

ORDINANCE 2024-15

**AN ORDINANCE OF THE TOWN OF ZIONSVILLE, INDIANA,
REPEALING AND REPLACING TITLE V, CHAPTER 50 OF THE ZIONSVILLE TOWN CODE**

WHEREAS, in 2013, the Zionsville Town Council adopted Ordinance 2013-17, which established a new chapter of Town Code governing stormwater management; and

WHEREAS, recent changes to the federal and state laws that were the foundation of the Town's existing Stormwater Management Ordinance have necessitated several changes to the Town's current ordinance in order for the Town to remain in compliance with those laws; and

WHEREAS, several provisions of the Town's Stormwater Management Ordinance also are in need of routine updates; and

WHEREAS, the Town Council now finds that it is in the best interest of the citizens of Zionsville repeal and replace the Town's 2013 Stormwater Management Ordinance with an ordinance that reflects the current federal and state requirements and standards for stormwater management.

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Zionsville, Indiana, as follows:

Section 1. The foregoing Recitals are incorporated herein by this reference.

Section 2. Title V, Chapter 50 of the Zionsville Town Code is hereby repealed in its entirety and replaced as follows:

"CHAPTER 50: STORMWATER

General Provisions

- 50.001 Authority and title
- 50.002 Applicability and exemptions
- 50.003 Background
- 50.004 Findings
- 50.005 Purpose
- 50.006 Abbreviations and definitions
- 50.007 Responsibility for administration
- 50.008 Conflicting ordinances
- 50.009 Interpretation

50.010 Disclaimer of liability

Prohibited Discharges and Connections

50.020 Applicability and exemptions

50.021 Prohibited discharges and connections

50.022 Exempted discharges and connections

50.023 Storage of hazardous or toxic material

50.024 Private property maintenance duties

50.025 Spill reporting

50.026 Inspections and monitoring

Stormwater Quantity Management

50.040 Applicability and exemptions

50.041 Policy on stormwater quantity management

50.042 Calculations and design standards and specifications

50.043 Drainage easement requirements

50.044 Placement of utilities

50.045 Structures near county regulated drains

50.046 Inspection, maintenance, record keeping and reporting

Stormwater Pollution Prevention for Construction Sites

50.060 Applicability and exemptions

50.061 Policy on stormwater pollution prevention

50.062 Calculations and design standards and specifications

50.063 Inspection, maintenance, record keeping and reporting

Stormwater Quality Management for Post-Construction

50.075 Applicability and exemptions

50.076 Policy on stormwater quality management

50.077 Calculations and design standards and specifications

50.078 Easement requirements

50.079 Inspection, maintenance, record keeping and reporting

Development in Wetlands

- 50.085 Applicability and exemptions
- 50.086 Policy on wetland disturbance prevention
- 50.087 Wetlands identification

Permit Requirements and Procedures

- 50.090 Conceptual drainage plan review
- 50.091 Permit procedures
- 50.092 SWPPP review time limits
- 50.093 Information requirements
- 50.094 Review of individual lots
- 50.095 Changes to plan
- 50.096 Fee structure
- 50.097 Required assurances
- 50.098 Terms and conditions of permits
- 50.099 Certification of as-built plans
- 50.100 Permit approval process Chart

Enforcement

- 50.110 Compliance with chapter
- 50.111 Enforcement of chapter
- 50.112 Cost of abatement of the violation
- 50.113 Appeals
- 50.999 Penalty

Cross-reference:

- Sewers, *see* Ch. 52
- Solid Waste, *see* Ch. 54
- Streets and Sidewalks, *see* Ch. 53

GENERAL PROVISIONS

§ 50.001 AUTHORITY AND TITLE.

(A) This chapter is required by Phase II of the National Pollutant Discharge Elimination System program (64 FR 68722) authorized by the 1972 amendments to the Clean Water Act being 42 U.S.C. §§ 7401 *et seq.*, the Indiana Department of Environmental Management's (IDEM) Municipal Separate Storm Sewer System (MS4) General Permit (MS4 GP) and Construction Stormwater General Permit (CSGP). Based on this authority and these requirements, this chapter regulates:

- (1) Discharges of prohibited non-stormwater flows into the storm drain system;
- (2) Stormwater drainage improvements related to development of lands located within the corporate boundaries of the Town of Zionsville ("Town");
- (3) Drainage control systems installed during new construction and grading of lots and other parcels of land;
- (4) Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land;
- (5) The design, construction and maintenance of stormwater drainage facilities and systems; and
- (6) The design, construction and maintenance of stormwater quality facilities and systems.

(B) This chapter shall be known and may be cited as the "Town of Zionsville Stormwater Management Ordinance". Once adopted, this chapter will supersede any conflicting ordinances previously adopted by the Town.

§ 50.002 APPLICABILITY AND EXEMPTIONS.

(A) This chapter shall regulate all development and re-development occurring within the Town. No building permit shall be issued and no land disturbance started for any construction in a development, as defined in § 50.006 of this chapter, until the plans required by this chapter for such construction have been accepted in writing by the Town.

- (1) With the exception of the requirements of §§ 50.020 through 50.026 (prohibited discharges and connections) and 50.094 (individual lot permits) of this chapter, single-family dwelling houses and duplexes in accepted subdivisions, and land-disturbing activities affecting less than 10,000 square feet of area shall be exempt from the requirements of this chapter.

- (2) Also exempt from this chapter shall be agricultural land-disturbing activities associated with normal farming operations.
 - (3) The Town may, on a case-by-case basis, consider additional exemptions when offsite impacts are not expected. Such an exemption shall be in writing and list the reasons such an exemption was determined to be appropriate for that particular site.
- (B) In addition to the requirements of this chapter and its companion Stormwater Technical Standards Manual, compliance with all applicable ordinances of Town as well as with applicable federal, state and other local statutes and regulations shall also be required.
- (1) Unless otherwise stated, all other specifications referred to in this chapter shall be the most recent edition available.
 - (2) Town projects shall be exempt from obtaining a permit, but are expected to meet all applicable technical requirements of this chapter and the Town's Stormwater Technical Standards Manual.
 - (3) If the project site is located within a county regulated drain watershed, the applicant will need to check with the County Surveyor's office to learn if additional Surveyor's office requirements specific to that regulated drain will apply to the site.
 - (4) In case there are conflicts between the requirements contained in this chapter and applicable requirements contained in other regulatory documents referenced above, the most restrictive shall prevail.
- (C) Any construction project which has had its final drainage plan accepted by the Town within a two (2) year period prior to the effective date of this chapter shall be exempt from all requirements of this chapter that are in excess of the requirements of ordinances in effect at the time of acceptance. Such an exemption is not applicable to the requirements detailed in §§ 50.020 through 50.026 of this chapter.
- (C) The Town has the authority to modify, grant exemptions and/or waive any and all the requirements of this chapter and its associated technical standards document.
- (1) A pre-submittal meeting with the Town may be requested by the applicant to discuss the applicability of various provisions of this chapter and its associated technical standards document with regards to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the Town that may be based on the review of more detailed information and plans.

§ 50.003 BACKGROUND.

(A) The Town Council, on 11-6-2000, adopted Ord. 2000-21, which established "The Town of Zionsville Subdivision Control Ordinance", commonly known as the "Subdivision Control Ordinance", in order to control runoff of stormwater and to protect, conserve and

promote the orderly development of the land in the Town and its water resources. This code was primarily targeted at the overall administration of policies regarding the development and re-development of land within the town. On 10-4-2004, the Town Council adopted amendments to the design and construction standards of the Town to govern specific technical issues in regard to new developments and re-developments. The Town relied upon the County Soil and Water Conservation District, engineering review and developer submittals to determine compliance with applicable laws of the state in regard to erosion control and pre- and post-development drainage plans.

(B) On 12-8-1999, Phase II of the National Pollutant Discharge Elimination System (NPDES) permit program was published in the Federal Register. The NPDES program, as authorized by the 1972 amendments to the Clean Water Act, controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Phase II of NPDES requires permit coverage for stormwater discharges from regulated small municipal separate storm sewer systems (MS4s) and for small construction activity that results in the disturbance of equal to or greater than one acre. This federal regulation went into effect 3-10-2003. In response to Phase II of NPDES, the State Department of Environmental Management enacted Rule 13 (327 I.A.C. 15-13) and revised Rule 5 (327 I.A.C. 15-5).

(C) Under these new state and federal regulations, the Town was required to establish a regulatory mechanism for regulating stormwater quality management. Therefore, this document was created to supplement the Town's subdivision control ordinance and the design and construction standards to address stormwater quality and quantity. The 2013 version of the stormwater ordinance reflected those changes.

(D) In December 2021, IDEM finalized two (2) new permits, Municipal Separate Storm Sewer System (MS4) General Permit (MS4 GP) and Construction Stormwater General Permit (CSGP), which replaced the previous IDEM Rule 13 and Rule 5 permits. These new permits require the Town to update its Stormwater Management Ordinance to reflect the new requirements and standards of the 2021 permits. The 2024 Town of Zionsville Stormwater Management Ordinance and its companion document, the 2024 Town of Zionsville Stormwater Technical Standards Manual, incorporate the changes mandated by IDEM, along with other necessary updates.

§ 50.004 FINDINGS.

The Town hereby finds that:

(A) Waterbodies, roadways, structures and other property within, and downstream of, the Town are at times subjected to flooding;

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

(C) 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;

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

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

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

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

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

(I) Adopting this chapter is necessary for the preservation of the public health, safety and welfare, for the conservation of natural resources and for compliance with state and federal regulations.

§ 50.005 PURPOSE.

(A) The purpose of this chapter is to provide for the health, safety and general welfare of the citizens of the Town through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve and promote the orderly development of land and water resources within the Town. This chapter establishes methods for managing the quantity and quality of stormwater entering into the storm drain system in order to comply with state and federal requirements.

(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 storm drain system from construction site runoff;

(3) To regulate the contribution of pollutants to the storm drain system from runoff from new development and re-development;

(4) To prohibit illicit discharges into the storm drain system; and

(5) To establish legal authority to carry out all inspection, monitoring and enforcement procedures necessary to ensure compliance with this chapter.

§ 50.006 ABBREVIATIONS AND DEFINITIONS.

(A) Abbreviations. For the purpose of this chapter, the following abbreviations shall apply.

BMP. Best management practice.

CSGP. Construction Stormwater General Permit.

CWA. Clean Water Act.

EPA. Environmental Protection Agency.

GIS. Geographical information system.

IDEM. Indiana Department of Environmental Management.

MS4. Municipal separate storm sewer system.

MS4GP. Municipal separate storm sewer system General Permit.

NRCS. USDA-Natural Resources Conservation Service.

NPDES. National Pollution Discharge Elimination System.

POTW. Publicly owned treatment works.

SWCD. Soil and Water Conservation District.

SWPPP. Stormwater Pollution Prevention Plan.

USACE. United States Army Corps of Engineers.

USDA. United States Department of Agriculture.

USFWS. United States Fish and Wildlife Service.

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

AGRICULTURAL LAND-DISTURBING ACTIVITY. Tillage, planting, cultivation or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices and the installation and maintenance of agricultural drainage pipe. For purposes of this rule, the term does not include land-disturbing activities for the construction of agricultural related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities, lakes and ponds, wetlands and other infrastructure.

BASE FLOW. Stream discharge derived from ground water sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

BEST MANAGEMENT PRACTICES (BMP's). Design, construction and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion and capture pollutants.

BUFFER STRIP. An existing, variable width strip of vegetated land intended to protect water quality and habitat.

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.

CATCH BASIN. A chamber usually built at the curb line of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

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

COMPREHENSIVE STORMWATER MANAGEMENT. A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

CONSTRUCTED WETLAND. A human-made shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

CONSTRUCTION ACTIVITY. Land-disturbing activities and 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.

CONSTRUCTION SITE ACCESS. A stabilized stone surface at all points of ingress or egress to a project site, for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

CONTIGUOUS. Adjoining or in actual contact with.

CONTOUR. An imaginary line on the surface of the earth connecting points of the same elevation.

CONTOUR LINE. Line on a map which represents a contour or points of equal elevation.

CONTRACTOR or SUBCONTRACTOR. An individual or company hired by the project site or individual lot owner, his, her or their agent or the individual lot operator to perform services on the project site.

CONVEYANCE. Any structural method for transferring stormwater between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains and roadways.

CROSS-SECTION. A graph or plot of ground elevation across a stream valley or a portion of it, usually along a line perpendicular to the stream or direction of flow.

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

DECHLORINATED SWIMMING POOL DISCHARGE. Chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance or, by analysis, does not contain detectable concentrations (less than five-hundredths milligram per liter) of chlorinated residual.

DESIGN STORM. A selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage or flood control improvements are designed and built.

DETENTION. Managing stormwater runoff by temporary holding and controlled release.

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

DETENTION STORAGE. The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

DETENTION TIME. The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

DETRITUS. Dead or decaying organic matter; generally contributed to stormwater as fallen leaves and sticks or as dead aquatic organisms.

DEVELOPER. Any person financially responsible for construction activity, or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

DEVELOPMENT.

(a) Any human-made change to improved or unimproved real estate including, but not limited to:

- (1) Construction, reconstruction or placement of a building or any addition to a building;
- (2) Construction of flood control structures such as levees, dikes, dams or channel improvements;
- (3) Construction or reconstruction of bridges or culverts;

- (4) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (5) Installing utilities, erection of walls, construction of roads or similar projects;
- (6) Mining, dredging, filling, grading, excavation or drilling operations;
- (7) Storage of materials; or
- (8) Any other activity that might change the direction, height or velocity of flood or surface waters.

(b) DEVELOPMENT does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation or the construction of permanent buildings.

DISCHARGE. In the context of water quantity provisions, usually the rate of water flow, i.e., a volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute or millions of gallons per day. In the context of water quality provisions, the discharge means any addition of liquids or solids to a water body or a flow conveyance facility.

DISPOSAL. The discharge, deposit, injection, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air or be discharged into any waters, including ground water.

DITCH. A human-made, open watercourse in or into which excess surface water or ground water drained from land, stormwater runoff or flood waters flow either continuously or intermittently.

DRAIN. A buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus ground water or surface water.

DRAINAGE. The removal of excess surface water or ground water from land by means of ditches or subsurface drains. *See also*, NATURAL DRAINAGE.

DRAINAGE AREA. The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the DRAINAGE AREA.

DRY WELL. A type of infiltration practice that allows stormwater runoff to flow directly into the ground, via a bored or otherwise excavated opening in the ground surface.

DURATION. The time period of a rainfall event.

ENVIRONMENT. The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

ERODIBILITY INDEX (EI). The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively cropped. It is defined to be the maximum of $(R \times K \times LS)/T$ (from the Universal Soil Loss Equation) and $(C \times I)/T$ (from the Wind Erosion Equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and steepness, C is a climatic characterization of windspeed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. ERODIBILITY INDEX scores equal to or greater than eight are considered highly erodible land.

EROSION. The wearing away of the land surface by water, wind, ice, gravity or other geological agents. The following terms are used to describe different types of WATER EROSION.

(a) **ACCELERATED EROSION.** Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of humans.

(b) **CHANNEL EROSION.** An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.

(c) **GULLY EROSION.** An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from one (1) to two (2) feet to as much as 75 to 100 feet.

(d) **RILL EROSION.** An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils. (See RILL.)

(e) **SPLASH EROSION.** The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.

(f) **SHEET EROSION.** The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

EROSION AND SEDIMENT CONTROL. A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

FILTER STRIP. Usually a long, relatively narrow area (usually, 20 to 75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs or adjacent properties.

FLOATABLE. Any solid waste that will float on the surface of the water.

FLOOD or FLOOD WATERS. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation or the runoff of surface waters from any source.

FLOODPLAIN. The channel proper and the areas adjoining the channel which have been or hereafter may be covered by the regulatory or 100-year flood. Any normally dry land area that is susceptible to being inundated by water from any natural source. The FLOODPLAIN includes both the floodway and the floodway fringe districts.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

FLOODWAY FRINGE. The portion of the floodplain lying outside the floodway, which is inundated by the regulatory flood.

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

GARBAGE. All putrescible animal solid, vegetable solid and semisolid wastes resulting from the processing, handling, preparation, cooking, serving or consumption of food or food materials.

GASOLINE OUTLET. An operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create 5,000 or more square feet of impervious surfaces, or generate an average daily traffic count of 100 vehicles per 1,000 square feet of land area.

GEOGRAPHICAL INFORMATION SYSTEM. A computer system capable of assembling, storing, manipulation and displaying geographically referenced information. This technology can be used for resource management and development planning.

GRADE.

(a) 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;

(b) The finished surface of a canal bed, roadbed, top of embankment or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit; and

(c) To finish the surface of a canal bed, roadbed, top of embankment or bottom of excavation or other land area to a smooth, even condition.

GRADING. The cutting and filling of the land surface to a desired slope or elevation.

GRASS. A member of the botanical family Graminae, characterized by blade-like leaves that originate as a sheath wrapped around the stem.

GROUND WATER. Accumulation of underground water, natural or artificial. The term does not include human-made underground storage or conveyance structures.

HABITAT. The environment in which the life needs of a plant or animal are supplied.

HIGHLY ERODIBLE LAND (HEL). Land that has an erodibility index of eight or more.

HOT SPOT DEVELOPMENT. Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks and the like, industrial/commercial or any hazardous waste storage areas or areas that generate such wastes, industrial sites, restaurants and convenience stores, any activity involving chemical mixing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries and some high traffic retail uses characterized by frequent vehicle turnover.

HYDROLOGIC UNIT CODE. A numeric United States Geologic Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.

HYDROLOGY. The science of the behavior of water in the atmosphere, on the surface of the earth and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

ILLICIT DISCHARGE. Any discharge to a conveyance that is not composed entirely of stormwater, except naturally occurring floatables, such as leaves or tree limbs. Illicit discharges include polluted flows from direct and indirect connections to the MS4 conveyance, illegal dumping, and contaminated runoff.

IMPAIRED WATERS. Waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's CWA § 303(d), List of Impaired Waters.

IMPERVIOUS SURFACE. Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

INDIVIDUAL BUILDING LOT. A single parcel of land within a multi-parcel development.

INDIVIDUAL LOT OPERATOR. A contractor or subcontractor working on an individual lot.

INDIVIDUAL LOT OWNER. A person who has financial control of construction activities for an individual lot.

INFILTRATION. Passage or movement of water into the soil. INFILTRATION practices include any structural BMP designed to facilitate the percolation of run-off through the soil to ground water. Examples include INFILTRATION basins or trenches, dry wells and porous pavement.

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

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

LAND SURVEYOR. A person licensed under the laws of the state to practice land surveying.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE. A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

LOWEST ADJACENT GRADE. The elevation of the lowest grade adjacent to a structure, where the soil meets the foundation around the outside of the structure (including structural members, such as basement walkout, patios, decks, porches, support posts or piers, and rim of the window well).

LOWEST FLOOR. The lowest of the following:

- (a) The top of the basement floor;
- (b) The top of the garage floor, if the garage is the lowest level of the building;
- (c) The top of the first floor of buildings constructed on a slab or of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
- (d) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - 1. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two (2) openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; or
 - 2. Such enclosed space shall be usable only for the parking of vehicles or building access.

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

MEASURABLE STORM EVENT. A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half inch of rainfall.

MULCH. A natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plant cover and minimizes temperature fluctuations.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). An MS4 meets all the following criteria:

- (a) Is a conveyance or system of conveyances owned by the state, county, city, town or other public entity;
- (b) Discharges to waters of the United States;
- (c) Is designed or used for collecting or conveying stormwater;
- (d) Is not a combined sewer; and
- (e) Is not part of a publicly owned treatment works (POTW).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM. A permit developed by the U.S. EPA through the Clean Water Act. In the state, the permitting process has been delegated to IDEM. This permit covers aspects of municipal stormwater quality.

NATURAL DRAINAGE. The flow patterns of stormwater run-off over the land in its pre-development state.

NUTRIENT(S).

- (a) A substance necessary for the growth and reproduction of organisms; and
- (b) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

OPEN DRAIN. A natural watercourse or constructed open channel that conveys drainage water.

OPEN SPACE. Any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural or other human-made activities.

OUTFALL. The point, location or structure where a pipe or open drain discharges to a receiving body of water.

OUTLET. The point of water disposal from a stream, river, lake, tidewater or artificial drain.

PEAK DISCHARGE or PEAK FLOW. The maximum instantaneous flow from a given storm condition at a specific location.

PERCOLATION. The movement of water through soil.

PERMANENT STABILIZATION. The establishment, at a uniform density of 70% across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding or other movement.

PERVIOUS. Allowing movement of water.

POINT SOURCE. Any discernible, confined and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure or container from which pollutants are or may be discharged (Pub. Law No. 92-500, § 502(14)).

POROUS PAVEMENT. A type of infiltration practice to improve the quality and reduce the quantity of stormwater run-off via the use of human-made, pervious pavement which allows run-off to percolate through the pavement and into underlying soils.

PROFESSIONAL ENGINEER. A person licensed under the laws of the state to practice professional engineering.

PROJECT SITE. The entire area on which construction activity is to be performed.

PROJECT SITE OWNER. The person required to submit a stormwater permit application, and required to comply with the terms of this chapter, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

RAIN GARDEN. A vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

RECEIVING STREAM, RECEIVING CHANNEL or RECEIVING WATER. The body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins or constructed wetlands used as treatment.

RECHARGE. Replenishment of ground water reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

RE-DEVELOPMENT. Development occurring on a previously developed site.

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

REGIONAL POND. A detention/retention basin sized to detain/retain the runoff from the entire watershed, on-site and off-site, tributary to the pond's outlet.

REGULATORY FLOOD. The discharge or elevation associated with the 100-year flood as calculated by a method and procedure which is acceptable to and approved by the State Department of Natural Resources and the Federal Emergency Management Agency. The REGULATORY FLOOD is also known as the BASE FLOOD.

REGULATORY FLOODWAY. *See*, FLOODWAY.

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

RESERVOIR. A natural or artificially created pond, lake or other space used for storage, regulation or control of water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

RETENTION. The storage of stormwater to prevent it from leaving the development site. May be temporary or permanent.

RETENTION BASIN. A type of storage practice, that has no positive outlet, used to retain stormwater run-off for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

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 one year.

RIPARIAN ZONE. Of, on or pertaining to the banks of a stream, river or pond.

RIPARIAN HABITAT. A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

RUNOFF. The portion of precipitation that flows from a drainage area on the land surface, in open channels or in stormwater conveyance systems.

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

SEDIMENT. 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.

SEDIMENTATION. The process that deposits soils, debris and other unconsolidated materials either on the ground surfaces or in bodies of water or watercourses.

SENSITIVE WATER. A waterbody in need of priority protection or remediation base on its:

- (a) Providing habitat for threatened or endangered species;
- (b) Usage as a public water supply intake;
- (c) Relevant community value;
- (d) Usage for full body contact recreation;
- (e) Exceptional use classification as found in 327 I.A.C. 2-1-11(b); and
- (f) Outstanding state resource water classification as found in 327 I.A.C. 2-1.5-19(b).

SITE. The entire area included in the legal description of the land on which land-disturbing activity is to be performed.

SLOPE. Degree of deviation of a surface from the horizontal, measured as a numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (run) and the second is the vertical distance (rise) (e.g., 2:1). However, the preferred method for designation of SLOPES is to clearly identify the horizontal (H) and vertical (V)

components (length (L) and Width (W) components for horizontal angles). Also, note that according to international standards (metric), the SLOPES are presented as the vertical or width component shown on the numerator (e.g., 1V:2H). SLOPE expressions in this chapter follow the common presentation of SLOPES (e.g., 2:1) with the metric presentation shown in parentheses (e.g., (1V:2H)). SLOPES can also be expressed in “percents”. SLOPES given in percents are always expressed as $(100 \cdot V/H)$ (e.g., a 2:1 (1V:2H) slope is a 50% slope).

SOIL. The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

SOIL AND WATER CONSERVATION DISTRICT. A public organization created under state law as a special-purpose district to develop and carry out a program of soil, water and related resource conservation, use and development within its boundaries. A subdivision of state government with a local governing body, established under I.C. 14-32.

SOLID WASTE. Any garbage, refuse, debris or other discarded material.

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.

STORM 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 EVENT. An estimate of the expected amount of precipitation within a given period of time. For example, a ten-year frequency, 24-hour duration STORM EVENT is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hour period.

STORM SEWER. A closed conduit for conveying collected stormwater, while excluding sewage and industrial wastes. Also called a STORM DRAIN.

STORMWATER. Water resulting from rain, melting or melted snow, hail or sleet.

STORMWATER MANAGEMENT SYSTEM. A collection of structural and non-structural practices and infrastructure designed to manage stormwater on a site. This system may include, but is not limited to, erosion control measures, storm drainage infrastructure, detention/retention facilities and stormwater quality BMPs.

STORMWATER POLLUTION PREVENTION PLAN. A plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

STORMWATER RUNOFF. The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

STORMWATER QUALITY MANAGEMENT PLAN. A comprehensive written document that addresses stormwater runoff quality.

STORMWATER QUALITY MEASURE. A practice, or a combination of practices, to control or minimize pollutants associated with stormwater runoff.

STORMWATER DRAINAGE SYSTEM. All means, natural or human-made, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets and pumping stations.

STRIP DEVELOPMENT. A multi-lot project where building lots front on an existing road.

SUBDIVISION, MAJOR. Any land that is divided or proposed to be divided into four (4) or more lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

SUBDIVISION, MINOR. Any land that is divided or proposed to be divided into less than four (4) lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

SUBSURFACE DRAIN. A pervious backfield trench, usually containing stone and perforated pipe, for intercepting ground water or seepage.

SURFACE RUNOFF. Precipitation that flows onto the surfaces of roofs, streets, the ground and the like and is not absorbed or retained by that surface, but collects and runs off.

SWALE. An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some ground water recharge.

TEMPORARY STABILIZATION. The covering of soil to ensure its resistance to erosion, sliding or other movement. The term includes vegetative cover, anchored mulch or other non-erosive material applied at a uniform density of 70% across the disturbed area.

TILE DRAIN. Pipe made of perforated plastic, burned clay, concrete or similar material, laid to a designed grade and depth, to collect and carry excess water from the soil.

TOPOGRAPHIC MAP. Graphical portrayal of the topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

TOPOGRAPHY. The representation of a portion of the earth's surface showing natural and human-made features of a give locality such as rivers, streams, ditches, lakes, roads, buildings and most importantly, variations in ground elevations for the terrain of the area.

TRAINED INDIVIDUAL. An individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state registration, professional certification (such as CESSWI and/or CPESC certification), or other documented and applicable experience or coursework as deemed sufficient by the Town that enable the individual to make judgments regarding stormwater control or treatment and monitoring.

URBAN DRAIN. A drain defined as “urban drain” in the State Drainage Code.

URBANIZATION. The development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

VEGETATED SWALE. A type of vegetative practice used to filter stormwater runoff via a vegetated, shallow-channel conveyance.

WATER QUALITY. A term used to describe the chemical, physical and biological characteristics of water, usually in respect to its suitability for a particular purpose.

WATER RESOURCES. The supply of ground water and surface water in a given area.

WATERBODY. Any accumulation of water, surface or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or human-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

WATERSHED. The region drained by or contributing water to a specific point that could be along a stream, lake or other stormwater facilities. WATERSHEDS are often broken down into subareas for the purpose of hydrologic modeling.

WATERSHED AREA. All land and water within the confines of a drainage divide. *See also*, WATERSHED.

WETLANDS. Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

§ 50.007 RESPONSIBILITY FOR ADMINISTRATION.

The Town’s Department of Public Works (“DPW”) shall administer, implement and enforce the provisions of this chapter. The DPW is authorized to adopt and update the Stormwater Technical Standards and other technical specifications related to stormwater management, a copy of which shall be kept on file in Town offices for public inspection. Any powers granted or duties imposed upon the DPW may be delegated in writing by the Town to qualified persons or entities acting in the beneficial interest of or in the employ of the Town.

§ 50.008 CONFLICTING ORDINANCES.

The provisions of this chapter shall be deemed as additional requirements to minimum standards required by other Town ordinances, and as supplemental requirements to Indiana’s Municipal Separate Storm Sewer System (MS4) General Permit (MS4 GP) and Indiana’s Construction Stormwater General Permit (CSGP). In case of conflicting requirements, the most restrictive shall apply.

§ 50.009 INTERPRETATION.

Words and phrases in this chapter shall be construed according to their common and accepted meanings, except that words and phrases defined in § 50.006 of this chapter shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this chapter, but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

§ 50.010 DISCLAIMER OF LIABILITY.

The degree of protection required by this chapter 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 human-made or natural causes. This chapter does not imply that land uses permitted will be free from stormwater-related damage. This chapter shall not create liability on the part of the Town or any officer, representative or employee thereof, for any damage that may result from reliance on this chapter or on any administrative decision lawfully made thereunder.

PROHIBITED DISCHARGES AND CONNECTIONS

§ 50.020 APPLICABILITY AND EXEMPTIONS.

(A) This section shall apply to all discharges, including illegal dumping, entering the storm drain system under the control of the Town, 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 storm drain system, illegal dumping and contaminated runoff.

(B) (1) Stormwater runoff from agricultural, timber harvesting and mining activities is exempted from the requirements of this section unless determined to contain pollutants not associated with such activities or in excess of standard practices.

(2) Farm residences are not included in this exemption.

(C) Any non-stormwater discharge permitted under an NPDES permit, waiver (unless the waiver is solely based on point source considerations, still allowing non-point source discharge of a pollutant), or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency; provided that, the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations; and, provided that, written approval has been granted for the subject discharge to the storm drain system, is also exempted from this section.

§ 50.021 PROHIBITED DISCHARGES AND CONNECTIONS.

(A) No person shall discharge to a MS4 conveyance, watercourse or waterbody, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater, through the use of best management practices (BMPs).

(B) Concrete washout material must be properly contained within an appropriate practice and any waste material properly disposed of.

(C) The Town is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs necessary to prevent or reduce the discharge of pollutants into the Town's stormwater drainage system.

Penalty, *see* § 50.999

§ 50.022 EXEMPTED DISCHARGES AND CONNECTIONS.

Notwithstanding other requirements in this chapter, stormwater comingled with other discharges either regulated by other NPDES permits or determined by the Town to not be a significant source of pollutants, including the following categories of non-stormwater discharges or flows are exempted from the requirements of this section:

- (A) Water line and hydrant flushing for maintenance;
- (B) Irrigation water;
- (C) Footing, foundation, and crawl Space drains (uncontaminated);
- (D) Storm sewer cleaning water not collected by a vacuum truck (uncontaminated);
- (E) Fire suppression activities;
- (F) Uncontaminated pumped groundwater;
- (G) Springs;
- (H) Residential car washing;
- (I) Non-commercial car washing by community organizations;
- (J) External building wash down, without detergents;
- (K) Dechlorinated/debrominated residential swimming pool discharges;
- (L) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20));
- (M) Pavement wash waters provided spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used; and
- (N) Uncontaminated condensate from air conditioning units, coolers, and other compressors, and from outside storage of refrigerated gases or liquids.

§ 50.023 STORAGE OF HAZARDOUS OR TOXIC MATERIAL.

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic materials in any other areas must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

Penalty, *see* § 50.999

§ 50.024 PRIVATE PROPERTY MAINTENANCE DUTIES.

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

Penalty, *see* § 50.999

§ 50.025 SPILL REPORTING.

- (A) Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the Town concerning the discharge.
- (B) A written report concerning the discharge shall be filed with the Town and IDEM, by the dischargers, within five (5) days. The written report shall specify:
 - (1) The composition of the discharge and the cause thereof;
 - (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.
- (C) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter 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.
 - (1) 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.

Penalty, *see* § 50.999

§ 50.026 INSPECTIONS AND MONITORING.

(A) Storm drainage system. The Town has the authority to periodically inspect the portion of the storm drainage system under the Town's control, in an effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

(B) Potential polluters. If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the Town may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this chapter. Upon request, the discharger shall allow the Town's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Town or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Identified illicit connections or discharges shall be subject to enforcement action as described in §§ 50.110 through 50.113 of this chapter.

(C) New development and re-development. The Town has the authority to inspect new development and re-development sites both during and after construction to verify that all on-site stormwater conveyances and connections to the storm drainage system are in compliance with this section.

STORMWATER QUANTITY MANAGEMENT

§ 50.040 APPLICABILITY AND EXEMPTIONS.

Unless exempted from stormwater permitting by Section 50.002 of this Ordinance, the storage and controlled release rate of stormwater runoff shall be required for all new business, institutional developments, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions and any re-development or other new construction located within the Town. The Town, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization.

§ 50.041 POLICY ON STORMWATER QUANTITY MANAGEMENT.

It is recognized that most streams and drainage channels serving the Town do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release of stormwater runoff as well

as compensation for loss of floodplain storage shall be required for all developments and re-developments (as defined in § 50.006 of this chapter) located within the Town. Release rate requirements, downstream restriction considerations, acceptable outlet, adjoining property impact considerations and compensatory floodplain storage rates are detailed in the Town's Stormwater Technical Standards Manual.

§ 50.042 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

The calculation methods as well as the type, sizing and placement of all stormwater facilities shall meet the design criteria, standards and specifications outlined in the Town's Stormwater Technical Standards Manual. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated above.

§ 50.043 DRAINAGE EASEMENT REQUIREMENTS.

(A) There shall be no trees or shrubs planted, regrading or mounding, nor any structures, fences, or other obstructions erected in any drainage easement.

(B) The following are specific areas where drainage easements shall be required for new developments:

(1) New drain infrastructure, pipes 12-inch or greater in diameter and or minor conveyance swales, which convey flow from an upstream property or right of way, common rear yard swales, and sump pump collection drains shall be placed in dedicated right of way or a drainage easement (DE).

(a) The default drainage easement width is 30 feet, centered on the pipe or swale. Reduced widths will be considered by the Town on a case-by-case basis.

(b) If storm pipes are to be located outside of the right of way in an easement that also serves as a utility easement, a 10 feet exclusive drainage easement shall be provided centered on the storm pipe to prevent other utilities from being installed on top of the storm pipe.

(2) A minimum of 25 feet from top of the bank on each side of a new or existing primary drainage channel, creek, stream or other watercourse, which conveys flow from an upstream property or right of way shall be designated as a drainage easement.

(3) 100-year and emergency overflow paths from upstream adjacent properties and emergency overflow routes associated with detention ponds shall be placed in a minimum 30-foot (15 feet from centerline on each side) drainage easement (DE).

(4) A minimum of 15 feet beyond the actual footprint of Best Management Practices (BMP's) (top of the bank for detention facilities) shall be designated as drainage easement.

(5) A minimum 25-foot width easement shall also be required as access easement, unless the facility is immediately next to a public right-of-way. Adequate access to pond

safety ramps shall be provided by locating it adjacent to public right-of-way or by providing a clear route recorded within an access easement.

(6) The statutory 75-foot (each side) drainage easement for regulated drains already within the county's system may be reduced within the Town if the drain is re-classified by the Boone County Surveyor as an urban drain.

(7) The following statement shall become part of the restrictive covenants of every platted subdivision and shown on recorded plat:

"Channels, stormwater infrastructure twelve (12) inch or larger, six (6) inch or larger subsurface drains in rear yard swales, inlets and outlets of detention and retention ponds, and appurtenances thereto within designated drain easements are extensions of the Town's stormwater drainage system and are the responsibility of the Town. Side yard and back yard drainage swales that are not part of an emergency overflow route shall be the responsibility of owner or homeowner association".

(8) No driveways shall be allowed in drainage easements except for the purpose of crossing a front yard drainage easement to provide access to the property.

Penalty, *see* § 50.999

§ 50.044 PLACEMENT OF UTILITIES.

No utility company may disturb existing storm drainage facilities without the consent of the Town. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in §§ 50.110 through 50.113 of this chapter.

Penalty, *see* § 50.999

§ 50.045 STRUCTURES NEAR COUNTY REGULATED DRAINS.

(A) For regulated drains not located in platted subdivisions, unless otherwise accepted by the County Drainage Board, no permanent structure (including fences) shall be erected within 75 feet measured at right angles from:

(1) The existing top edge of each bank of a regulated open drain, as determined by the County Drainage Board; or

(2) The centerline of a piped regulated drain.

(B) The State Drainage Code may be consulted for further details.

Penalty, *see* § 50.999

§ 50.046 INSPECTION, MAINTENANCE, RECORD KEEPING AND REPORTING.

(A) After the approval of the stormwater management permit by the Town and the commencement of construction activities, the Town has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this

section, the Stormwater Technical Standards Manual, Design and Construction Standards and the terms and conditions of the approved permit.

(B) The Town also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quantity facilities.

- (1) The inspection will cover physical conditions, available storage capacity and the operational condition of key facility elements.
- (2) Stormwater quantity facilities shall be maintained in good condition, in accordance with the designed and approved performance specifications for the facilities, in addition to any prescribed operation and maintenance procedures, and shall not be subsequently altered, revised or replaced except as approved by the Town.
- (3) If deficiencies are found during the inspection, the owner of the facility will be notified by the Town and will be required to take all necessary measures to correct such deficiencies.
- (4) If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the Town may undertake the work and collect from the owner using lien rights, if necessary.

(C) Assignment of responsibility for maintaining facilities serving more than one (1) lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved. Stormwater detention/retention basins may be donated to the Town or other unit of government designated by the Town, for ownership and permanent maintenance providing the Town or other governmental unit is willing to accept responsibility.

STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES

§ 50.060 APPLICABILITY AND EXEMPTIONS.

- (A) The Town will require a stormwater pollution prevention plan ("SWPPP"), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of a project's construction plans and specifications.
- (1) Any project located within the corporate boundaries of the Town that includes clearing, grading, excavation or other land-disturbing activities resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this Section.
 - (2) This includes both new development and re-development.
 - (3) This subchapter also applies to disturbances of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area.

(4) Section 50.062 of this chapter provides guidelines for calculating land disturbance.

(B) The requirements under this Section do not apply to the following activities:

- (1) Agricultural land-disturbing activities; or
- (2) Forest harvesting activities.

(C) 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 measures:

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

(D) Land Disturbance Permit Thresholds

- (1) For an individual lot where land disturbance is expected to be one (1) acre or more, the individual lot owner must complete his, her or their own notice of intent letter, apply for a stormwater permit from the Town, and ensure that a sufficient construction and stormwater pollution prevention plan is completed and submitted in accordance with §§ 50.090 through 50.100 of this chapter; regardless of whether the individual lot is part of a larger permitted project site.
- (2) For an individual lot where land disturbance is 10,000 square feet or more, but less than one (1) acre, an individual lot plot plan permit application is required prior to receiving a building permit. Details of the permitting process are contained in §§ 50.090 through 50.100 of this chapter.
- (3) An individual lot with land disturbance less than 10,000 square feet, 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.
 - (a) The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots.
 - (b) The builders of these individual lots are required to submit an individual lot plot plan permit application along with a SWPPP for the individual lot prior to receiving a building permit. Details of the

permitting process for individual lots and parcels are contained in §§ 50.090 through 50.100 of this chapter.

(E) It will be the responsibility of the project site owner to ensure compliance with this chapter during the construction activity and implementation of the construction plan, and to notify the Town with a sufficient notice of termination letter upon completion of the project and stabilization of the site. However, all persons engaging in construction and land-disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this section and this chapter.

§ 50.061 POLICY ON STORMWATER POLLUTION PREVENTION.

(A) Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control) and proper on-site materials handling.

(1) For land disturbance of one (1) acre or more, the developer must submit to the town, a SWPPP with

- (a) detailed erosion and sediment control plans
- (b) a narrative describing materials handling and storage
- (c) construction sequencing
- (d) The SWPPP and the project management log must be retained for at least three (3) years from the date the project permit is terminated.

(2) For land disturbances totaling 10,000 square feet or more, but less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the Town's Technical Standards must be designed and shown on the plans.

(B) Detailed requirements for stormwater pollution prevention on construction sites within the Town of Zionsville MS4 area, which are consistent with IDEM minimum requirements and apply to all land-disturbing activities, are contained in the Town's Stormwater Technical Standards Manual.

§ 50.062 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

(A) In calculating the total area of land disturbance, for the purposes of determining applicability of this Section to a project, the following guidelines should be used:

(1) Off-site construction activities that provide services (for example, road extensions, sewer, water, off-site stockpiles and other utilities) 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) To determine if multi-lot project sites are regulated by this section, 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 the expected total disturbance on each individual lot, as determined by the following:

(a) For a single-family residential project site where the lots are one (1)half acre or more, one (1)half acre of land disturbance must be used as the expected lot disturbance.

(b) For a single-family residential project site where the lots are less than one (1)half acre in size, the total lot must be calculated as being disturbed.

(c) To calculate lot disturbance on all other types of projects sites, such as industrial and commercial projects project sites, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.

(B) 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 town's Stormwater Technical Standards Manual. The methods and procedures included in these two (2) references are in keeping with the above stated policy and meet the requirements of the IDEM's CSGP. A copy of the Indiana Stormwater Quality Manual may be obtained online through IDEM.

(C) The design requirements that will apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all stormwater quality and management measures contained in the SWPPP are contained in the Town's Stormwater Technical Standards Manual.

§ 50.063 INSPECTION, MAINTENANCE, RECORD KEEPING AND REPORTING.

(A) Following approval of the stormwater management permit or individual lot plot plan permit by the Town and commencement of construction activities, the Town has the authority to conduct inspections of the site to ensure full compliance with the provisions of this section, the approved stormwater pollution prevention plan, the Indiana Stormwater Quality Manual and the terms and conditions of the approved permit.

(B) A self-monitoring program must be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively.

(1) A trained individual, acceptable to the Town, shall perform a written evaluation of the project site by the end of the next business day following each measurable storm event.

(2) If there are no measurable storm events within a given week, the site should be monitored at least once in that week. Weekly inspections by the trained individual shall continue until the entire site has been stabilized and a notice of termination has been issued.

(3) The trained individual should look at the maintenance of existing stormwater pollution prevention measures, including erosion and sediment control

measures, drainage structures and construction materials storage/containment facilities, to ensure they are functioning properly.

- (4) The trained individual should also identify additional measures, beyond those originally identified in the stormwater pollution prevention plan, necessary to remain in compliance with all applicable statutes and regulations.

(C) The resulting evaluation reports must include:

- (1) the name of the individual performing the evaluation
- (2) the date of the evaluation
- (3) problems identified at the project site
- (4) details of maintenance, additional measures and corrective actions recommended and completed.

(D) The stormwater pollution prevention plan shall serve as a guideline for stormwater quality, but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this section, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the trained individual for modified stormwater quality measures should be implemented.

(E) Although self-monitoring reports do not need to be submitted to the Town, the Town has the right to request complete records of maintenance and monitoring activities involving stormwater pollution prevention measures. All evaluation reports for the project site must be made available to the Town, in an organized fashion, within 48 hours upon request.

(F) A project management log must be maintained at the project site or in the possession of on-site individuals associated with the management and operations of the construction activities. Details regarding requirements related to the project management log are contained in the Town's Stormwater Technical Standards Manual.

STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION

§ 50.075 APPLICABILITY AND EXEMPTIONS.

(A) In addition to the requirements of §§ 50.060 through 50.063 of this chapter, the stormwater pollution prevention plan, submitted as part of a stormwater management permit application, must also include post-construction stormwater quality measures.

- (1) These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site.
- (2) Any project located within the corporate boundaries of the Town that includes clearing, grading, excavation and other land-disturbing activities,

resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this section.

- (3) This includes both new development and re-development, and disturbances of land less than 10,000 square feet of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area.
- (4) In addition, regardless of the amount of disturbance, the Town reserves the right to require pre-treatment BMPs for proposed hot spot developments in accordance to provisions contained in the Town's Stormwater Technical Standards Manual.

(B) The requirements under this section do not apply to the following activities:

- (1) Agricultural land-disturbing activities;
- (2) Forest harvesting activities;
- (3) Construction activities associated with a single-family residential dwelling disturbing less than one (1) acre, when the dwelling is not part of a larger common plan of development or sale; or
- (4) Individual building lots within a larger permitted project.

(C) 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 measures:

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

(D) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the Town in accordance with §§ 50.110 through 50.113 of this chapter.

(E) It will be the responsibility of the project site owner to:

- (1) ensure proper construction and installation of all stormwater BMPs (especially, the protection of post-stormwater BMPs during construction phase) in compliance with this chapter and with the approved stormwater management permit; and
- (2) to notify the Town with a sufficient notice of termination letter upon completion of the project and stabilization of the site.

- (F) All eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this section and this chapter.

§ 50.076 POLICY ON STORMWATER QUALITY MANAGEMENT.

(A) Water Quality Volume and Flow. It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues within the corporate boundaries of the Town, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams and rivers. Through the use of appropriate best management practices (BMPs) to treat the Water Quality Volume (WQv) or the Water Quality Flow (Qwq), stormwater runoff will be filtered and harmful amounts of sediment, nutrients and contaminants will be removed.

(B) Channel Protection Volume. It is also recognized that another major source of pollution in many state streams, including those within the corporate boundaries of the Town, is the streambank erosion associated with urbanizing watersheds. Stream channels develop their shape in response to the volume and rate of runoff that they receive from their contributing watersheds. Research has shown that in hydrologically stable watersheds, the stream flow responsible for most of the shaping of the channel (called the bankfull flow) occurs between every one (1) to two (2) years. When land is developed, the volume and rate of runoff from that land increases for these comparatively small flooding events that are not normally addressed by the detention practices and the stream channel will adapt by changing its shape. As the stream channel works to reach a new stable shape, excess erosion occurs. As new development and re-development continues within the corporate boundaries of the Town, measures must be taken to minimize the impact of such development or re-development on streambank erosion. Through the use of appropriate best management practices (BMPs) to retain and/or detain and slowly release the Channel Protection Volume (CPv), the volume and rate of runoff for channel forming flows will be reduced in an attempt to minimize increased streambank erosion in the receiving streams and channels.

(C) The project site owner must submit to the Town a stormwater pollution prevention plan (SWPPP) that shows placement of appropriate BMP(s) from a pre-approved list of BMPs specified in the town's Stormwater Technical Standards Manual. The SWPPP submittal shall include:

- (1) an operation and maintenance manual for all post-construction BMP(s) included in the project; and
- (2) a notarized maintenance agreement, consistent with the sample agreement provided in Appendix D of the Town's Stormwater Technical Standards Manual, providing for the long-term maintenance of those BMPs.

- (3) both items 1 and 2 shall be recorded for the property on which the project is located.
- (4) The noted BMPs must be designed, constructed and maintained according to guidelines provided or referenced in the Town's Stormwater Technical Standards Manual.
- (5) Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance and ease of maintenance of such practices will be according to guidelines provided in the town's Stormwater Technical Standards Manual, will be placed with the applicant.

(D) Gasoline outlets and refueling areas must install appropriate practices (as noted under "Hot Spots" provision in the town's Stormwater Technical Standards Manual) to reduce lead, copper, zinc and hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks, regardless of the size of the facility.

§ 50.077 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

(A) Calculation of land disturbance should follow the guidelines discussed in § 50.042 of this chapter.

(B) The calculation methods as well as the type, sizing and placement of all stormwater quality management measures or BMPs shall meet the design criteria, standards and specifications outlined in the Town's Stormwater Technical Standards Manual. The methods and procedures included in the referenced standards is in keeping with the above stated policy and meet the requirements of IDEM's MS4GP.

§ 50.078 EASEMENT REQUIREMENTS.

All stormwater quality management systems, including, but not limited to, detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of monitoring, inspection and general maintenance activities, an easement fifteen (15) feet in width, beyond the actual footprint of the stormwater quality management facility as well as a 25-foot wide access easement from a public right-of-way to each BMP shall be provided.

§ 50.079 INSPECTION, MAINTENANCE, RECORD KEEPING AND REPORTING.

(A) After the approval of the stormwater management permit by the Town and the commencement of construction activities, the Town has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this Section, the approved stormwater pollution prevention plan, the Town's Stormwater Technical Standards Manual and the terms and conditions of the approved permit.

(B) Stormwater quality facilities shall be maintained in good condition, in accordance with the operation and maintenance procedures and schedules listed in the Town's

Stormwater Technical Standards Manual, in addition to the designed and approved performance specifications for the facilities and shall not be subsequently altered, revised or replaced, except as approved by the Town.

(C) The Town also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quality facilities. The inspection will cover physical conditions, available water quality storage capacity and the operational condition of key facility elements. Noted deficiencies and recommended corrective action will be included in an inspection report.

DEVELOPMENT IN WETLANDS

§ 50.085 APPLICABILITY AND EXEMPTIONS.

(A) This chapter shall apply to all land-disturbing activities regulated by this Ordinance.

(1) No building permit shall be issued and no land disturbance started for any construction in a development, as defined in § 50.006, identified as containing wetlands until the owner thereof has obtained all required state and federal permits or releases related to the dredging or filling of wetlands.

(2) As a pre-condition to receiving a building or land disturbance permit for a development identified as containing wetlands where the applicant for the permit does not intend to fill a wetland, such unaffected wetland must be:

(a) identified in one (1) of the methods enumerated in Section § 50.087 below;

(b) shown on the proposed development plans; and

(c) submitted to the Town along with plans to protect and avoid any disturbance to such unaffected wetland.

(B) The requirements under this section do not apply to the following:

(1) Artificially-constructed ponds, drainage ditches, stormwater retention/detention basins, gravel pits, stone quarries, and treatment lagoons that exist at the site and that may appear to display wetland-like properties;

(2) Wetlands or portions thereof for which federal or state permits for fill were issued prior to the enactment of this Chapter; or

(3) Any area or use excluded from local planning and zoning jurisdiction by federal or state law.

(C) It will be the responsibility of the project site owner to complete a SWPPP and ensure that all wetlands identified to be present at the project site are sufficiently protected and preserved as set forth in this Chapter.

§ 50.086 POLICY ON WETLAND DISTURBANCE PREVENTION.

(A) It is the public policy of Town to preserve, protect, and conserve freshwater wetlands, and the benefits derived wherefrom, to prevent the despoliation and destruction of freshwater wetlands, and to regulate use and development of such wetlands to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial to economic, social, and agricultural development of Town.

§ 50.087 WETLANDS IDENTIFICATION.

(A) In implementing the terms of this Chapter, any of the following materials shall be the prima fascia evidence which may be relied upon for the identification, delineation, and existence of a wetland:

(1) National Wetlands inventory (NWI) maps produced or maintained by the United States Fish and Wildlife Service (USFWS).

(2) Maps produced, or maintained and utilized, by the United States Corps of Engineers for identification and/or delineation of wetlands.

(3) Maps produced, or maintained and utilized, by the United States Natural Resources Conservation Service (NRCS) for the identification and/or delineation of wetlands.

(4) USDA – NRCS Soil Survey of Boone County hydric soils list.

(5) Field investigations performed by the United States Army Corps of Engineers or private consultants recognized by the Corps as authorities in wetland identification and delineation.

(B) Note that NWI maps are intended to identify potential wetlands. Due to the lack of field verification, NWI classified wetlands are sometimes erroneously identified, missed, or misidentified. Additionally, the criteria used in identifying these wetlands, as established by USFWS, are different from those currently used by the U.S. Army Corps of Engineers. NWI maps best serve as an indicator of potential jurisdictional wetlands.

(C) Also note that soil survey maps were developed from actual field investigations by soil scientists from the NRCS but they address only one (1) of the three (3) required wetland criteria and may reflect historical conditions rather than current site conditions.

(D) It is recommended that all sites be field reviewed by a qualified person with experience in wetland identification in order to determine the presence or absence of wetlands. This is subject to Army Corps of Engineers acceptance/approval.

PERMIT REQUIREMENTS AND PROCEDURES

§ 50.090 CONCEPTUAL DRAINAGE PLAN REVIEW.

(A) In order to gain an understanding of the drainage requirements for a specific project, a developer may submit conceptual drainage plans and calculations for review by the Town. The direction provided by the Town during such a review is based on preliminary data and shall not be construed as an acceptance or binding on either party.

(B) The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

(1) Two (2) complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems (plan sheets must be larger than 11 inches by 17 inches, but not to exceed 24 inches by 36 inches);

(2) General description of the existing and proposed drainage systems in narrative form;

(3) Watershed boundaries with USGS Contours or best information possible; and

(4) Existing watercourse or regulated drains.

§ 50.091 PERMIT PROCEDURES.

(A) This section applies to all development, or re-development of land, that results in land disturbance of one (1) acre or more.

(1) Individual lots with land disturbance less than one (1) acre shall refer to § 50.094 of this chapter for plan review requirements and procedures.

(2) Section 50.100 of this chapter contains a flowchart summarizing the plan review/permit approval process.

(B) The project site owner shall submit an application for a stormwater management permit to the Town. The application will include the information described in Section § 50.093 of this chapter.

(1) One (1) electronic and one (1) hard copy of each application must be submitted to the Town.

(2) The Town may, at its discretion, require one (1) or more copies be submitted to the County Surveyor, or other entity deemed appropriate by the Town.

(C) After the Town's receipt and initial review of the application, the applicant will be notified as to whether his or her application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is complete, it will be reviewed in detail by the Town and/or its plan review consultant(s). Once all comments have been received and review completed, the Town will either:

(1) approve the project

(2) request modifications, or

(3) deny the project.

If the applicant does not agree with or accept the staff review findings and wishes to seek an appeal, they can petition the Town Council regarding the project.

(D) The project site owner must notify the Town and IDEM 48 hours before beginning construction. Notification to the Town shall be in the form of an email while the notification to IDEM shall be in the form of an online IDEM NOI submittal.

- (E) Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this Chapter and the terms and conditions of the approved permit.
- (F) Refer to Chapter § 50.099 for project close-out requirements.
- (G) Permits issued under this scenario will expire five (5) years from the date of issuance. If construction is not completed within five (5) years, an updated permit application must be submitted to the Town and an updated NOI must be resubmitted to IDEM at least 90 days prior to expiration.

§ 50.092 SWPPP REVIEW TIME LIMITS.

(A) Pursuant to IC 13-18-27, the Town must make a preliminary determination as to whether the construction plan associated with SWPPP is substantially complete before the end of the tenth (10th) working day (for sites with less than five (5) acres of land disturbance) after the day on which the SWPPP is submitted to the Town or the fourteenth (14th) working day (for sites with five (5) acres or larger of land disturbance) after the day on which the SWPPP is submitted to the Town. Note that the noted time limits only apply to the SWPPP portion of the overall stormwater permit submittal and do not affect any official or non-official permit review timelines set by the Town for other aspects of the stormwater permit application.

§ 50.093 INFORMATION REQUIREMENTS.

- (A) Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in §§ 50.020 and 50.075 of this Chapter.
 - (1) If a project or activity is exempt from any or all requirements of this Chapter, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below.
 - (2) This level of detailed information is not required from individual lots, disturbing less than one (1) acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under § 50.094 of this Chapter.
- (B) All plans, reports, calculations and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the state, who also meets the definition of a Trained Individual found in § 50.006.
- (C) The following items shall be included with a Stormwater Management Permit submittal:
 - (1) **Permit application checklist.** The application checklist provided in the Appendix B of Town's Stormwater Technical Standards Manual must be completed by the applicant and provided along with other required supporting material.
 - (2) **Construction plans.** Construction plan sheets (larger than 11 inches by 17 inches, but not to exceed 24 inches by 36 inches in size) that depict existing and

proposed conditions. Construction plans need to include items listed in the application checklist provided in the Town's Stormwater Technical Standards Manual. They must also include the following items:

(a) **Stormwater pollution prevention plan for construction sites.**

For sites with total disturbance of one (1) acre or more, a stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this Chapter. The SWPPP and construction plans must include the items listed in the application checklist provided in the Town's Stormwater Technical Standards Manual. For land disturbances totaling 10,000 square feet or more of land area, but less than one (1) acre, see section 50.094 for applicable requirements.

(b) **Post-construction stormwater pollution prevention plan**

For sites with total land disturbance of 10,000 square feet or more of total land area, a post-construction stormwater pollution prevention plan must be designed to, at least, meet the requirements of this chapter and must include the information provided in the Town's Stormwater Technical Standards Manual. *See*, the application checklist in the Stormwater Technical Standards for more information.

(3) **Stormwater drainage technical report.** A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. The technical report needs to include items listed in the application checklist provided in the Town's Stormwater Technical Standards Manual.

Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions and supporting analyses of all detention/retention facilities, primary conveyance facilities and outlet conditions.

(4) **An operations and maintenance (O&M) manual** for all private infrastructure, including but not limited to pipes, ponds, ditches, and BMPs (when required), shall be submitted for the final plan approval and permit process. The detailed requirements for O&M manual are provided in the Town's Stormwater Technical Standards Manual.

- (a) The O&M Manual must include a **formal BMP maintenance agreement** is to be prepared and notarized consistent with the sample agreement provided in Appendix B of the Town's Stormwater Technical Standards Manual, providing for the long-term maintenance of those BMPs.

- (b) The O&M manual and maintenance agreement shall be recorded with reference to the deed or plat for the property on which the project is located.

§ 50.094 REVIEW OF INDIVIDUAL LOTS.

- (A) For all individual lots disturbing 10,000 square feet or more, but less than one (1) acre, of total land area, a formal review and issuance of an individual lot plot plan permit will be required before a building permit can be issued.

Similarly, for individual lots disturbing less than 10,000 square feet of total land area, developed within a larger permitted project, a formal review and issuance of an individual lot plot plan permit will be required before a building permit can be issued. All stormwater management measures necessary to comply with this chapter must be implemented in accordance with permitted plan for the larger project.

- (B) The following information must be submitted to the Town, for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request for review and issuance of an individual lot plot plan permit that must be obtained prior to the issuance of a building permit:

- (1) **A site layout** for the subject lot and all adjacent lots showing building pad location, dimensions and elevations, and the drainage patterns and swales; in both existing and proposed grading plan sheets;

- (2) **Erosion and sediment control plan** that, at a minimum, includes the following measures:

- (a) Installation and maintenance of a stable construction site access;
 - (b) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance;
 - (c) Minimization of sediment discharge and tracking from the lot;
 - (d) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules;
 - (e) Implementation of concrete washout practices that securely contain and allow for the proper disposal of washout waste;
 - (f) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization;
 - (g) Self-monitoring program including plan and procedures; and

(3) **Certification of compliance** stating that the individual lot plan is consistent with the stormwater management permit, as approved by the Town, for the larger project (if the individual lot is part of a larger permitted project); and

(4) **Designation of Trained Individual.** Name, address, telephone number and list of qualifications of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site. The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.

§ 50.095 CHANGES TO PLAN.

Any changes or deviations in the detailed plans and specifications after approval of the applicable stormwater management permit shall be filed with, and accepted by, the Town prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.

§ 50.096 FEE STRUCTURE.

(A) Fee amount. As a condition of the submittal of a permit application to the Town, the applicant shall agree to pay the Town the applicable fee, as set by the Town for the review of all drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data, as well as prepaid inspection fees.

(B) Time of payment.

(1) After the approval of the applicant's final stormwater management plan, and receipt of the applicable project assurance, the Town will furnish a written statement to the applicant specifying the total amount due.

(2) As a condition of permit issuance by the Town, the applicant shall pay to the Town the sum set forth in said statement. The Town may issue such a billing statement before the project advances to the final acceptance stage, and such payment is due by applicant upon receipt of said billing statement regardless of whether the project is advanced to the final acceptance stage.

(3) The Town shall have the right to not accept the drainage improvements or to not approve the advancement of any project for which the applicable fees have not been paid.

(C) Method of payment.

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

(a) Check;

(b) Certified check;

(c) Cashier's check; or

(d) Money order.

(2) All checks shall be made payable to the:

Town of Zionsville

1100 W. Oak St.

Zionsville, IN 46077

(D) Refund of payment. Fees are refundable only if the Town determines that compliance by the development or project to this chapter is not necessary.

(E) Fee schedule. Stormwater permit application and inspection fees:

(1) Subdivision:

(a) Minor subdivision secondary plat: \$250; and

(b) Major subdivision secondary plat: \$1,000 + \$15 per lot.

(2) Commercial (includes commercial, industrial, institutional, PUD and the like):
\$1,000 + \$10/acre;

(3) Engineering review fees: all development plan projects will require a review fee above and beyond the application fees that shall be passed on to the developer. The review fee shall equate to the contract rate of the reviewing engineer. This fee shall be paid to the Town and shall be paid in full before any project approval is given;

(4) Residential (located outside of a larger permitted project):

(a) Single-family dwelling: \$200; and

(b) Two-family dwelling: \$250.

(5) Stop work orders:

(a) Permit re-instatement fee: \$500 or two (2) times the filing fee, whichever is greater; and

(b) Continued construction after stop work order: \$1,000 first day and up to \$500 for each additional day.

(F) Refunds. All fees are non-refundable.

§ 50.097 REQUIRED ASSURANCES.

(A) This section shall apply to all projects regardless of whether the stormwater management system or portions thereof will be dedicated to the own or retained privately.

(B) As a condition of approval and issuance of the permit and before construction begins, the Town shall require the applicant to provide assurance in form of either:

- (1) an irrevocable letter of credit; or
- (2) a performance bond.

(C) Said assurance will guarantee a good faith execution of the stormwater drainage plan, the stormwater pollution prevention plan, the stormwater quality management plan and any permit conditions.

(D) The assurance shall be for an amount equal to 110% of the total costs of all stormwater management measures for the entire project. The above-mentioned costs shall be based on an estimate as prepared by a registered engineer or land surveyor. Said costs shall be for:

- (1) the installation and on-going monitoring and maintenance of erosion control measures;
- (2) the construction and on-going monitoring and maintenance of storm drainage infrastructure, detention/retention facilities; and
- (3) stormwater quality BMPs, as regulated under this Chapter, until the construction is completed, the site is stabilized, and as-built plans are accepted by the Town.

(E) Assurances shall be for a minimum of \$5,000.

(F) All other performance bonds, maintenance bonds or other assurances required by the Town in accordance with any and all other ordinances shall also apply and so be required. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual stormwater assurance.

§ 50.098 TERMS AND CONDITIONS OF PERMITS.

(A) In granting a stormwater management permit, the Town may impose such terms and conditions as are reasonably necessary to meet the purposes of this Chapter. The project site owner shall ensure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in §§ 50.110 through 50.113 of this chapter.

(B) The project site owner shall inform all general contractor, construction management firms, grading or excavating contractors, utility contractors and the contractors that have primary oversight on individual building lots of the terms and conditions of the stormwater management permit and the schedule for proposed implementation.

(C) In the event that a project site is determined to impact or discharge to a sensitive area or is located in an impact drainage area, the Town may require more stringent

stormwater quantity and quality measures than detailed in this chapter or in the Indiana Stormwater Quality Manual.

(D) (1) Determination of sensitive areas. Sensitive areas include highly erodible soils, wetlands, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters and surface drinking water sources. A listing of highly erodible soils, outstanding water, impaired water, recreation water and surface drinking water sources can be found in the Stormwater Technical Standards Manual. Any discharge from a stormwater practice that is a Class V injection well shall meet the state's ground water quality standards. If wetlands are suspected on a site, a wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers (COE). The presence of threatened or endangered species habitat will be determined by the town during the permit review process. Special terms and conditions for development determined to impact or discharge to any sensitive area shall be included in the stormwater management permit.

(2) Determination of impact drainage areas. The following areas shall be designated as impact drainage areas, unless good reason for not including them is presented to the Town:

(a) A floodway or floodplain as designated by the most updated FEMA Code dealing with floodplain regulation and/or by the Best Available Data through IDNR;

(b) Land within 25 feet of each bank of any ditch, stream or creek within the Town's drainage system; and

(c) Land within 15 feet of the centerline of any stormwater infrastructure or enclosed conduit within the Town's system.

(E) The Town or Town Engineer is authorized, but is not required, to classify certain geographical areas as impact drainage areas. In determining impact drainage areas, the Town may consider such factors as topography, soil type, capacity of existing drains and distance from adequate drainage facility.

(F) Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an impact drainage area by the Town. Special terms and conditions for development within any impact drainage area shall be included in the stormwater management permit.

§ 50.099 PROJECT CLOSE-OUT.

(A) After completion of construction of the project and before the release of required performance assurances referenced in § 50.097 of this Chapter, the permittee shall submit/complete the following seven (7) steps:

(1) Notification to the Town that Construction work is completed.

- a. Upon receipt of the said notice, the Town will inspect the project for substantial compliance with the permit requirements. As a result of this, a punchlist will be generated that lists any items outstanding.

- (2) Any identified punchlist items shall be satisfactorily resolved.
- (3) CCTV Inspections performed, and repair by the applicant of any defects discovered.
- (4) Digital Data submittal provided and accepted for incorporation into Town's GIS in prescribed format.
- (5) As Built Plans along with a completed Certificate of Completion and Compliance.
- (6) Overall site has met stabilization requirements.
- (7) All site BMP's have been cleaned.

Once these steps are completed a Maintenance Bond will need to be provided prior to the release of the required performance assurances.

(B) As Built Requirements

- (1) These As-Built Plans/record drawings must be prepared and certified by the engineer of record (i.e., the company/engineer who originally prepared the construction plans).
- (2) The As-Built Plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:
 - (a) Pipe size and pipe material;
 - (b) Invert elevations;
 - (c) Top rim elevations;
 - (d) Elevation of the emergency overflow (spillway) for ponds;
 - (e) Grades along the emergency flood routing path(s);
 - (f) Pipe structure lengths;
 - (g) BMP types, dimensions and boundaries/easements;
 - (h) "As-planted" plans for BMPs, as applicable;
 - (i) Data and calculations showing detention basin storage volume;
 - (j) Data and calculations showing BMP treatment capacity; and

(C) Certificate of Completion and Compliance. The Engineer of Record shall supply a Certified statement stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the stormwater management permit as approved by the Town. *See* certificate in Appendix B in the Town's Stormwater Technical Standards Manual. If any elements of the project as installed, substantively differ from the approved and permitting plans, such changes shall be reflected in the as-built plans and sufficient documentation and an explanation

provided by the Engineer of Record indicating that the installed project is in compliance with the Town's drainage requirements.

(D) **Maintenance Bond.** The property owner, developer or contractor shall be required to file a maintenance bond or other acceptable guarantee with the Town in an amount equal to 25% of the cost of the stormwater management system, and in a form satisfactory to the Town in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans, and this Chapter. The bond or other acceptable guarantee shall be in effect for a period of three (3) years after the date of the release of required performance assurances referenced in § 50.096 of this Chapter. The beneficiary of all maintenance bonds shall be the Town.

(E) **CCTV Inspections** To verify that all stormwater infrastructure is functioning properly, visual recordings (via closed circuit television) of such infrastructure, including all subsurface drains, shall be required as follows:

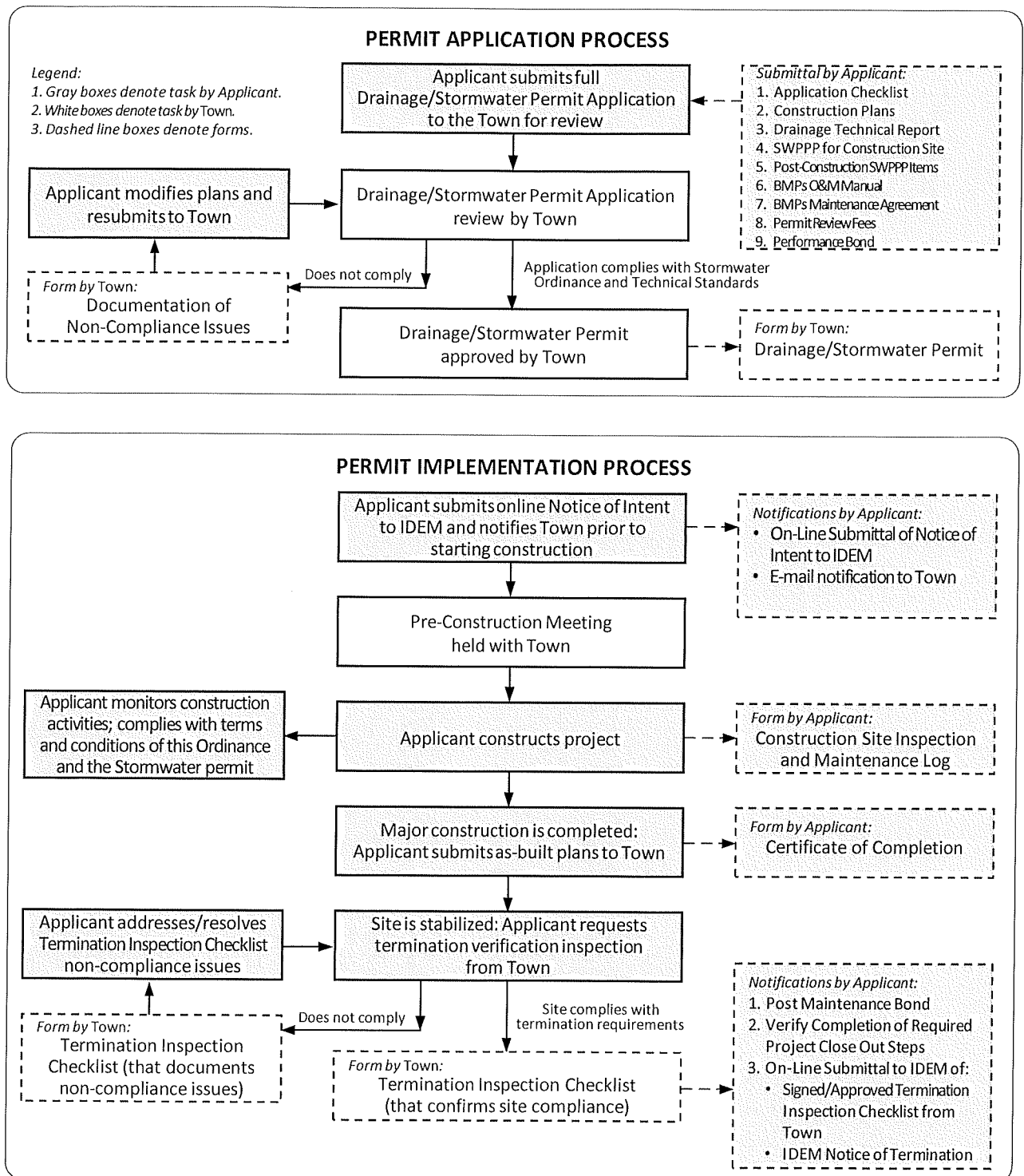
- (1) Following the completion of installation of the stormwater management system and before the release of the performance bond.
- (2) If, as determined by the Town, a second time before release of maintenance bond.

These visual recordings will be scheduled and paid for by the developer. Notices shall be provided to the Town 72 hours prior to the televising completion so that the Town may witness the process. Reports summarizing the results of the noted visual recordings shall be reviewed and accepted by the Town before the performance bond is released and again, if applicable, before the maintenance bond shall be recommended to be released.

(F) **Stormwater Project Closeout Steps.** Additional detail including a summary of steps required for the transition from a performance bond to a maintenance bond, close out of the stormwater permit prior to release of the three (3)year maintenance bond, and Town stormwater technician's sign off on the IDEM notice of termination are provided in Appendix B of the Town's Stormwater Technical Standards Manual.

§ 50.100 PERMIT APPROVAL PROCESS FLOW CHART.

Figure 1: Permit Approval Process Flow Chart



ENFORCEMENT

§ 50.110 COMPLIANCE WITH CHAPTER.

(A) In addition to the requirements of this Chapter, compliance with the requirements set forth in the local zoning ordinances is also necessary. Compliance with all applicable ordinances of the Town as well as with applicable state statutes and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this chapter shall be the most recent edition available.

(B) Violations of the requirements of this Chapter are subject to the penalties listed below.

(1) Violations. Any action or inaction which violates the provisions of this Chapter, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in this subchapter. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(2) Warning Notice. When the Town finds that any person has violated, or continues to violate, any provision of this Chapter, or any order issued hereunder, the Town may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this section shall limit the authority of the Town to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

§ 50.111 ENFORCEMENT OF CHAPTER.

(A) Notice of violation/citation.

(1) If the Town determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management design plan, a recorded stormwater management maintenance agreement or the provisions of this chapter, it shall issue a written notice of violation to such applicant or other responsible person and the owner of the property. Where a person is engaged in activity covered by this chapter without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

(2) The notice of violation can be in the form of a citation ticket and/or a written letter that would contain detailed inspection findings, conclusions of law, disposition of warning or fines assessed, stipulated remedial actions as discussed with the responsible party representative, reasonable deadlines for those remedial actions and the date of re-inspection.

(B) Compensatory action. In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the Town may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, public education and the like.

(C) Stop work order. In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this chapter or accepted final stormwater management plans, the Town may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Town to proceed with the work. A stop work order will be posted on the site by the Town and it is unlawful for any person to remove the notice or continue any work on the site without permission from the Town. The Town may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this Chapter or to avoid or reduce the effects of non-compliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.

(D) Withhold certificate of occupancy. The Town may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise satisfied the requirements of this chapter as determined by the Town.

(E) Suspension, revocation or modification of permits. The Town may suspend, revoke or modify any existing permit that the violator may also have been previously granted. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein; provided, such permit may be reinstated upon such conditions as the Town may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(F) Suspension of access to the stormwater drainage system.

(1) Emergency cease and desist orders.

(a) When the Town finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Town may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to immediately comply with all ordinance requirements and take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(b) Any person notified of an emergency order directed to it under this division (F)(1) shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Town may take such steps as deemed necessary to prevent or minimize harm to the stormwater drainage system or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection or other municipal utility services.

(c) The Town may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Town that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this chapter. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Town within five (5) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(2) Suspension due to illicit discharges in emergency situations. The Town may, without prior notice, suspend stormwater drainage system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the stormwater drainage system or waters of the state if the violator fails to comply with a suspension order issued in an emergency, the Town may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or waters of the state, or to minimize danger to persons.

(3) Suspension due to the detection of illicit discharge. Any person discharging to the stormwater drainage system in violation of this chapter may have their stormwater drainage system access terminated if such termination would abate or reduce an illicit discharge. The Town will notify a violator of the proposed termination of its stormwater drainage system access. The violator may petition the Town for a reconsideration and hearing. A person commits an offense if the person reinstates stormwater drainage system access to premises terminated pursuant to this section, without the prior approval of the Town.

Penalty, *see* § 50.999

§ 50.112 COST OF ABATEMENT OF THE VIOLATION.

(A) In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the Town may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the Town for all costs of such work.

(B) Nothing herein contained shall prevent the Town from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not

limited to, repairs to the stormwater drainage system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the town's NPDES permit, administrative costs, attorney fees, court costs and other costs and expenses associated with the enforcement of this chapter, including sampling and monitoring expenses.

(C) If the amount due for abatement of the violation is not paid within a timely manner as determined by the decision of the Town or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

§ 50.113 APPEALS.

(A) Appeal of notice of violation. Any person to whom any provision of this Chapter has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Town Council the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Town Council shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Town Council may consider the recommendations of the Town staff and the comments of other persons having knowledge of the matter. In considering any such appeal, the Town Council may grant a variance from the terms of this chapter to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

(1) The application of the chapter provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the Chapter; and

(2) The granting of the relief requested will not substantially prevent the goals and purposes of this Chapter, nor result in less effective management of stormwater runoff.

(B) Enforcement measures after appeal. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five (5) days of the decision of the Town Council upholding the decision of the Town Stormwater Division, then representatives of the Town Stormwater Division shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Town or its designated contractor to enter upon the premises for the purposes set forth above.

Penalty, *see* § 50.999

§ 50.999 PENALTY.

(A) (1) Any person found in violation of any provision of this chapter shall be responsible for a civil infraction and subject to a maximum fine of \$2,500 for each offense, plus costs, damages and expenses. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for

each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.

(2) Any person who aids or abets a person in a violation of this Chapter shall be subject to the penalties provided in this section.

(3) For purposes of this division (A), SUBSEQUENT OFFENSE means a violation of the provisions of this chapter committed by the same person within twelve (12) months of a previous violation of the same provision of this chapter for which said person admitted responsibility or was adjudicated to be responsible.

(4) The issuance of fines shall be guided by division (C) below. The Town reserves the right to issue a maximum fine for any violation deemed sufficiently egregious or otherwise determined by the Town to warrant a maximum penalty.

(B) For intentional and flagrant violations of this chapter, the Town may issue a notice to the applicant or other responsible person and the owner of the property, requiring such person to appear in the Circuit or Superior Court of the county to answer charges for such violation. Upon conviction, such person shall be punished by a fine as set by the Town Council, plus costs, damages and expenses or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(C) (1) Fine schedule for §§ 50.020 through 50.026 of this chapter.

<i>Fine Category</i>	<i>Type and Nature</i>		<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>
Commercial Industrial Institutional	Minor	Accidental	\$100	\$500	\$1,000
		Intentional	\$250	\$750	\$1,500
	Major	Accidental	\$250	\$1,000	\$2,000
		Intentional	\$500	\$1,500	\$2,500
Residential	Minor	Accidental	Warning	\$100	\$250
		Intentional	Warning	\$150	\$300
	Major	Accidental	\$100	\$250	\$500
		Intentional	\$250	\$500	\$1,000

(2) Fine schedule for §§ 50.060 through 50.063 of this chapter.

<i>Fine Category</i>	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>
Commercial lot or multi-parcel development (i.e., subdivision, commercial, industrial, institutional)	\$500	\$1,000	\$2,500
Individual lot (residential)	\$150	\$350	\$750

(3) Stop work orders. Any person who neglects or fails to comply with a stop work order, per § 50.111 of this chapter, shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$1,000, and such person shall also pay such costs as may be imposed in the discretion of the court. A permit reinstatement fee may also be assessed by the Town.

Section 3. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed, to the extent of such inconsistency only, as of the effective date of this Ordinance, such repeal to have prospective effect only. However, the repeal or amendment by this Ordinance of any other ordinance does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this Ordinance. Those rights, liabilities and proceedings are continued and penalties shall be imposed and enforced under such repealed or amended ordinance as if this Ordinance had not been adopted.

Section 4. If any portion of this Ordinance is for any reason declared to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance so long as enforcement of same can be given the same effect.

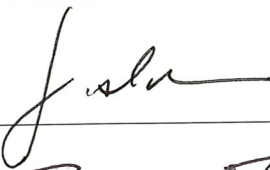
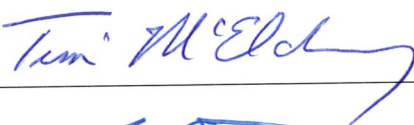
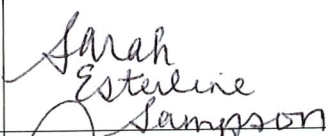
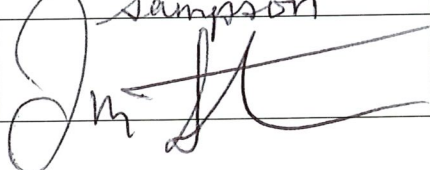
Section 5. This Ordinance shall be in full force and effect from and after the date of its passage and the procedures required by applicable law.

SO ORDAINED, this 15th day of July, 2024, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of 7 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

YEA
Signature

NAY
Signature

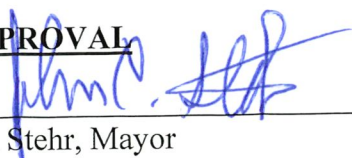
Jason Plunkett, President		
Brad Burk, Vice-President		
Tim McElderry, Member		
Craig Melton, Member		
Evan Norris, Member		
Sarah Esterline Sampson, Member		
Joseph Stein, Member		

I hereby certify that the foregoing Ordinance was delivered to the Town of Zionsville Mayor John Stehr on the 15th day of July, 2024, at _____ .m.

ATTEST: _____

Amelia Anne Lacy,
Municipal Relations Coordinator

MAYOR'S APPROVAL


John Stehr, Mayor

7-15-24
Date

This Ordinance was prepared by Jon Oberlander, Chief Legal Counsel, on May 30, 2024, at 12:03 p.m. No subsequent revision to this Ordinance has been reviewed by Mr. Oberlander for legal sufficiency or otherwise.