

## CHAPTER 152: STORMWATER MANAGEMENT

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**GENERAL PROVISIONS**

**§ 152.001.01 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 100year 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.

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

**CONSTRUCTION ACTIVITY.** Land-disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.

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

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**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.

**GASOLINE OUTLET.** An operating gasoline or diesel fueling facility whose primary function is the resale of fuels.

**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.

**HAZARDOUS SUBSTANCE.** A substance as defined under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as:

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- Any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act [33 U.S.C. 1321(b)(2)(A)]
- Any element, compound, mixture, solution, or substance designated pursuant to section 9602 of CERCLA
- Any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.] has been suspended by an Act of Congress)
- Any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act [33 U.S.C. 1317(a)]
- Any hazardous air pollutant listed under section 112 of the Clean Air Act
- Any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act [15 U.S.C. 2606]

**ILLICIT DISCHARGE.** Any discharge to a MS4 conveyance that is not composed entirely of stormwater, except naturally introduced floatables, such as leaves or tree limbs. Sources of illicit discharges include, but is not limited to, sanitary wastewater, septic tank effluent, commercial car wash wastewater, oil spills or disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, pollutant run-off, and household hazardous wastes..

**IMPERVIOUS AREA.** Any surface that prevents or significantly impairs stormwater from readily infiltrating into the underlying soil.

**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.

**LAND-DISTURBING ACTIVITY.** Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, and grading.

**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.

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***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.

***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-POINT SOURCE POLLUTION.*** Non-point source pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, depositing them into lakes, rivers, wetlands, coastal waters, and ground waters.

***NON-STORMWATER DISCHARGE.*** Any discharge to the storm drainage system that is not composed entirely of stormwater. These discharges include, but are not limited to, process water, wastewater, air conditioner condensate, cooling water, sanitary waste, concrete washout water, paint wash water, vehicle wash water, irrigation water, or pipe testing water.

***OFF-SITE.*** Everything outside the existing or proposed development or right-of-way.

***ON-SITE.*** Located within the existing or proposed development or 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 wet weather event or flood.

***PERSON.*** Except to the extent exempted from this chapter, any individual, partnership, firm, association, joint venture, public or private corporation, limited liability company, 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.

***PHASE I ENVIRONMENTAL SITE ASSESSMENT.*** A Phase I ESA is a review of state and federal databases and information about past property use in accordance with 40 CFR §312 to determine whether environmental contamination may be present on the property.

***PHASE II ENVIRONMENTAL SITE ASSESSMENT.*** A Phase II ESA is a subsurface investigation that includes the collection of subsurface soil and/or water samples for laboratory analysis to determine the absence or presence and the degree and extent of any environmental contamination on the property. Any

Phase II ESA must be planned and executed in accordance with the Indiana Department of Management (IDEM) current Risk-Based Closure Guide.

**POLLUTANT.** Anything that causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to, sediment, paints, varnishes, solvents, oil and automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, floatables, pesticides, herbicides, and fertilizers, hazardous substances and wastes, sewage, effluent, fecal coliform, E. coli and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from construction activities, and noxious or offensive matter of any kind.

**POLLUTION.** The contamination or other alteration of any water's or soil'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 the principles of stormwater management, including erosion and sediment control as is demonstrated by state registration, professional certification, annual training or completion of course work that enable the individual to make 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.

**REFUELING AREA.** An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.

**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. Also known as a 100 year flood.

**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.

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**SEDIMENT.** Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

**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.

**SPILL.** The unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

**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, while excluding sewage and industrial wastes.

**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).** A plan developed to minimize the quantity and impact of stormwater pollutants resulting from construction activities. The plan is required as part of the Storm Water Permit application which meets the requirements of [§ 152.041](#).

**STORMWATER PERMIT (STWP).** A legal document issued by the Utility that allows the permit holder to break ground or disturb soil on an entire construction site within the provisions of an approved thorough construction plan and a stormwater pollution prevention plan. The permit addresses erosion prevention, sediment control, run-off, and non-sediment pollution prevention activities.

**STORMWATER RUNOFF OR STORMWATER.** Any surface flow, runoff, or 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 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)

**§ 152.001.02 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) This Ordinance is adopted in accordance with statutory authority granted to the City under “Home Rule” and further is required by Phase II of the National Pollutant Discharge Elimination System Stormwater program (40 CFR Parts 9, 122, 123, and 124; December 8, 1999) authorized by the 1987 amendments to the Clean Water Act, the Indiana Department of Environmental Management’s (IDEM) Municipal Separate Storm Sewer System (MS4) General Permit (MS4GP), and the IDEM Construction Stormwater General Permit (CSGP). Based on this authority and these requirements, this Ordinance regulates:

- (1) Discharges of prohibited non-stormwater flows into the City’s stormwater drainage system.
- (2) Stormwater drainage improvements related to development of lands located within the corporate boundaries of the City.
- (3) Drainage control systems installed during new construction and grading of lots and other parcels of land.
- (4) Stormwater, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity.
- (5) Stormwater discharges from construction support activities directly related to construction sites subject to this Ordinance.
- (6) Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
- (7) The design, construction, and maintenance of stormwater drainage facilities and systems.
- (8) The design, construction, and maintenance of stormwater quality facilities and systems and implementation of low impact development.

**§ 152.001.03 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)

**§ 152.001.04 FINDINGS.**

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(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 include substantial economic losses and other harms. Potential losses include, but are not limited to, increased wastewater and drinking water treatment costs, diminished property values, adverse impacts to local fauna and biota, as well as losses from state and federal fines associated with water quality violations.

(D) Water bodies, roadways, structures, and other property within the City or its planning jurisdiction boundary are at times subjected to flooding.

(E) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region.

(F) Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition.

(G) Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited on off-site surfaces and into ditches, streams, wetlands, lakes, and reservoirs

(H) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the City will, absent reasonable regulation, management, and control, adversely affect the City's water bodies and water resources;

(I) Pollutant contributions from illicit discharges within the City will, absent reasonable regulation, monitoring, and enforcement, adversely affect the City's water bodies and water resources;

(J) Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;

(K) Adopting the standards, criteria, and procedures contained and referenced in this Ordinance and implementing the same will address many of the deleterious effects of stormwater runoff and illicit discharges;

(L) Adopting this Ordinance is necessary for the preservation of the public health, safety, and welfare; for the conservation and protection of natural resources; and for compliance with State and Federal regulations. (Ord. 2004-37)

### **§ 152.001.05 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 reduce the hazard to public health and safety caused by excessive stormwater runoff.
- (2) To regulate the contribution of pollutants to the stormwater drainage system from construction site runoff.
- (3) To regulate the contribution of pollutants to the stormwater drainage system from runoff from new development and re-development.
- (4) To prohibit illicit discharges into the stormwater drainage system.
- (5) To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Ordinance.

(Ord. 2004-37)

#### **§ 152.001.06 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 IDEM’s CSGP. In the case of conflicting requirements, the most restrictive shall apply. (Ord. 2004-37)

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by man-made or natural causes. This Ordinance does not imply that land uses permitted will be free from stormwater damage. This Ordinance shall not create liability on the part of the City of Hobart or any officer, representative, or employee thereof, for any damage that may result from reliance on this Ordinance or on any administrative decision lawfully made hereunder.

The words “approve” and “accept”, and their common derivations as used in this Ordinance in relation to plans, reports, calculations, and permits shall mean that the City of Hobart has reviewed the material produced and submitted by the applicant or his/her agent(s) for general compliance with this Ordinance and the City of Hobart Stormwater Technical Standards Manual, and that such compliance would qualify the applicant to receive a stormwater management approval or permit. Such an “approval” or “acceptance” is based on the assumption that the project engineer has followed all appropriate engineering methods in the design. Any stormwater quantity or water quality problems associated with the project caused by poor construction by the contractor and/or poor engineering design or judgment, either on-site or off-site, or deficient maintenance are the responsibility of the developer and the project engineer.

Consideration, design, construction, and maintenance of safety measures for proposed or existing stormwater facilities shall be the responsibility of the developer, applicant, and/or the property owner. The City of Hobart and its officials and representatives shall not be responsible for maintenance nor liable for any losses or damage resulting from the deficient design, construction, or maintenance of said facilities.

#### **§ 152.001.07 EFFECTIVE DATE.**

The provisions of this Chapter shall become effective upon final passage, the Mayor’s approval, and any publication required by law. (Ord. 2004-37)

### ***DEPARTMENT OF STORMWATER MANAGEMENT (Utility)***

**§ 152.010.01 STORMWATER MANAGEMENT BOARD ESTABLISHED TO OPERATE AND MAINTAIN THE CITY'S 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, hereinafter referred to as Utility, to be governed by the Board of Sanitary Commissioners as established under § 31.003 of the Hobart Municipal Code.

(2) A Stormwater Management District extending to the corporate boundaries of the City of Hobart for the purpose of providing for the collection, management, and disposal of stormwater in the City in a manner which protects the public's 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 Utility shall have exclusive jurisdiction over the collection, management, and disposal of stormwater within the 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 Utility.

(2) Hold hearings following public notice.

(3) Make findings and determinations.

(4) Install, maintain and operate a stormwater collection, management, and disposal system in the City.

(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 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 proper operation and maintenance of the stormwater management system.

(Ord. 2008-35, § 2)

**§152.010.02 PURPOSE OF DEPARTMENT OF STORMWATER MANAGEMENT.**

(A) The function of the Utility 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 Utility's activities regarding stormwater management, including design, planning, regulation, education, coordination, construction, operation, maintenance, inspection, and enforcement activities, all for the protection of the health, welfare and safety of residents of and property in 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 Utility to ensure the City's compliance with its NPDES stormwater discharge permit(s).

- (B) It is hereby determined necessary for the protection of the health, welfare, and safety of residents of and property in 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. The owner of every parcel of land in the City is a user of the Utility's stormwater management services. (Ord. 2008-35, § 1)

### ***ILLICIT DISCHARGES***

#### **§ 152.020.01 APPLICABILITY.**

This Section shall apply to all discharges, including illegal dumping, entering the stormwater drainage system under the control of the City, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the stormwater drainage system, illegal dumping, and contaminated runoff.

(Ord. 2004-37)

#### **§ 152.020.02 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.
- (2) Except as hereinafter provided, all non-stormwater discharges into the City's 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 City's stormwater drainage system.

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- (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, an IDEM issued CSGP, 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 an NPDES permit or a permit issued by the Utility.
- (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:
- (1) Discharges from fire suppression 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 groundwater;
  - (6) Discharges from potable water sources as required for system maintenance;
  - (7) Drinking water line and hydrant flushing for maintenance;
  - (8) Uncontaminated condensate from air conditioning units, coolers and other compressors and from outside storage of refrigerated gasses or liquids;
  - (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 or foundation drains and pumps;
  - (15) Individual residential car washing;

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- (16) Non-commercial car washing by community organizations;
- (17) Flows from riparian habitats and wetlands;
- (18) Dechlorinated/dibrominated residential swimming pool discharges;
- (19) Dye-testing authorized by the City;
- (20) Pavement wash waters provided spills or leaks or toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used;
- (21) Controlled flushing of stormwater conveyances (contained and treated by appropriate best management practices);
- (22) External building wash down, without detergents
- (23) Discharges from residential construction sites fully and completely utilizing guidance provided by, and that comply with, §§ 152.020 *et seq.* and the *Indiana Stormwater Quality Manual*;
- (24) Discharges within the constraints of a NPDES permit from IDEM; and
- (25) Discharges approved at the discretion of the Utility.

### (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 and sediment;
  - (c) Petroleum products, including but not limited to oil, gasoline, grease, fuel oil and 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 and mercury batteries;

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- (i) Acids, alkalis and bases;
- (j) Paints, stains, resins, lacquers and varnishes;
- (k) Degreasers and solvents;
- (l) Drain cleaners;
- (m) Pesticides, herbicides, and fertilizers;
- (n) Steam cleaning wastes;
- (o) Soaps, detergents and 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) Discharge or leakage from a septic system;
- (v) Recreational vehicle waste;
- (w) Animal carcasses;
- (x) Food wastes;
- (y) Medical wastes;
- (z) Bark and other fibrous materials;
- (aa) Collected lawn clippings leaves and branches;
- (bb) Silt, sediment and gravel;
- (cc) Dyes, except with permission from the Department of Stormwater Management;
- (dd) Chemicals not normally found in uncontaminated water;
- (ee) Washing of fresh concrete for cleaning and/or finishing, or to expose aggregates;
- (ff) Junk motor vehicles;

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- (gg) Leading solid waste disposal containers;
- (hh) Sewage dumping or dumping of sewage sludge;
- (ii) 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;
- (jj) Leaking water lines that have remained uncorrected for 7 days or more;
- (kk) Commercial, industrial or public vehicle wash discharge;
- (ll) Garbage or sanitary waste disposal;
- (mm) Dead animals or animal fecal waste;
- (nn) Dredged or spoil material;
- (oo) Wrecked or discarded vehicles or equipment;
- (pp) Wash waters to the stormwater drainage system from the cleaning of gas stations, auto repair garages or other types of auto repair facilities;
- (qq) Wastewater to the stormwater drainage system from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;
- (rr) Waters from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluids or coolants is undertaken;
- (ss) Waters from storage areas for materials containing grease, oil or hazardous materials or uncovered receptacles containing hazardous materials, grease or oil;
- (tt) Washing of toxic materials from paved or unpaved areas to the stormwater drainage system;
- (uu) 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 stormwater drainage system;
- (vv) 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 ground water or waters of the state; and
- (ww) Any hazardous material or waste not listed above.

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

(Ord. 2004-37)

### **§ 152.020.03 SPILL NOTIFICATION AND REPORTING.**

- (A) Any discharger who accidentally discharges into the stormwater drainage system or a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the City concerning the discharge. The procedures and requirements identified in the Indiana Spill Rule, 327 IAC 2-6.1 must also be followed.
- (B) In the event of any discharge of a substance, including a hazardous substance, in amounts that could cause a threat to public drinking supplies 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 IDEM as soon as practicable, but in no later than 2 hours after discovery of the accidental discharge or the discharger becomes aware of the circumstances.
- (C) A written report must be provided to the Utility within 5 days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by the Utility for good cause shown on a case-by-case basis, complying with the Indiana Spill Rule. The written report shall specify:
  - (1) The composition of the discharge and the cause;
  - (2) The date, time, and estimated volume of the discharge;
  - (3) All measures taken to clean up the accidental discharge and all measures proposed to be taken to prevent any recurrence; and
  - (4) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.
- (D) The discharger shall minimize any adverse impact to the stormwater drainage system, ground water, or the waters of the state, including implementing accelerated or additional monitoring necessary to determine the nature and impact of the discharge.
- (E) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this Section. This requirement does not relieve discharger from notifying other entities as required by state or federal regulations.

(Ord. 2004-37)

### **§ 152.020.04 AUTHORITY AND RIGHT OF ENTRY.**

- (A) The City, Utility, or its designated representative shall have right-of-entry on or upon the property of any person subject to this Chapter and any permit or document issued hereunder. The City, Utility, or

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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 place which require proper identification and clearance before entry into its premises, the owner or operator shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the City, Utility, or its designated representative will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (C) The City, Utility, 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 owner or operator at the written or verbal request of the City or Utility. The costs of clearing such access shall be borne by the owner or operator.
- (E) The City, Utility, or its designated representative may inspect the facilities of any property in the City 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 or Utility may seek issuance of an administrative search warrant.
- (F) The City and Utility have 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 off-site and/or to the municipal separate storm sewer system;
  - (4) A final inspection when all work, including installation of stormwater management facilities, has been completed; and
  - (5) An inspection to determine the effectiveness or operational viability of a permanent or long-term stormwater management practice or facility. (Ord. 2004-37)

### **§ 152.020.05 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)

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- (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 Utility; 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, lack of funding, 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 Utility 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 a court reporter, transcript, plan reviews, and other hearing related 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 Lake 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 MANAGEMENT***

### **§ 152.030.01 APPLICABILITY.**

(A) The City will require a Stormwater Pollution Prevention Plan (SWPPP) and Stormwater Permit (STWP), which includes erosion and sediment control measures, pollution prevention practices, and materials handling procedures, to be submitted as part of the construction plans and specifications for a project. Any project located within the City that involves land disturbance (with exception of items 152.040 (B) and (C) below) shall comply with this section. Calculation of land disturbance should follow the guidelines contained in § 152.040 (G). Land disturbance falls into categories with differing requirements as follows:

- (1) Land disturbances which are one (1) or more acres shall obtain coverage under IDEM's CSGP for construction activities and are subject to the requirement of this Section. This Section also applies to disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land.
- (2) Gasoline outlets and refueling areas regardless of the total area disturbed must comply with Section 152.040(A)(3) for stormwater quality treatment requirements.

(3) In order to insure the protection of off-site areas and drainage facilities, land disturbances in the following categories shall submit a Drainage Report:

- Less than one (1) acre but greater than 10,000 square feet; or
- on a residential lot that will exceed the allowable lot coverage based on the Zoning Ordinance;
- An existing residential lot proposing to excavate 500 square feet or more; or
- A project resulting in an increase of 500 square feet or more of impervious area.:

(B) Minimum SWPPP requirements:

- i. Installation and maintenance of appropriate perimeter control measures. These measures are to be installed prior to land disturbance and maintained until bare soils are permanently stabilized to at least seventy percent (70%) density of permanent perennial vegetated cover. Maintain existing vegetation when possible.
- ii. Installation of a temporary construction entrance/drive. Minimize sediment and soil discharge and tracking from the disturbed area. Clean-up sediment that is either tracked or washed on to roads, off-site, or into stormwater conveyances (sewers, ditches, waterways, storm inlets, and the like). Cleaning surfaces shall not include flushing the area with water. Cleared sediment and soil must be collected and redistributed or disposed of in a manner that is compliant with all applicable statutes and rules.
- iii. Establish a concrete washout area to contain residual concrete and washout waters. Water collected from a washout that does not harden or evaporate must be handled as wastewater.
- iv. Bare soils are to be stabilized in areas where work is complete, or where bare soils are to be inactive. Utilize soil stabilization measures that are appropriate for the season.
- v. Adjacent areas disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
- vi. Install inlet protection at all stormwater inlets that receive runoff from a disturbed area. For inlets within a road or driving lane, inlet protection must be installed below the grate with an overflow or bypass so that ponding water does not cause unsafe driving conditions.
- vii. Where construction disturbs surfaces greater than 3H:1V slope or in areas of concentrated flow, establish permanent vegetation with erosion control blanket and seeding.

(C) Minimum Drainage Report requirements:

- i. Design calculations for onsite stormwater drainage conveyances, including pipes, open channels, and inlets in accordance with the City of Hobart Stormwater Technical Standards Manual.

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- ii. Prepare a pre and post development drainage area map with peak runoff calculations per each drainage watershed.
- iii. Demonstrate an adequate outlet is available. Include calculations demonstrating that the receiving conveyance or pipe has adequate capacity for the total flow, including any additional flow from the development. Detention may be required to reduce flows to the capacity of the receiving conveyance.
- iv. Design outlets to include erosion and scouring protection.

(D) The requirements under this Chapter do not apply to the following activities:

- (1) Agricultural land-disturbing activities, including tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery and vegetative crops, pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tiles.
- (2) Silvicultural activities associated with nonpoint discharges (40 CFR 122.27)
- (3) Stormwater discharges associated with oil and gas exploration, production, processing or treatment operations, or transmission facilities (40 CFR 122.26).
- (4) Ditch maintenance for activities performed on a regulated drain by a county drainage board as defined in IC 36-9-27.
- (5) Single family residential construction activities with disturbance of less than five hundred (500) square feet.
- (6) Increases in impervious areas of less than 500 square feet.

(E) The requirements under this Section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control and pollution prevention measures:

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

(F) For an individual residential lot where land disturbance is expected to be one (1) acre or more, the individual lot owner must complete their own Notice of Intent (NOI) letter, obtain Stormwater Management Plan approval, and ensure that a SWPPP is completed and approved in accordance with the requirements of this Chapter and other relevant rules and regulations.

(G) An individual lot with land disturbance less than one (1) acre, located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the Stormwater Permit approved for the larger project site. The Stormwater Permit for the larger project

site must include detailed erosion and sediment control measures for individual lots. The requirements for individual building lots, where the individual lot operator/owner is working within a permitted project, are detailed in the City of Hobart Stormwater Application Guidance Document.

- (H) It will be the responsibility of the project site owner to obtain a Stormwater Permit (STWP) approval and ensure that a sufficient construction plan is completed and submitted to the City in accordance with the requirements of this Section and other relevant Ordinances. It will be the responsibility of the project site owner to ensure compliance with this Section during the construction activity and implementation of the construction plan, and to notify the City with a sufficient NOT letter upon completion of the project and stabilization of the site. However, all persons engaging in construction and land disturbing activities must comply with the requirements of this Section.
- (I) In calculating the total area of land disturbance, for the purposes of determining applicability of this Section to the project, the following guidelines should be used:
- (1) Off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities and project equipment and vehicle parking areas) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.
  - (2) Strip developments will be considered as one (1) project site and must comply with this Chapter unless the total combined disturbance on all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale.
  - (3) To determine if multi-lot project sites are regulated by this Chapter, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and project equipment and vehicle parking areas, and the expected total disturbance on each individual lot, as determined by the following:
    - i. A single-family residential project site where the lot(s) is one-half (0.5) acre or more in total size, as one-half (0.5) acre of land disturbance.
    - ii. A single-family residential project site where the lot(s) is less than one-half (0.5) acre in size, as the actual lot size.
  - (4) All other types of project sites, such as industrial and commercial project sites, as a minimum of one (1) acre for all lots regardless of size.
  - (5) The calculation methods, as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites, shall meet the design criteria, standards, and specifications outlined in the Indiana Stormwater Quality Manual and the City of Hobart Stormwater Technical Standards Manual.

**§ 152.030.02 STORMWATER PERFORMANCE STANDARDS.**

- (A) Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position and intercepting displaced soil prior to discharge off-site (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling and pollution prevention practices. The performance standards contained in this Section apply to all land-disturbing activities and should be considered in the preparation of a stormwater pollution prevention plan within the City, in addition to all performance standards from IDEM CSGP Section 3.0.
- (B) Sediment-laden water which otherwise would flow from the project site shall be managed by appropriate erosion and sediment control measures to minimize sedimentation to receiving waters and adjacent properties as discussed in the IDEM Storm Water Quality Manual and other authoritative sources.
- (C) Phasing of construction activities must be used, when feasible, to minimize the footprint of disturbed unstable areas.
- (D) Topsoil must be preserved, unless infeasible.
- (E) Existing natural buffers that are adjacent to waters of the state or City open stormwater drainage facility must be preserved to promote infiltration and provide protection of the water resource, unless infeasible. Activities performed by a county drainage board under IC 36-9-27 are excluded.
  - (1) Natural buffers must be preserved, including the entire buffer bordering and/or surrounding the water resource. Existing buffers:
    - i. 50 feet or more in width must be preserved to a minimum of 50 feet.
    - ii. less than 50 feet in width must be preserved in their entirety. May be enhanced with vegetation that is native and promotes ecological improvement and sustainability.
  - (2) Runoff directed to the natural buffer must be:
    - i. treated with appropriate erosion and sediment control measures prior to discharging to the buffer.
    - ii. managed with appropriate runoff control measures to prevent erosion from occurring within the buffer area.
  - (3) Further information regarding buffer requirements is contained in IDEM's "Implementation of Buffers" guidance document.
- (F) Final stabilization of a project site is achieved when all land-disturbing activities have been completed and a uniform (evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) has been established on all unpaved disturbed areas, and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed.
- (G) Cationic polymers are not authorized for use in the State of Indiana. The use of anionic polymers on the project site for sediment control shall be in accordance with current State of Indiana standards and specifications and the use shall be approved by IDEM and the Utility.

**§ 152.030.03 STORMWATER PERMIT (STWP).**

- (A) A STWP 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.
- (1) It will be the responsibility of the project site owner to complete a STWP application which must include a NOI letter with proof of publication of a public notice, construction plans, a stormwater pollution prevention plan (SWPPP), environmental investigation reports, drainage report and any other necessary information or documentation requested by the City. The STWP application must be submitted to the Utility in accordance with the following:
    - a) City of Hobart Stormwater Application Guidance Document,
    - b) Stormwater Technical Standards Manual, and
    - c) IDEM CSGP.
  - (2) The Indiana Stormwater Quality Manual should be reviewed and considered when preparing construction plans and the stormwater pollution prevention plan; and
  - (3) 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 STW Permit.
  - (4) It will be the responsibility of the site owner to identify any current or previous uses of the project site or immediately adjacent properties which may have resulted in the presence of hazardous substances, pollutants, or contaminants on the project site, and obtain the necessary Phase I and Phase II Environmental Site Assessments to identify the potential impacts on the project and the SWPPP.
    - a) Where the City of Hobart or Utility has reason to believe that current and previous uses of the property have not been adequately identified or that the potential for the presence of hazardous substances, pollutants, or contaminants on the project site and immediately adjacent properties have not been adequately investigated by the owner, the MS4 Coordinator shall discuss the need of performing further environmental assessment of the site.
    - b) The owner must provide copies of any environmental assessment that has been performed on the property, including any Phase I and Phase II Environmental Site Assessment.
    - c) Any remediation and closure activities shall be to the satisfaction of, and be supported by, documentation from IDEM.
  - (5) 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 Utility of project initiation via a notice of intent (NOI) letter, and to notify the Utility 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.
- (B) A STWP shall be considered open and active until a time when the Utility and City accept the site conditions and as-built requirements have been completed.
- (1) Acceptance of site conditions shall be made by the City, Utility, or its designated representative based upon an inspection. If the site is 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.

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- (2) The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of stormwater management measures that are to remain on the project site.
- (3) The project site owner shall submit a notice of termination (NOT) letter and request for STWP closure to the Utility in accordance with the IDEM CSGP Section 6.0 and the City of Hobart Stormwater Permit Application Guidance Document.
- (4) The City and/or Utility will inspect the project site to evaluate the adequacy of the remaining stormwater quality and quantity measures and compliance with the NOT letter requirements. Once the site is deemed sufficient for STWP termination, a final notice will be provided for the permittee to submit the NOT to the IDEM to close the permit.
- (5) After a NOT letter has been submitted and permit compliance verified by the Utility 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.

### **§ 152.030.04 CHANGES TO PLANS.**

Any revision, change, or deviation in the detailed plans and specifications after formal approval by the City and/or Utility shall be filed with and approved by the Utility and/or 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)

### **§ 152.030.05 REQUIRED ASSURANCES FOR STORMWATER PERMITS.**

#### **(A) Performance Guarantee Requirements:**

- (1) Provide financial performance assurance in the form of a performance guarantee, certified check, or certificate of deposit before construction begins. Assurance guarantees shall be made out to the City of Hobart.
- (2) The amount of the guarantee shall be fixed and approved by the City equal to one hundred twenty-five percent (125%) of the total estimated cost of all stormwater management improvements and installations provided in the construction drawings based on the contractor's bid or an estimate prepared by a Professional Engineer registered in the State of Indiana. The minimum amount shall be \$10,000.
- (3) Said performance guarantee shall guarantee a good faith execution of the SWPPP, Erosion and Sediment Control Plan, stormwater management plan, and any other conditions of plan approval, including proper installation of all approved stormwater infrastructure.
- (4) The total of the performance guarantee shall be for the cost of installation of stormwater improvements, including detention/retention facilities, stormwater quality BMPs, and other stormwater infrastructure, and the continuous installation, monitoring, and maintenance of temporary sediment and erosion control measures, stormwater management facilities, and water quality BMPs as regulated under this Article. The intent of this performance guarantee is not only to complete the installation of stormwater infrastructure for the project, but also to ensure that adequate stormwater pollution prevention measures are properly installed, maintained, repaired, and cleaned.
- (5) Performance guarantees shall be kept current until the project receives Stormwater Management Permit closeout. Delinquent performance guarantees or other assurances will result in penalties and corrective actions, including, but not limited to, revocation of the STWP.

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- (6) The City may redeem the performance guarantee to complete all necessary work, after giving the permittee reasonable notice and opportunity for compliance.
  - (7) Upon completion of the required sediment and erosion control measures, stormwater drainage facilities, and stormwater quality BMPs, the following must be completed:
    - a. Provide the City with “as-built” plans in accordance with § 152.040.07 and the City of Hobart Stormwater Permit Application Guidance Document.
    - b. All permanent stormwater management facilities must be vacuumed, cleaned, or dredged. If the measure is used as a sediment control measure during active construction, the performance guarantee will not be released until sediment has been cleaned and elevations and grades have been reestablished as specified in the approved plans.
    - c. A meeting to discuss the O&M requirements shall be conducted with the Utility, contractor, and permittee.
  - (8) A release of the performance guarantee may be requested upon satisfaction of all performance requirements and receipt of the maintenance guarantee. The City will release the performance guarantee within 60 days thereafter.
- (B) Maintenance Guarantee
- (1) Prior to the release of the performance assurance, provide financial maintenance guarantee in the form of a maintenance guarantee surety or certified check. Assurance shall be made out to the City of Hobart.
  - (2) Said maintenance guarantee shall guarantee the materials, performance, and workmanship of all permanent sediment and erosion control measures, detention/retention facilities, water quantity BMPs, soil stabilization measures, including vegetation, and that other stormwater infrastructure shall be maintained in accordance with the approved plans, O&M manual, and the requirements described herein. Maintenance shall include providing the Utility with documentation that the stormwater system is inspected, cleaned, and maintained.
  - (3) Said financial maintenance guarantee shall meet the following conditions:
    - a. The *Maintenance Guarantee* shall run and be in force for a period of one year from the date of release of the performance guarantee and can be extended at the sole discretion of the City in one year increments if needed.
    - b. A penal sum shall be fixed and approved by the City, but in no case shall the penal sum be less than 20% of the total construction cost for the stormwater management facilities and water quality BMPs. The minimum *Maintenance Guarantee* shall be \$5,000.00.
    - c. The *Maintenance Guarantee* shall be issued in the property owner or permittee’s name, alone or in the name of the permittee and the contractor as co-signers. All certified checks provided for financial maintenance guarantee shall be signed by the permittee alone.
  - (4) All maintenance guarantees shall expire at the end of the 1-year period for which they were established unless extended by the City. Within 60 days of the expiration date, the City will return said expired maintenance guarantee to the applicant. In the case where a certified check has been posted as a financial maintenance guarantee, the applicant shall, at the end of the maintenance period, contact the City in order to obtain the release of the maintenance guarantee.

## § 152.030.06 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

- (A) Oversight Inspections and Right of Entry
- (1) Oversight inspections may be initiated by the City to ensure compliance with this Chapter, as follows.

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- i. The City and the Utility, or their designated representative, has the authority to periodically inspect the property of any person subject to this Chapter to ensure full compliance with this Chapter, the City of Hobart Stormwater Technical Standards Manual, the City of Hobart STW Permit Application Guidance Document, the terms and conditions of the approved STWP, and CSGP, if applicable.
- ii. The City and the Utility may make inspections of the project site at their discretion and shall either approve the portion of the work completed or shall notify the permittee when the work fails to comply with any aspect of the construction plan, the SWPPP, or STWP as approved, or is ineffective (regardless of consistency with an approved plan).
- iii. In order to obtain inspections, the permittee shall notify the City at least 2 working days before beginning 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 STWP.
- iv. The City, Utility, or its designated representative may identify any repairs, sediment/debris removal, and/or replacement of all or portions of the stormwater system(s) necessary to comply with the objectives of this Chapter and the STWP;
- v. The City, Utility, 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 consistent with the STWP provisions; and
- vi. The City, Utility, or its designated representative may develop and require the implementation of an action plan to prevent the premature system failure that exceeds the STWP provisions, but are necessary to prevent stormwater pollution from leaving the site.
- vii. The City and Utility have 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 or off-site;
  - 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)

### (B) Self-Monitoring Report Requirements:

- (1) Permittee performed self-monitoring (self-inspections) must be performed by a qualified professional.

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- (2) Self-monitoring inspections shall be performed a minimum of one time per week and 24 hours prior to, or by the end of the next business day following a measurable wet weather event (precipitation accumulation equal to or greater than 0.5-inches of rain). No more than three inspections per week are required (in the event of multiple rain events).
- (3) Self-monitoring inspections shall be performed in accordance with the City of Hobart Stormwater Permit Application Guidelines.
- (4) All inspections shall be submitted to the Utility per the City of Hobart Stormwater Permit Application Guidelines.
- (5) Documentation of permittee performed inspections and inspection findings shall be kept on site and shall be made available within 48 hours of a request by the City, Utility, or its designated representative. Failure to maintain or provide documentation, as requested, will be assumed to indicate that inspections were not performed and may result in corresponding enforcement procedures, including stopping construction.

### (C) Maintenance

- (1) Maintenance must be performed under the direction and/or supervision of a qualified professional.
- (2) Maintenance of erosion prevention, sediment control, and pollution prevention practices shall be performed according to the construction plan and approved stormwater pollution prevention plan.
- (3) 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)

### (D) Qualified professionals

- (1) 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.
- (2) 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:
  - i. Erosion and sediment control measures;
  - ii. Stormwater quality and quantity BMPs;
  - iii. Operation and maintenance standards;
  - iv. Cause and failure indicators; and
  - v. Maintenance measures used to prevent and correct failures.
- (3) The City reserves the right to require that qualified professional applicants pay a registration fee.

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- (4) The City reserves the right to require that qualified professional applicants satisfactorily complete a training course approved by the Utility.
- (5) The City reserves the right to require that qualified professional applicants be recertified as often as every 5 years.
- (6) The City reserves the right to require that qualified professional applicants successfully pass a written exam covering stormwater BMPs, operational standards, erosion and sediment controls, causes and indicators of stormwater management system failures, and corrective actions as approved by the City and Utility.
- (7) The City may de-certify any qualified professional under 1 or more of the following circumstances:
  - i. The individual fails to comply with the regulation;
  - ii. The City determines that the individual is incompetent;
  - iii. The individual is unable to properly perform an evaluation of a stormwater BMP(s);
  - iv. The individual is negligent in the discharge of his or her duties as outlined in the certification requirements;
  - v. The individual submits false or misleading information; or
  - vi. The individual does not maintain the required certification as required by this chapter.
- (8) The City shall give written notice to a qualified professional before he or she is decertified.
  - i. The qualified professional shall be given an opportunity at an informal meeting with the City's Engineer or its designee to demonstrate why he or she should not be de-certified.
  - ii. Any qualified professional who is de-certified may appeal that decision by following the procedure in [§ 152.066](#).
- (9) If a qualified professional is de-certified, they may apply for re-certification contingent upon completing the requirements established in this Chapter after a period of at least 1 year. Re-certification shall not be permitted prior to that time unless that requirement is waived by the Board. (Ord. 2004-37; Ord. 2006-21, § 1)

### ***POST-CONSTRUCTION STORMWATER MANAGEMENT***

#### **§ 152.040.01 APPLICABILITY.**

## Hobart – Land Usage

- (A) All STWPs for all new land disturbing 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 include a post-construction SWPPP which includes stormwater detention requirements and provisions necessary for minimizing the stormwater discharge and the impacts of pollutants from the proposed land use.
- (B) Exemptions:
  - (1) Land-disturbing activities where there will be no additional impervious surfaces or sources of pollution associated with the final completed project, including, but not limited to, ditch construction/reconstruction and utility installation/maintenance activities.
  - (2) Single-family residential strip development offered for sale or lease without land improvements and the project is not part of a larger common plan of development or sale.
  - (3) Individual residential building lots within a permitted project site.
  - (4) Residential developments consisting of four (4) or fewer lot developments where the proposed impervious surfaces are 10% or less of the project acreage. Impervious is determined by the sum of all infrastructure (structures, roads, paths, parking, etc.) and the average projects hard surfaces associated with all building lots within the project.
  - (5) Single family residences and private ponds that are not part of a larger common plan of development or sale.

### **§ 152.040.02 POST-CONSTRUCTION SWPPP REQUIREMENTS.**

- (A) A STWP may only be issued after the review and acceptance of a post-construction SWPPP.
- (B) The post-construction SWPPP is part of the STWP and must include all post-construction stormwater quality and quantity management measures and all required elements detailed in the City of Hobart Stormwater Technical Standards Manual, City of Hobart STW Permit Application Guidance Document and the IDEM CSGP:
- (C) The post-construction SWPPP shall include provisions for stormwater BMPs functioning independently or in combination to meet the detention and stormwater quality treatment requirements described in § 152.040.03 and in accordance with the City's Stormwater Technical Standards Manual.

### **§ 152.040.03 BMP DESIGN REQUIREMENTS AND CRITERIA.**

- (A) The post-construction SWPPP shall include provisions for stormwater quality and quantity BMP(s) or low impact development (LID) practices that are designed to achieve the design/performance objectives in the City of Hobart Stormwater Technical Standards Manual and includes the following:
  - (1) Removal of 80% of total suspended solids (TSS) and floatable control from the water volume or flow rate (as defined in the City's Stormwater Technical Standards Manual).

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- (2) Stormwater detention design must also be included in the post-construction SWPPP as defined in the City of Hobart Stormwater Technical Standards Manual.
  - (3) Any gasoline outlet or refueling area, publicly or privately owned (regardless of the size of land disturbance), that installs or replaces fuel tanks must install appropriate post-construction stormwater quality treatment measures to reduce lead, copper, zinc and polyaromatic hydrocarbons in stormwater runoff. This is in addition to TSS removal and floatable control. Materials must be captured and removed and not resuspended. Pollutants must not directly infiltrate into the ground. Treatment must include the water volume or flowrate as described in the Stormwater Technical Standards Manual, and.
  - (4) The City reserves the right to require superseding 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 plan or the total maximum daily load (TDML) program.
- (B) The guidance document(s), the *City of Hobart Stormwater Technical Standards Manual*, *Indiana Drainage Handbook* or the *Indiana Stormwater Quality Manual*, should be reviewed and considered when preparing the post-construction SWPPP.
- (C) 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 should be reviewed and considered when preparing the post-construction SWPPP. These documents may be applied by the City as standards by which designs are to be prepared and controls implemented. The Utility 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 to 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: 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 Utility, 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, and a 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 City's stormwater drainage system) 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 or permittee from the obligation to comply with this Chapter, and shall not prevent the Utility from imposing the most current and effective practices.
- (D) Soil bioengineering, “green,” and other “soft” slope and stream bank stabilization methods shall receive preference over riprap, concrete, and other hard armoring techniques. “Hard” alternatives shall only be permitted when their necessity can be demonstrated given site-specific conditions.
- (E) 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 by a lake, pond or stormwater quality management practice with a permanent pool, design calculations for detention and water quality treatment shall be prepared and submitted to demonstrate that an adequate pool is expected during dry summer months.
- (F) A licensed, professional engineer shall stamp all proposed plans and specifications for construction. This shall include all proposed improvements or modifications to existing or new stormwater management infrastructure and other related improvements or modifications. (Ord. 2004-37; Ord. 2006-21, § 1)

**§ 152.040.04 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 specified in the Operation and Maintenance Manual or otherwise required by the STWP shall be provided by the owner(s). The owner shall provide and maintain a perpetual, non-exclusive easement, which allows for access for inspection and emergency maintenance by the Utility and the City. The Utility and the City have the right, but not the duty, to enter premises for emergency repairs.
- (B) All easements shall be in accordance with the *City of Hobart Stormwater Technical Standards Manual*
- (C) 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 provide and maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by the City. The Utility and the City have the right, but not the duty, to enter premises for emergency repairs.
- (D) Any stormwater management facility or BMP which services commercial or industrial development shall be privately owned and maintained. The owner shall provide and maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by the City and Utility. The City and Utility have the right, but not the duty, to enter premises for emergency repairs.
- (E) All regional stormwater management control facilities proposed by the owners, if approved and accepted by the Utility or the City for dedication as a public facility, shall be publicly owned and/or maintained.

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- (F) All other stormwater management control facilities and BMP's shall be publicly owned and/or maintained only if accepted for maintenance by Utility.
- (G) The City and Utility may require dedication of privately owned stormwater facilities, which discharge to the City's stormwater drainage system. (Ord. 2006-21, § 1)

### § 152.040.05 COORDINATION WITH REGIONAL BMPS, MASTER PLANS, AND WATERSHED STUDIES

- (A) Development sites making use of regional or master planned stormwater detention areas must include the following information in the stormwater drainage report:
  - (1) Design assumptions, maps, and calculations from the master planned drainage report for the proposed development area.
  - (2) Written narrative, maps, and supporting calculations demonstrating that the master planned assumptions will be achieved.
  - (3) Current standards and regulations may require additional storage and/or water quality measures if the master planned drainage report does not include those measures.
- (B) 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.
- (C) Special design criteria or requirements may be applied to stormwater 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)

### § 152.040.06 LONG-TERM OPERATION AND MAINTENANCE.

- (A) A stormwater permit may not be issued until a long-term operation and maintenance agreement has been executed by the owner and accepted by the Utility and an Operation and Maintenance (O&M) Manual has been reviewed and approved. The approved O&M Manual shall be recorded with the County Recorder's office with the property containing the stormwater management facility.
- (B) The O&M Manual shall be prepared and submitted for review with the STW Permit. Refer to the City's *Stormwater Technical Standards Manual* for guidance and required content.
- (C) A long-term operation and maintenance agreement shall include an O&M Manual for all stormwater BMPs.
  - (1) The O&M Manual will be developed to ensure that the stormwater 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 agreement shall be noted on the final plat with the appropriate notation on the particular lot(s).

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- (3) Annual inspection reports shall be submitted to the Utility that demonstrates BMPs are being adequately maintained.
  - (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.
- (D) When a stormwater 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.
- (E) (1) The maintenance responsibilities for permanent stormwater 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.
  - (b) The stated responsibilities of the entity shall be documented in the form of a long-term O&M Manual. Terms including owning, operating and maintaining the facilities shall be submitted with plans in application for a stormwater permit for determination of their adequacy. Approval of a stormwater 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 and Utility of all facilities deemed critical in the public welfare.
  - (c) Upon approval of the stormwater BMPs by the Utility, 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.

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- (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 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 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)

### **§ 152.040.07 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, described, 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 the Utility, in the form of an as-built drawing or other electronic form accepted/required by the Utility. The as-built certification shall indicate if final conditions are consistent with, or exceed, the stormwater 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 permit provisions, 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 permittee or the person certifying the as-built information.
- (D) If upon inspection by the City, Utility, or their 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 permit.

## ***ENFORCEMENT***

### **§ 152.090.01 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.
  - (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.

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- (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 Utility, 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.
- (B) 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 Utility 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)

### § 152.090.02 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 Utility or City shall be liable to the Utility or 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 or Utility from taking such other lawful action as necessary to prevent or remedy any violation, including application for injunctive relief. Any of the following

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enforcement remedies and penalties, available to be applied independently or concurrently as deemed necessary, shall be available to the City and Utility 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 Utility or City shall alert the appropriate state authorities of the violation enforcement remedies it implements:

- (a) *Notice of violation (NOV).* Whenever the City, Utility, or their designated representative finds that any person owning or occupying a premise 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 Utility 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 Utility 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 Utility, 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 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 Utility, City, or their 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 Utility, City, or their designated representative, the unlawful condition is such that it is of imminent danger or peril to the public, then the Utility, City, or their designated representative may, with or without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The Utility and City shall be entitled to recover the cost of the actions from the property owner.

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- (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 the costs of enforcement to the Utility and 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
  4. 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 Utility or City to be in non-compliance with any applicable environmental permit.
  5. 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 Utility or City to be in non-compliance with any applicable environmental permit.
  6. In the event there are penalties assessed by the state against the Utility or 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 approval hereunder without first submitting the plan for

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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 Utility and 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 Utility or City. This enforcement remedy permits 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.
- (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 Utility or 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 Chapter.

(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, Utility, 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 Utility 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, Utility, or their 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

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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, Utility, or their 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 Utility, City, or their designated representative, the unlawful condition is such that it is of imminent danger or peril to the public or the environment, then an authorized City or Utility representative may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The City and Utility, as described further in this Chapter, 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.
    - 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
      1. The costs of enforcement to the City and Utility
      2. 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.
    - i. 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.

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- j. 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.
  - k. Violation by act or omission: \$2,500. To violate, by act or omission, any term, variance, modification, condition or qualification placed by the City, Utility, or their designated representative upon any required permit, certificate or other form of authorization of the use, development or other activity upon land or improvements thereon.
3. 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.
  - (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 or Utility 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 Utility or 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:

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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 or Utility 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 Chapter. (Ord. 2004-37)

(Ord. 2024-11)

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