in the review of all drainage submittals, preliminary plans, final plans, construction plans and stormwater pollution prevention plans, as well as pre-paid inspection fees.

(B) The fees set out in the Fee Schedule of this code are non-refundable.

(C) As a condition of approval of final plans by the city, the applicant shall pay the Clerk-Treasurer the appropriate sum as set forth in division (B) above. The city may choose to issue a billing statement before the project advances to the final approval stage. Payment will be due by the applicant upon receipt of the billing statement regardless of whether the project has advanced to the final stages of approval.

(D) (1) Fees shall be paid by 1 of the following methods:

- (a) Certified check;
- (b) Cashier's check; and
- (c) Money order.

(2) All checks shall be made payable and submitted to:

City of Hobart
414 Main Street
Hobart, Indiana 46342

(E) Fees are only refundable if the city determines that compliance with this chapter is not necessary.
(Ord. 2004-37)

§ 152.090 REQUIRED ASSURANCES.

(A) The project site owner shall be responsible for the installation, good repair, maintenance and ultimate removal of all temporary and permanent erosion protection and sediment control (EPSC) measures.

(B) The city may require the permittee to post a fiscal surety, consisting of a bond, check, performance guarantee or other instrument, acceptable to and approved by the city. When a fiscal surety is required, the surety shall be posted prior to the issuance of a building permit.

(C) The fiscal surety shall be in the amount equal to 125% of the estimated cost of the EPSC measures, as approved by the city. Whenever feasible, fiscal surety may be combined with and posted with other appropriate security instruments, such as those required for subdivision regulations.

(D) Following the period allowed to the permittee to complete the installation of the EPSC measures, if the city finds the required temporary or permanent improvements or control measures have not been installed or maintained properly or are not in good repair or functioning properly, then the city may declare the permittee to be in default if it does not appear that the improvements or controls will be completed or repaired within a reasonable time. Upon declaration of default, the city shall demand such amounts from the surety as required to remedy the default.

(E) Request for release of surety may be made after the city makes an inspection of the property and determines that site construction is finished; final stabilization has been established; the required improvements and controls are properly installed and temporary controls have been removed.

(Ord. 2004-37)

§ 152.091 CERTIFICATION OF AS-BUILT PLANS.

(A) Prior to issuance of a use and occupancy permit or final release of bond(s), the as-built condition of critical stormwater management facilities must be reviewed and approved.

(B) The volume, capacity, slope, configuration, condition, “as-planted” plans and topographic information, as well as all pipe size, material, lengths, for all detention, retention and water quality practices shall be certified by a professional engineer licensed in the State of Indiana. This information shall be provided to the city in the form of an as-built drawing or other electronic format accepted/required by the city. The as-built certification shall indicate if final conditions are consistent with, or exceed, SWQMP provisions.

(C) If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed SWQMP requirements, the city reserves the right to withhold certification of occupancy or final bond. Furthermore, other enforcement mechanisms, as identified within this chapter, may be applied to the person certifying the as-built information.

(D) If upon inspection by the city or a designated representative it is determined that there is an item that must be addressed to receive acceptance of site conditions, then the person shall be

required to continue inspections and maintenance as described in the SWQMP.
(Ord. 2004-37)

§ 152.999 PENALTY.

(A) (1) The person responsible for any connection in violation of this chapter shall immediately cause the illegal connection to be disconnected and redirected, if necessary, to the city's sanitary sewer system upon approval by the Hobart Sanitary District. The person shall provide the city with written confirmation, satisfactory to the city or its designated representative, that the connection has been disconnected and, if necessary, redirected to the sanitary sewer.

(2) Any person responsible for illicit discharges or noncompliance with best management practices at industrial and/or construction sites, and who fails to correct any prohibited condition or discontinue any prohibited activity at the order of the city shall be liable to the city for expenses incurred in abating pollution. This may include expenses incurred in testing, measuring, sampling, collecting, removing, treating and disposing of the polluting materials and preventing further non-compliance and/or illicit discharges.

(3) The city may institute appropriate actions or proceedings by law or equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of non-compliance is considered a separate offense; and nothing herein contained shall prevent the city from taking such other lawful action as necessary to prevent or remedy any violation, including application for injunctive relief. Any of the following enforcement remedies and penalties, available to be applied independently or concurrently as deemed necessary, shall be available to the city in response to violations of this chapter. If the person, property or facility has or is required to have a stormwater discharge permit from the IDEM, the city shall alert the appropriate state authorities of the violation enforcement remedies:

(a) *Notice of violation (NOV).* Whenever the city or its designated representative finds that any person owning or occupying a premises has violated or is violating this chapter or order issued hereunder, the enforcement official may serve, by personal service, or by registered or certified mail, upon the person a written NOV. Within 30 days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to the city or its designated representative. Submission of this plan shall in no way relieve liabilities for violations occurring before or after receipt of the NOV.

(b) *Revocation of permit.* The city or its designated representative may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans or specifications, refusal or failure to comply with the requirements of state or local law or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.

(c) *Stop work order.* The city or its designated representative, or their designee may issue a stop work order and require that all activities cease, except those actions that are necessary to eliminate the illicit discharge. Unacceptable or untimely actions to eliminate the

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illicit discharge may be used as grounds to revoke permits for the construction site as described herein.

(d) *Compliance order.* If any person shall violate the provisions of this chapter, the city or its designated representative, or his or her designee may give notice to the owner or to any person in possession of the subject property ordering that all unlawful conditions existing thereupon be abated within a schedule defined from the date of the notice.

1. The enforcement official shall have the authority to establish and enforce elements of a stormwater pollution prevention plan and require any business to adopt and implement such a plan as may be reasonably necessary to fulfill the purposes of this chapter. The enforcement official may establish the requirements of best management practices for any premises.

2. The notice and order may be given, provided that if in the opinion of the city or its designated representative, the unlawful condition is such that it is of imminent danger or peril to the public, then the city or its designated representative may, with or without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The city shall be entitled to recover the cost of the actions from the property owner.

(e) *Civil penalties.* Any person that has been found to have been in violation of any provision of this chapter, may be assessed a civil penalty not to exceed the amount presented in this division.

1. The penalty may be assessed for each day, beyond schedules applied in compliance orders or other schedules issued to the property owner or other person responsible, for unauthorized activity defined in this chapter.

2. In determining the amount of the penalty, the Court shall consider the following:

a. The degree and extent of the harm to the natural resources, to the public health or to the public or private property resulting from the violation;

b. The duration and gravity of the violation;

c. The effect on ground or surface water quality;

d. The cost of rectifying the damage;

e. The amount of money saved by non-compliance;

f. Whether the violation was committed willfully or intentionally;

g. The cumulative effect of other enforcement actions applied for the same offense;

h. The prior record of the violator in complying or failing to comply with the stormwater quality management program; and

i. The costs of enforcement to the city.

3. The maximum civil penalties will be determined by the type of offense. This indicates the maximum that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.

a. Illicit discharge: \$2,500. Any person who is found to have improperly disposed of any substance defined as an illicit discharge, not an allowable discharge or causes the city to be in non-compliance with any applicable environmental permit.

b. Household products: \$500. Any person who is found to have improperly disposed of any substance not included herein that was purchased over-the-counter for household use, in quantities considered normal for household purposes, which upon discharge to the stormwater drainage system or drainage network would have an adverse impact on water quality or cause the city to be in non-compliance with any applicable environmental permit.

4. In the event there are penalties assessed by the state against the city caused by any person, the person shall be assessed the equivalent amount of civil penalty. This shall include but is not limited to penalties for improper disposal or illegal dumping, or illicit connection into the stormwater drainage system.

(f) *Administrative fee.* Any person who undertakes any development activity requiring a stormwater management plan hereunder without first submitting the plan for review and approval shall pay to the city, in addition to any permit or inspection fee, an administrative fee of up to \$2,500.

(g) *Order to clean and abate/restore.* Any violator may be required to clean and/or restore land to its condition prior to the violation.

(h) *Cost recovery.* If corrective action, including maintenance delinquency, is not taken in the time specified or within a reasonable time, the city may take the corrective action and the cost of the corrective action shall be the responsibility of the owner and/or the developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost shall be invoiced to the owner of the property. If the invoice is not paid within 90 days, the enforcement official shall have the authority to place a lien upon and against the property. If the lien is not satisfied within 90 days, the enforcement official is authorized to take all legal measures available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property.

(i) *Injunctions and/or proceedings at law or in equity.* Any violation of this chapter or of any condition, order, requirement or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated or enjoined by other appropriate proceeding pursuant to state law.

(j) *Fee or utility credit revocation or adjustment.* This enforcement remedy tool is intended to be available or used if there are, at any time, provisions for a funding mechanism managed by the city. This enforcement remedy permits that credits (reductions), adjustments (increases) or other measures to modify fees or utility charges may be revoked or added, in full or in part, if any provisions of [§§ 152.020 et seq.](#) are violated.

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(k) *Civil actions.* Any violation of this chapter may be enforced by civil action brought by the city's Attorney. Monies recovered under this division shall be paid to the city to be used exclusively for costs associated with implementing or enforcing the provisions of this chapter. In any such action, the city may seek, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;
2. Assessment of the violator for the costs of any investigation, inspection or monitoring survey which lead to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this division;
3. Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation; and
4. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

(l) *Emergency orders and abatements.* The enforcement official may order the abatement of any discharge from any source to the stormwater conveyance system when, in the opinion of the enforcement official, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety or welfare of the environment or a violation of a NPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety or welfare of the environment or a violation of a NPDES permit, the city may perform or cause to be performed such work as shall be necessary to abate the threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of this division.

(m) *Violations deemed a public nuisance.* Any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, welfare and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by state and local law.

(n) *Remedies not exclusive.* The remedies listed in this chapter are not exclusive of any remedies available under any applicable federal, state or local law and the city may seek cumulative remedies.
(Ord. 2004-37)

(B) (1) The city may institute appropriate actions or proceedings at law or equity for the enforcement of [§§ 152.040 et seq.](#) Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions and other appropriate forms of remedy or relief.

(2) Each day of non-compliance is considered a separate offense; and nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief.

(3) Any of the following enforcement remedies and penalties shall be available to the city in response to violations of this chapter. The remedies and penalties are available to be

applied independently or concurrently as deemed necessary by the city. If the person, property or facility has or is required to have a stormwater discharge permit from the Indiana Department of Environmental Management (IDEM), the city shall alert the appropriate state authorities of the violation. Enforcement remedies:

(a) *Notice of violation (NOV)*. If the city or its designated representative finds that any person owning or occupying a premises has violated or is violating this chapter or order issued hereunder, the enforcement official may serve, by personal service, or by registered or certified mail, upon the person a written NOV. Within 30 days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to the city or its designee. Submission of this plan shall in no way relieve liabilities for violations occurring before or after receipt of the NOV.

(b) *Revocation of permits*. The city, or its designee may revoke and require the return of a permit or certificate by notifying the permit holder in writing stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans, or specifications; refusal or failure to comply with the requirements of state or local law; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.

(c) *Compliance orders*. If any person, company or facility shall violate the provisions of this chapter, the city, or its designee, may give notice to the owner or to any person in possession of the subject property, ordering that all unlawful conditions existing thereupon be abated within a schedule defined from the date of the notice.

1. The enforcement official shall have the authority to establish elements of a stormwater pollution prevention plan and to require any business to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this chapter. The enforcement official may establish the requirements of best management practices for any premises.

2. The notice and order may be given provided, that if, in the opinion of the city or its designated representative, the unlawful condition is such that it is of imminent danger or peril to the public, then an authorized the city representative may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The city, as described further in this division, may recover the cost of such actions from the property owner.

(d) *Civil penalties*. Any person who has been found to have been in violation of any provision of this chapter, may be assessed a civil penalty not to exceed the amount presented in this subsection.

1. The penalty may be assessed for each day beyond schedules applied in compliance orders or other schedules issued to the property owner or other person responsible for unauthorized activity defined in this chapter.

2. In determining the amount of the penalty, the Court shall consider the following:

a. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;

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- b. The duration and gravity of the violation;
- c. The effect on ground or surface water quality;
- d. The cost of rectifying the damage;
- e. The amount of money saved by non-compliance;
- f. Whether the violation was committed willfully or intentionally;
- g. The cumulative effect of other enforcement actions applied for the same offense;
- h. The prior record of the violator in complying or failing to comply with the stormwater quality management program; and
- i. The costs of enforcement to the city.

3. The maximum civil penalties will be determined by the type of offense. This indicates the maximum that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.

a. Development without permit: \$2,500. To engage in any development, use, construction, remodeling or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this chapter without all required permits, certificates or other forms of authorization as set forth in this chapter.

b. Development inconsistent with permit: \$2,500. To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate or other form of authorization granted for the activity.

c. Violation by act or omission: \$2,500. To violate, by act or omission, any term, variance, modification, condition or qualification placed by the city or its designated representative upon any required permit, certificate or other form of authorization of the use, development or other activity upon land or improvements thereon.

4. In the event there are penalties assessed by the state against the city caused by any person, the person shall be assessed the equivalent amount of civil penalty. This shall include, but is not limited to penalties for improper disposal or illegal dumping, or illicit connection into the municipal separate storm sewer system.

(e) *Administrative fee.* Any person who undertakes any development activity requiring a stormwater management plan hereunder without first submitting the plan for review and approval shall pay to the city, in addition to any permit or inspection fee, an administrative fee of up to \$2,500.

(f) *Order to clean and abate/restore.* Any violator may be required to clean and/or restore land to its condition prior to the violation.

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(g) *Cost recovery.* If corrective action, including maintenance delinquency, is not taken in the time specified, or within a reasonable time, if no time is specified, the city may take the corrective action, and the cost of the corrective action shall be the responsibility of the owner and/or the developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost shall therefore be invoiced to the owner of the property. If the invoice is not paid within 90 days, the enforcement official shall have the authority to place a lien upon and against the property. If the lien is not satisfied within 90 days, the enforcement official is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property.

(h) *Injunctions and/or proceedings at law or in equity.* Any violation of this chapter or of any condition, order, requirement or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated or enjoined by other appropriate proceedings pursuant to state law.

(i) *Fee or utility credit revocation.* This enforcement tool is intended to be available or used if there are, at any time, provisions for a funding mechanism managed by the city. This enforcement remedy permits that credits or other measures to reduce fees or utility charges may be revoked, in full or in part, if any provisions of this subchapter are violated.

(j) *Civil actions.* Any violation of this chapter may be enforced by civil action brought by the city's Attorney. Monies recovered under this division shall be paid to the city to be used exclusively for costs associated with implementing or enforcing the provisions of this chapter. In any such action, the city may seek, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;
2. Assessment of the violator for the costs of any investigation, inspection or monitoring survey which lead to the establishment of the violation and for the reasonable costs of preparing and bringing legal action under this division;
3. Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation; and
4. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

(k) *Emergency orders and abatements.* The enforcement official may order the abatement of any discharge from any source to the stormwater conveyance system when, in the opinion of the enforcement official, the discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety or welfare, the environment, or a violation of an NPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, welfare, the environment or a violation of a NPDES permit, the city may perform or cause to be performed the work as shall be necessary to abate the threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of this division.

(Ord. 2004-37)