

## **TITLE V: PUBLIC WORKS**

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**CHAPTER 50: SOLID WASTE**

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***Cross-reference:***

*Collection, delivery and processing, see Ch. 136*

***GENERAL PROVISIONS***

**§ 50.01 SOLID WASTE MANAGEMENT DISTRICT.**

(A) There is created within the county a Solid Waste Management District encompassing all of the incorporated and unincorporated territory of the county.

(B) The Board of Directors of the Solid Waste Management District shall be comprised of the following:

(1) Two members of the Board of Commissioners appointed from its membership.

(2) One member appointed by the County Council as the county fiscal body from the membership of that body.

(3) The Mayor the City of Boonville, being the municipality having the largest population in the county.

(4) One member of the legislative body of the City of Boonville being the municipality with the largest population of the county, said member being appointed by the legislative body of the City of Boonville.

(5) One member who is a member of the fiscal body of a town other than the City of Boonville, which said member shall be appointed by the Commissioners of Warrick County to represent the municipalities in the county other than the City of Boonville.

(6) One additional member appointed by the Board of Commissioners from its membership. (BC Ord. 1990-20, passed 5-7-90)

**§ 50.02 SANITARY LANDFILL REGULATIONS ADOPTED BY REFERENCE.**

The regulations for public disposal of garbage and rubbish at county operated sanitary landfill areas and on any land which is situated outside the corporate limits of any city or town, as adopted by Ord. 72-1, are hereby adopted by reference and made a part of this code the same as if set forth in full herein. These regulations shall be in effect until the county ceases to operate the landfill.

(BC Ord. 72-1, passed 5-6-72)

***USE OF LANDFILLS; DISPOSAL OF WASTE*****§ 50.15 DEFINITIONS.**

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

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

***GOVERNMENTAL UNIT.*** Any county, city or town or any subdivision thereof.

***LANDFILL.*** A tract of land on which a landfill operation is conducted and which has been approved by the State Board of Health.

***PERSON.*** Any individual, partnership, corporation, firm or association.

***REFUSE.*** All putrescible and non-putrescible solid and semi-solid wastes, except human excreta, but including garbage, rubbish, ashes, street cleanings, dead animals, offal and solid commercial, industrial and institutional wastes.

***RUBBISH.*** All non-putrescible solid waste, excluding ashes, such as cardboard, paper, plastic, metal or glass food containers, rags, waste metal, yard clippings, small pieces of wood, excelsior, rubber, leather, crockery, and other waste materials that ordinarily accumulate around a home, business or industry. It shall not include garbage, ashes, bulk refuse, dead animals, hazardous refuse, industrial waste or building waste resulting from the operations of a contractor.

(BC Ord. 1978-11, passed 11-6-78)

**§ 50.16 USE LIMITED TO COUNTY CITIZENS.**

(A) It shall be unlawful for any person other than the citizens of the county to use the landfill operated by the County Commissioners. This section shall not affect any existing contracts, until their termination.

(B) It shall be unlawful for any person other than county citizens to deposit refuse, garbage, or rubbish in containers used by the county in its landfill operation.

(BC Ord. 1978-11, passed 11-6-78) Penalty, see § 50.99

**§ 50.17 PERMIT REQUIRED FOR LANDFILL.**

It shall be unlawful for any person or governmental unit to operate a landfill in the county except the Board of Commissioners without having first obtained a permit from the Board of Commissioners and having had the site approved by the State Board of Health for a proper landfill.

(BC Ord. 1978-11, passed 11-6-78) Penalty, see § 50.99

**§ 50.18 PERMIT APPLICATION AND HEARING; FEE.**

(A) Any permit issued by the Board of Commissioners will be granted only after application by the proposed operator and the owner of the real estate to be used. The application shall describe the real estate to be used, along with a description, ownership and usage of all real estate within one half mile of the proposed landfill. It shall also contain a map showing the route or routes to be used coming to and from such landfill. The application shall also designate any governmental units or units the operator intends to serve. It shall also describe the type and volume of refuse to be handled.

(B) On the receipt of an application for a landfill, the Board of Commissioners shall assign the same for hearing, which hearing shall not be less than two weeks from the date of filing. Notice shall be given by publication in two newspapers of opposite political faith published in the county, plus notice by certified mail to all persons listed as living or owning real estate within one half-mile of the proposed landfill.

(C) It shall be the burden of the applicant to introduce proof that the landfill will be environmentally safe, that the routes to the landfill will not be an excessive burden on county roads, that

proper precautions will be taken to prevent spillage of refuse along county roads, and that the landfill operation will comply with all laws governing landfills.

(D) A fee of \$100 shall accompany every application to cover the cost of the hearing. The fee shall not be returnable.

(BC Ord. 1978-11, passed 11-6-78)

#### **§ 50.19 ISSUANCE OF PERMIT; CONDITIONS.**

In the event the Commissioners are satisfied that the landfill will not be detrimental to the citizens of the county, or that the benefits to the county or its citizens outweigh any detriments the Board of Commissioners shall issue a permit. The permit shall be for a term of five years, and may be renewed. The permit shall be conditioned on the property becoming property zoned and the applicant having obtained approval from the Indiana State Board of Health. The Commissioners may also require the applicant to furnish bond. The Commissioners shall also designate the route to and from the landfill and may require the operator to maintain all or part of said route.

(BC Ord. 1978-11, passed 11-6-78)

#### **§ 50.20 REVOCATION.**

In the event of a violation of the terms of the permit, or of state law, or in the event the landfill becomes a public nuisance, the Commissioners may revoke the permit, after hearing, with right of appeal to the Circuit or Superior Court of the county.

(BC Ord. 1978-11, passed 11-6-78)

#### **§ 50.21 BRINGING WASTE INTO COUNTY, DEPOSITING IN LANDFILL.**

(A) It shall be unlawful for any person or governmental organization to bring refuse, garbage, or rubbish from outside of the county except to an approved landfill.

(B) It shall be unlawful for any person or governmental unit to deposit refuse, garbage, or

rubbish within the county except in a landfill approved by the Board of Commissioners.

(BC Ord. 1978-11, passed 11-6-78) Penalty, see § 50.99

#### **§ 50.22 PRIVATE LANDFILLS.**

Nothing in this subchapter shall prevent any person or corporation from operating any landfill on their premises for waste materials accumulated on his own premises and not brought from off the premises. (BC Ord. 1978-11, passed 11-6-78)

#### **§ 50.23 ENFORCEMENT; INJUNCTIVE RELIEF.**

(A) The Circuit and Superior Courts of the county shall have concurrent jurisdiction to enforce the penalty provided in § 50.99.

(B) The Board of Commissioners, or any citizen aggrieved, may institute a suit for injunction to restrain any person or governmental unit from violating the provisions of this subchapter. Any landfill used in violation of this subchapter is declared to be a nuisance and may be abated in such a manner as nuisances are now or hereafter abated.

(BC Ord. 1978-11, passed 11-6-78)

#### **§ 50.24 LANDFILL FEES.**

The fees for the use of the county landfill established by ordinance of the Board of Commissioners from time to time are hereby adopted by reference and made a part of this code as if set forth in full herein.

#### **§ 50.99 PENALTY.**

Any person or governmental organization who violates the provisions of §§ 50.15 through 50.23 shall, on first conviction, be fined in any sum not less than \$100 nor more than \$500. For the second or

subsequent conviction a violation shall be fined in any sum not less than \$500 or not more than \$1,000. Each day of violation shall be considered a separate offense.

(BC Ord. 1978-11, passed 11-6-78)

**CHAPTER 51: PERMITS TO WORK WITHIN COUNTY RIGHT-OF-WAY**

Section

51.01 Permits to work within county right-of-way adopted by reference

**§ 51.01 PERMITS TO WORK WITHIN COUNTY RIGHT OF WAY ADOPTED BY REFERENCE.**

The regulations for permits to allow work within the county right-of-way, as adopted by ordinance 1998-4, are hereby adopted by reference and made a part of this code the same as if set forth in full herein. (BC Ord. 1998-4, passed 5-11-98; Am. BC Ord. 1999-37, passed 10-25-99)

***Cross-reference:***

*Restrictions on work within right-of-way, see §§ 92.45 through 92.50*



## CHAPTER 52: STORMWATER MANAGEMENT

### Section

52.01 Policy adopted

#### ***Cross-reference:***

*Department of Stormwater Management, see §§ 33.80 et seq.*

### **§ 52.01 POLICY ADOPTED.**

(A) The Board of Commissioners hereby adopts as policy those recommendations made by the Warrick County Drainage Board for stormwater runoff from developed real property.

(B) The following shall be required:

(1) All stormwater drainage systems shall be designed for a minimum 50-year one hour storm. A time concentration for each sub-area, based on post development conditions shall be used to determine the appropriate rainfall intensity for the sizing of all storm sewer pipes, inlets, and catch basins that will be located inside the developed area. All storm sewers shall be installed on proper backfill and with proper cover, as per manufacturer specifications for the particular materials being used.

(2) For the purpose of calculating stormwater retention basins, pre-developed run-off from the site shall be determined as a five-year storm intensity rainfall event release rate. Stormwater storage shall be then calculated as a 50-year storm storage capacity (developed) over a 5-year release rate (undeveloped). Pipes flowing into retention basins shall be designed in such a manner that the design pipe flow capacity is not restricted by the basin pool elevation. All storm water storage basins shall include a controlled discharge structure for the restricted release rate, plus an emergency surface overflow at or equal to the basin design storage elevation.

(3) The Rational Method shall be used for the purpose of calculating pre-development and post-development run-off. Run-off coefficients shall be taken from the Herpic Storm Drainage Manual. A composite coefficient for post-developed conditions shall be determined by using methods described in the Herpic Storm Drainage Manual.

(4) All preliminary drainage plans submitted will show the following information on the plat:

(a) X-sections of all surface drains and waterways.

(b) Surface contour lines at intervals of not more than five feet.

(c) Flow direction arrows on all streets and surface waterways.

(d) All storm sewers within and adjacent to the subdivision by size, length, type, grade, invert and rim elevations.

(e) Locations, storage volumes, release rates, discharge structure details and overflow details for all retention basins.

(f) All sub-drainage areas inside the development shall be delineated. Off-site areas draining through the development site should also be shown.

(g) Certification and signature of the design engineer.

(5) All preliminary drainage plans submitted shall be accompanied by the following:

(a) A copy of the drainage study and calculations for the proposed subdivision.

(b) A letter of certification by the design engineer stating that the drainage plan was prepared in accordance with the criteria as set forth in the Herpic County Storm Drainage Manual and the plan requirements of the Warrick County Drainage Board.

(BC Res. 2000-06, passed 12-18-00)

## CHAPTER 53: ILLICIT DISCHARGE AND CONNECTION

### Section

- 53.01 Purpose; intent
- 53.02 Definitions
- 53.03 Applicability
- 53.04 Responsibility for administration
- 53.05 Discharge prohibitions
- 53.06 Suspension of storm drainage system access
- 53.07 Industrial or construction activity discharges
- 53.08 Monitoring of discharges
- 53.09 Requirement to prevent, control, and reduce stormwater pollutants by the use of Best Management Practices
- 53.10 Watercourse protection
- 53.11 Notification of spills
- 53.12 Enforcement
- 53.13 Appeal of notice of violation
- 53.14 Enforcement measures after appeal
- 53.15 Cost of abatement of the violation
- 53.16 Injunctive relief
- 53.17 Compensatory action
- 53.18 Violations deemed a public nuisance
- 53.19 Remedies not exclusive
  
- 53.99 Penalty

### **Cross-reference:**

*Department of Stormwater Management, see §§ 33.80 et seq.*

### **§ 53.01 PURPOSE; INTENT.**

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Warrick County, Indiana through the regulation of stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order

to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

(A) To regulate the contribution of pollutants into the county's separate storm sewer system (MS4) by stormwater discharges by any user;

(B) To prohibit illicit connections and discharges to the county's separate storm sewer system; and

(C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter. (BC Ord. 2006-13, passed 7-26-06)

### **§ 53.02 DEFINITIONS.**

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

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

**AUTHORIZED ENFORCEMENT AGENCY.** Employees or designees of the Department of Stormwater Management.

**BEST MANAGEMENT PRACTICES (BMPS).** Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. **BMPS** also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks,

sludge or water disposal, or drainage from raw materials storage.

**BOARD.** The Warrick County Stormwater Management Board.

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

**DEPARTMENT.** Refers to the Indiana Department of Environmental Management.

**EPA.** The Federal Environmental Protection Agency.

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

**ILLEGAL DISCHARGE.** Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in § 53.05.

**ILLICIT CONNECTIONS.** An illicit connection is defined as either of the following:

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

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

**INDUSTRIAL ACTIVITY.** Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT.** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

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

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

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

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

**STATE WATERS or WATER OF THE STATE.**

Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined or retained completely upon the property of an individual, partnership or corporation.

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

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

**STORMWATER POLLUTION PREVENTION PLAN.** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**WASTEWATER.** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.  
(BC Ord. 2006-13, passed 7-26-06)

**§ 53.03 APPLICABILITY.**

This chapter shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.  
(BC Ord. 2006-13, passed 7-26-06)

**§ 53.04 RESPONSIBILITY FOR ADMINISTRATION.**

The Department of Stormwater Management shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Board of Commissioners to an authorized enforcement agency.  
(BC Ord. 2006-13, passed 7-26-06)

**§ 53.05 DISCHARGE PROHIBITIONS.**

(A) *Prohibition of illegal discharges.*

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

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

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

(b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(d) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(B) *Prohibition of illicit connections.*

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person shall be in violation of this chapter if the person connects a line conveying sewage to the storm drainage system, or allows such a connection to continue.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.06 SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS.**

(A) *Suspension due to illicit discharges in emergency situations.*

(1) The Department of Stormwater Management may, without prior notice, suspend storm 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 storm drainage system or waters of the state or United States.

(2) If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system or waters of the state or United States, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.*

(1) Any person discharging to the storm drainage system in violation of this chapter may have their storm drainage system access terminated if such termination would abate or reduce an illicit discharge.

(2) The authorized enforcement agency will notify a violator of the proposed termination of its storm drainage system access.

(3) The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(4) A person commits an offense if the person reinstates storm drainage system access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.07 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

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

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.08 MONITORING OF DISCHARGES.**

(A) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The Department of Stormwater Management and the authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Department of Stormwater Management and the authorized enforcement agency.

(2) Facility operators shall allow the Department of Stormwater Management ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The Department of Stormwater Management shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Department of Stormwater Management may require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be

inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Department of Stormwater Management and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Department of Stormwater Management access to a permitted facility is a violation of a stormwater discharge permit and of this chapter.

(7) A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

(8) If the Department of Stormwater Management has been refused access to any part of the premises from which stormwater is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.09 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

(A) The Department of Stormwater Management will establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the state or United States. These BMPs shall be part of a stormwater pollution

prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(B) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs.

(C) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(D) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

#### § 53.10 WATERCOURSE PROTECTION.

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

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

#### § 53.11 NOTIFICATION OF SPILLS.

(A) Notwithstanding other requirements of law, as soon as any person responsible for a facility or

operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or waters of the state or United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(B) In the event of such a release of hazardous materials said person shall immediately notify all emergency response agencies of the occurrence via emergency dispatch services. As used in this section, **EMERGENCY RESPONSE AGENCIES** shall mean the EPA and the Department.

(C) In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person, by phone or facsimile no later than the next business day.

(D) Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department of Stormwater Management within three business days of the phone notice.

(E) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

#### § 53.12 ENFORCEMENT.

(A) *Violation.* It shall be unlawful for any person to violate or fail to comply with any provision of this chapter. Any person who has violated or continues to violate any provision of this chapter may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(B) *Notice of violation.*

(1) Whenever the Department of Stormwater Management finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Department of Stormwater Management may order compliance by written notice of violation to the responsible person.

(2) Such notice of violation may require without limitation:

(a) The performance of monitoring, analyses, and reporting;

(b) The elimination of illicit connections or discharges;

(c) That violating discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(e) Payment of a fine to cover administrative and remediation costs; and

(f) The implementation of source control or treatment BMPs.

(3) Such notice of violation shall contain:

(a) The names and addresses of the owner and violator;

(b) The address when available, or a description of the building, structure of land upon which the violation has occurred;

(c) A statement specifying the nature of the violation;

(d) A description of the remedial measures necessary to bring the illegal activity into compliance with this chapter and a time schedule for the completion of such remedial action, which may include designating the violation requires immediate action of less than 24 hours;

(e) A statement that should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator;

(f) A description of the remedial measures, if any, that were necessary to bring the illegal activity into compliance with this chapter that were already taken by the Department of Stormwater Management or the authorized enforcement agency, the cost thereof and a statement that the violator shall be responsible for the remedial action already taken; and

(g) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is sent.

(C) *Emergency.* In the event that an emergency exists and immediate action is required, the Board of Commissioners, the authorized enforcement agency and the Department of Stormwater Management may abate or remedy the violation and said notice may be given after said abatement or remediation has occurred. In the event of such emergency, the Department of Stormwater Management may enter onto the subject property and may take any and all measures necessary to abate the violation. It shall be unlawful for any person to refuse to allow access to the government agency or designated contractor to enter upon the property for the purposes set forth above.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.13 APPEAL OF NOTICE OF VIOLATION.**

(A) Any person receiving a notice of violation may appeal a notice of violation by filing a notice of appeal with the Department of Stormwater Management.

(1) The notice of appeal must be received within ten days from the date of the notice of violation is issued.

(2) Hearing on the appeal before the Stormwater Department shall take place within 30 days from the date of receipt of the notice of appeal.

(B) A decision of the Department of Stormwater Management may be appealed to the Board of Commissioners.

(1) A notice of appeal must be received by the Board of Commissioners with ten days of the decision of the Department of Stormwater Management.

(2) Hearing on the appeal before the Board of Commissioners shall take place within 30 days from the date of receipt of the notice of appeal.

(C) A decision of the Board of Commissioners may be taken as provided by Indiana law.  
(BC Ord. 2006-13, passed 7-26-06)

#### **§ 53.14 ENFORCEMENT MEASURES AFTER APPEAL.**

(A) 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 ten days after all appeals have been exhausted, then representatives of the authorized enforcement agency 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.

(B) It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.  
(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

#### **§ 53.15 COST OF ABATEMENT OF THE VIOLATION.**

Within 30 days after the abatement of the violation by authorized enforcement agency, the

owner of the premises shall be billed for the cost of abatement, including administrative costs. The notification will include copies of all invoices paid by the county, and a log of all hours spent by county personnel (or its designated contractor). If the amount contained in the notification is not paid within 30 days of the receipt of the bill, the county may certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification, and said amounts shall be collected as delinquent taxes are collected pursuant to I.C. 36-1-6-2.

(BC Ord. 2006-13, passed 7-26-06)

#### **§ 53.16 INJUNCTIVE RELIEF.**

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

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

#### **§ 53.17 COMPENSATORY ACTION.**

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

(BC Ord. 2006-13, passed 7-26-06)

#### **§ 53.18 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and

welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.19 REMEDIES NOT EXCLUSIVE.**

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

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.99 PENALTY.**

(A) Any person that has violated or continues to violate this chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to \$2,500 per violation per day. Each day a violation continues after the original notification shall be deemed a separate offense under this chapter.

(B) The authorized enforcement agency may recover all attorney's fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(BC Ord. 2006-13, passed 7-26-06)



**CHAPTER 54: CONSTRUCTION SITE AND  
POST-CONSTRUCTION SITE STORMWATER CONTROL**

Section

54.01	Purpose; intent	controlling the introduction of pollutants into the
54.02	Definitions	municipal separate storm sewer system (MS4) in order
54.03	Applicability	to comply with requirements of the National Pollutant
54.04	Responsibility for administration	Discharge Elimination System (NPDES) permit
54.05	Responsibility of construction site owner	process. The objectives of this chapter are:
54.06	General requirements for stormwater quality control	(1) To regulate construction activities disturbing more than one acre of land as governed by
54.07	General requirements for individual building lots within a permitted project	327 IAC 15-5.
54.08	Monitoring of discharges	(2) To require construction site operators to develop and implement a construction plan including
54.09	Requirement to prevent, control, and reduce stormwater pollutants by the use of Best Management Practices	a stormwater pollution prevention plan in order to receive a grading permit from the county.
54.10	Post-construction controls for new development or redevelopment	(B) <i>Post-construction control.</i> The purpose of this chapter relative to post-construction control is to
54.11	Enforcement	implement planning procedures that promote and improve water quality. The planning procedures will
54.12	Injunctive relief	include, at a minimum, the post-construction requirements of 327 IAC 5-5-6.5(a)(8). The county
54.13	Compensatory action	may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the
54.14	Violations deemed a public nuisance	impact of pollutants on stormwater runoff. Where appropriate, and to the extent of the MS4 operator's
54.15	Remedies not exclusive	authority, the planning procedures may also include the following:
54.99	Penalty	(1) Buffer strip and riparian zone preservation;

**Cross-reference:**

*Department of Stormwater Management, see  
§§ 33.80 et seq.*

**§ 54.01 PURPOSE; INTENT.**

(A) *Site construction control.* The purpose of this chapter relative to post-construction control is to establish requirements for stormwater discharges from construction activities of one acre or more so as to protect the public health, existing water uses, and aquatic biota. This chapter establishes methods for

- (1) Buffer strip and riparian zone preservation;
- (2) Filter strip creation;
- (3) Minimization of land disturbance and surface imperviousness;
- (4) Minimization of directly connected impervious areas;

(5) Maximization of open space; and

(6) Directing the community's growth away from sensitive areas and towards areas that can support growth without compromising water quality. (BC Ord. 2006-14, passed 7-26-06)

#### § 54.02 DEFINITIONS.

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

**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 tile. The term does not include land disturbing activities for the construction of agricultural related facilities, such as:

- (1) Barns;
- (2) Buildings to house livestock;
- (3) Roads associated with infrastructure;
- (4) Agricultural waste lagoons and facilities;
- (5) Lakes and ponds;
- (6) Wetlands; and
- (7) Other infrastructure.

**AUTHORIZED ENFORCEMENT AGENCY.** Employees or designees of the County Commissioners of Warrick County, Indiana.

**BEST MANAGEMENT PRACTICES (BMPS).** Schedules of activities, prohibitions of practices,

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

**BOARD.** The Warrick County Stormwater Management Board.

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

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

**CONSTRUCTION PLAN.** A representation of a project site and all activities associated with the project. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A stormwater pollution prevention plan is a part of the construction plan.

**CONSTRUCTION PROJECT or PROJECT.** An organized effort to start, conduct, manage, and complete a single construction activity, or a series of construction activities.

**CONSTRUCTION PROJECT SITE.** The physical location or locations where a construction project is being accomplished, or the physical or legal boundaries within which a construction activity or a series of construction activities is planned to be or is being accomplished.

**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.

**CONSTRUCTION SITE OPERATOR.** Shall have the same meaning as project site operator.

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

**DEPARTMENT.** The Indiana Department of Environmental Management.

**DEVELOPER.**

(1) Any person financially responsible for construction activity; or

(2) An owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

**DRAIN.** An open channel or a pipe, or a combination thereof, implemented to gather, store, convey and release stormwater runoff.

**ECM or EROSION CONTROL MEASURE.** An activity, a material application, or a structure that prevents, arrests, or lessens the wearing away of soil, sediment, or rock by water, wind, or ice.

**EROSION.** The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

**EROSION AND SEDIMENT CONTROL MEASURE.** A practice, or a combination of practices, to control erosion and resulting sedimentation.

**EROSION AND SEDIMENT CONTROL SYSTEM.** The use of appropriate erosion and sediment control measures 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.

**FINAL STABILIZATION.** The establishment of permanent vegetative cover or the application of a permanent nonerosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current permit.

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

**ILLEGAL DISCHARGE.** Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Chapter 53 of this Code of Ordinances.

**ILLICIT CONNECTIONS.** An illicit connection is defined as either of the following:

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

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

**INDUSTRIAL ACTIVITY.** Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

**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.

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

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT.** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

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

**NOTICE OF INTENT LETTER or NOI LETTER.** A written notification from the project site owner sent to the Director of IDEM and to the Department of Stormwater Management at least 48 hours prior to initiating construction activities at the construction site.

**NOTICE OF TERMINATION LETTER or NOT LETTER.** A written notification from the project site owner to the Director of IDEM and to the Department of Stormwater Management that the construction activities for a site have been terminated and have met the requirements of this chapter.

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

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

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

**PROJECT SITE OWNER.** The person required to submit an NOI under 327 IAC 15-5 (Rule 5) and includes the following entities: a developer, or a person who has financial and operational control of construction activities, project plans and specifications, and the ability to modify or cause modification of project plans and specifications.

**RUNOFF.** An accumulation of stormwater flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains, or waterways.

**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 settling and accumulation of unconsolidated sediment carried by stormwater run-off.

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

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

**STORMWATER POLLUTION PREVENTION PLAN.** A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**STORMWATER QUALITY MEASURE.** A practice, or a combination of practices, to control or minimize pollutants associated with stormwater run-off.

**STRUCTURAL STORMWATER CONTROL.** A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

**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, experience, or completion of coursework that enable the individual to make judgments regarding stormwater control or treatment and monitoring.

**UNDISTURBED PROPERTY.** Real property, which has not been altered from its natural state by

dredging, filling, removal of trees and vegetation or other activities, which have disturbed or altered the topography or soils on the property.

**WASTEWATER.** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.  
(BC Ord. 2006-14, passed 7-26-06)

**§ 54.03 APPLICABILITY.**

(A) *Applicability.*

(1) This chapter applies to any new development or re-development construction site resulting in the disturbance of one acre or more of total land area. For such construction sites, persons must meet the general permit rule applicability requirements under 327 IAC 15-2-6.

(2) This chapter also applies to disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land within the corporate limits of the county.

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

(B) *Exclusions.*

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

(2) This chapter does not apply to the Indiana Department of Transportation when it conducts its business within the county corporate limit under its NPDES permit pursuant to 327 IAC 15.

(3) This chapter does not apply to the following types of activities:

(a) Agricultural land disturbing activities; and

(b) Forest harvesting activities.

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

(a) Landfills that have been issued a certification of closure under 329 IAC 10.

(b) Coal mining activities permitted under I.C. 14-34.

(c) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary. (BC Ord. 2006-14, passed 7-26-06)

#### **§ 54.04 RESPONSIBILITY FOR ADMINISTRATION.**

The county shall administer, implement, and enforce the provisions of this chapter. Any powers granted, or duties imposed, may be delegated to an authorized enforcement agency.

(BC Ord. 2006-14, passed 7-26-06)

#### **§ 54.05 RESPONSIBILITY OF CONSTRUCTION SITE OWNER.**

(A) The project site owner has the following responsibilities:

(1) Ensure that a sufficient construction plan is completed and submitted.

(2) Complete a notice of intent letter.

(3) Make application for a grading permit.

(4) Ensure compliance with this chapter during construction activity and the implementation of the construction plan.

(5) Ensure that all persons engaging in construction activities, on a permitted project site, comply with the applicable requirements of this rule and the approved construction plan.

(6) Notify the county with a sufficient notice of termination letter and send a copy to the Indiana Department of Environmental Management.

(B) For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.

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

(1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the county.

(2) Complete a notice of intent letter.

(3) Apply for a building permit in accordance with the procedures established by the county.

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

(1) Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the county.

(2) Comply with the provisions set forth in § 54.09.

(3) Apply for a building permit in accordance with the procedures established by the county. (NOTE: There is no need to submit a notice of intent letter under this division (D).) (BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.06 GENERAL REQUIREMENTS FOR STORMWATER QUALITY CONTROL.**

(A) All stormwater quality measures and erosion and sediment controls necessary to comply with this chapter must be implemented in accordance with the construction plan and sufficient to satisfy the following conditions.

(B) A project site owner shall meet the following minimum requirements:

(1) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.

(2) Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.

(3) A stable construction site access shall be provided for all traffic ingress and egress to the project site.

(4) Public or private roadways shall be kept cleared of accumulated sediment that is a result of

run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.

(5) Stormwater run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.

(6) The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:

(a) The completed NOI letter and the NPDES permit number, where applicable.

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

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

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

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

(9) The project site owner shall inform all general contractors, 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 this rule and the conditions and standards of the stormwater pollution prevention plan, and the schedule for proposed implementation.

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

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

(12) All stormwater quality measures must be designed and installed under the guidance of a trained individual.

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

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

(15) Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with stormwater run-off.

(16) Unvegetated areas that are scheduled, or likely to be left inactive for 15 days or more, must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner, or their representative, can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated

areas, with a density of less than 70%, shall be restabilized using appropriate methods to minimize the erosion potential.

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

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

(a) A trained individual shall perform a written evaluation of the project site at a minimum of one time per week and by the end of the next business day following each 0.5 inch of rain.

(b) The evaluation must address the maintenance of existing stormwater quality measures to ensure they are functioning properly and identify additional measures necessary to remain in compliance with all applicable laws and ordinances.

(c) Written evaluation reports must include the name of the individual performing the evaluation, the date of the evaluation, problems identified at the project site, and details of corrective actions recommended and completed.

(d) All evaluation reports for the project site must be made available to the inspecting authority within 48 hours of a request.

(19) Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures, shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

(20) Final stabilization of a project site is achieved when:

(a) All land disturbing activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial

vegetative cover with a density of 70% has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and

(b) Construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use and disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in subdivision (a) above. (BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.07 GENERAL REQUIREMENTS FOR INDIVIDUAL BUILDING LOTS WITHIN A PERMITTED PROJECT.**

(A) All stormwater quality measures, including erosion and sediment control, necessary to comply with this chapter must be implemented in accordance with the plan and sufficient to satisfy the following conditions.

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

(1) The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.

(2) Installation and maintenance of a stable construction site access for ingress and egress.

(3) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

(4) Sediment discharge and tracking from each lot must be minimized throughout the land

disturbing activities on the lot until permanent stabilization has been achieved.

(5) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.

(6) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

(7) For individual residential lots, final stabilization meeting the criteria in § 54.06(B)(20) will be achieved when the individual lot operator completes final stabilization or has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization. (BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.08 MONITORING OF DISCHARGES.**

The county shall have the authority to monitor discharges from construction sites covered under this chapter as described in Chapter 53 of this Code of Ordinances.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.09 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

(A) The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the county's storm drainage system or watercourses through the use of these structural and non-structural BMPs. These

BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(B) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at the responsible person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(C) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section.

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

#### **§ 54.10 POST-CONSTRUCTION CONTROLS FOR NEW DEVELOPMENT OR REDEVELOPMENT.**

(A) On areas that undergo new development or redevelopment, site construction resulting in disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or non-structural best management practices are required. Specifically, post-construction stormwater pollutant loading should not exceed pre-construction pollutant loading. Pre-construction refers to the site immediately before the planned land disturbance and development activities occur. Pre-construction is not intended to be interpreted as that period before any human-induced land disturbance activity has occurred. Post-construction pollutant loadings will be controlled through the six minimum control measures under the county's stormwater NPDES permit. Post-construction stormwater best management practices (BMPs) shall follow Indiana's Stormwater Quality Manual as a guidance document. The county shall have full technical and administrative approval authority on the application and design of all post-construction BMPs,

conditions, definitions, and submittal requirements of construction plans and specifications and other related documents. The minimum measures are implemented to meet the terms defined in 327 IAC 15-5-6.5(a)(8) which are enumerated below.

(B) The post-construction stormwater pollution prevention plan (SWP3). The SWP3 must include the following information:

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

(2) Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality measures.

(3) A description of measures that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and stormwater retention and detention ponds.

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

(5) Stormwater quality measures that will remove or minimize pollutants from stormwater run-off.

(6) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.

(7) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream or riparian habitat.

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

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.11 ENFORCEMENT.**

(A) Enforcement of this chapter shall be subject to the severity of the infraction and the construction site operator's efforts to comply. Tiered enforcement will be practiced at the county's discretion. The tiered enforcement may include:

(1) Verbal warning to the construction site operator to make corrections.

(2) Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.

(3) Warning of non-compliance with directions to the construction site operator that site conditions require immediate action.

(4) Stop work order.

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

agency or a contractor and the expense thereof, including court costs and attorney fees, shall be charged to the violator.

(C) The notification will include copies of all invoices paid by the county, and a log of all hours spent by county personnel (or its designated contractor). If the amount contained in the notification is not paid within 30 days of the receipt of the bill, the county may certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification, and said amounts shall be collected as delinquent taxes are collected pursuant to I.C. 36-1-6-2.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.12 INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated, or continues to violate, the provisions of this chapter, the authorized enforcement agency may petition any court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities which would create further violations. Such enforcement may also include compelling the person to perform abatement or remediation of the violation. Costs, including attorney fees, for injunctive relief may be assessed against the violator.

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.13 COMPENSATORY ACTION.**

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

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.14 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter may be deemed a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. Costs, including attorney fees, for injunctive relief may be assessed against the violator.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.15 REMEDIES NOT EXCLUSIVE.**

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

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.99 PENALTY.**

Any person that has violated or continues to violate this chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to \$2,500 per violation per day. Each day a violation continues after the original notification shall be deemed a separate offense under this chapter.

(BC Ord. 2006-14, passed 7-26-06)

## CHAPTER 55: STORMWATER UTILITY RATES

### Section

- 55.01 Purpose and objective
- 55.02 Definitions
- 55.03 Stormwater service charge
- 55.04 Stormwater service charge establishment procedures
- 55.05 Stormwater service charge structure and calculation
- 55.06 Billings; terms of payment
- 55.07 Appeals of ERU determination
- 55.08 Stormwater Revenue Fund
- 55.09 Delinquent charges and penalties as liens; collection
- 55.10 Violations and enforcement

### ***Cross-reference:***

*Department of Stormwater Management, see §§ 33.80 et seq.*

### **§ 55.01 PURPOSE AND OBJECTIVE.**

(A) The mission of the Department of Stormwater Management shall be to develop, implement, operate and adequately and equitably fund the acquisition, construction, operation, maintenance and regulation of stormwater collection and drainage systems and activities in the county, including without limitation, stormwater quality, separate storm sewers, neighborhood drainage, flood control, flood pumping, stormwater conveyance, sewer separation, and other improvements to the existing and future storm sewers.

(B) The Department of Stormwater Management shall safely and efficiently control stormwater runoff, insure compliance with the National Pollutant Discharge Elimination System Stormwater Discharge permit, enhance public health and safety, protect lives and property, facilitate mobility and enable access to homes and businesses throughout the county during storms, control the discharge of pollutants in

stormwater to receiving waters and enhance the natural resources of the county.  
(SWM Ord. 2007-01, passed 8-29-07)

### **§ 55.02 DEFINITIONS.**

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

***BOARD.*** The Board of Directors of the Department of Stormwater Management.

***COMBINED SEWER.*** Pipe or conduit primarily used to convey sanitary sewage and secondarily intended to convey stormwater.

***COMMERCIAL PROPERTY.*** A lot or parcel of real estate encompassing State Land Use Code 3, 4 and 8, including but not limited to: commercial, industrial and retail.

***COUNTY.*** Territory within the corporate boundaries of Warrick County that is not located in a municipality or is excluded under MS4 - NPDES Permitting Program 327 IAC 15-13.

***CUSTOMER or USER.*** A property owner benefitting from the stormwater system.

***DEPARTMENT.*** The Department of Stormwater Management.

***DETENTION.*** The temporary storage of storm runoff in a basin, pond or other structural or non-structural device to control the peak discharge rates by holding the stormwater for a lengthened period of time, which also provides for the gravity-settling of pollutants.

**DEVELOPED.** The condition of real property altered from its natural state by the addition to, or construction on such property of impervious surfaces or physical improvements such that the hydrology of the property, or a portion thereof, is affected.

**DITCH, LEGAL.** Any drainage system under the jurisdiction of the County Drainage Board.

**DITCH, OPEN.** A relatively deep drainage channel that may have a continuous water flow. Open ditches are outlets for both surface, subsurface or storm sewer drainage systems.

**DRAIN.** Relative to stormwater drainage, any sewer, tile, ditch, stream or other stormwater runoff conveyance channel or conduit.

**DRAINAGE EASEMENT.** The land required for the installation of stormwater sewers or drainage ditches, or required along a natural stream or water course for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

**DRAINAGE FACILITIES.** All ditches, channels, conduits, retention-detention systems, tiles, drainage swales, sewers, and other natural or artificial means of draining stormwater from land.

**DRAINAGE REQUIREMENTS.**

- (1) Minimum drainage standards as established by county ordinance;
- (2) Obligations and requirements relating to drainage established under the County Subdivision Control Ordinance;
- (3) Requirements contained in the County Zoning Ordinance, including floodway zoning requirements;
- (4) Obligations and requirements relating to drainage established under the County Drainage Board; and

- (5) Conditions relating to drainage attached to a grant of variance by the Board of Zoning Appeals.

**DRAINAGE, SUBSURFACE.** A system of pipes, tile, conduit or tubing installed beneath the ground used to collect underground water from individual parcels, lots, building footings or pavements.

**DRAINAGE, SURFACE.** A system by which the stormwater runoff is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways and yards so that storm runoff is removed without ponding, and flows to a drainage swale, open ditch, or a storm sewer.

**DRAINAGE, SWALE.** A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion, or other site feature.

**DRAINAGE, SYSTEM.** Any combination of surface and/or subsurface drainage components fulfilling all applicable drainage requirements.

**EASEMENT.** A grant by the property owner of the use of a strip of land by the public, a corporation or other legal entity for specified purposes.

**ENGINEER.** The Warrick County Engineer.

**EQUIVALENT RESIDENTIAL UNIT or ERU.** An amount equal to the average amount of impervious area found on a typical single-family residential parcel, which is 3,100 square feet. Therefore, one **ERU** equals 3,100 square feet of impervious area.

**IMPERVIOUS AREA.** The area within developed land that prevents or significantly impedes the infiltration of stormwater into the soil. Included in this definition are areas that have been paved and/or covered with buildings and materials, including but not limited to, concrete, asphalt, rooftop and blacktop, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

**INFILTRATION.** A complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.

**LAND ALTERATION.** Any action taken relative to land that either: (1) changes the contour; (2) increases the runoff rate; (3) changes the elevation; (4) decreases the rate of which water is absorbed; (5) changes the drainage pattern; (6) creates or changes a drainage facility; (7) involves construction, enlargement or location of any building on a permanent foundation; or (8) creates an impoundment. **LAND ALTERATION** includes (by way of example and not of limitation) terracing, grading, excavating, constructing earthwork, draining, installing drainage tile, filling and paving.

**MAINTENANCE.** Cleaning out of, spraying, removing obstructions from, and making minor repairs in a drainage facility so that it will perform the function for which it was designed and constructed.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM** or **NPDES.** The EPA program initiated to reduce and eliminate pollutants reaching water bodies of all types.

**NPDES PERMIT.** The stormwater management permit required of municipalities and certain industries by the EPA pursuant to Section 402 of the Clean Water Act.

**OTHER PROPERTY.** All properties not encompassed within the definitions of residential property or commercial property, including but not limited to, governmental, institutional, schools and churches.

**PEAK DISCHARGE.** The maximum rate of flow of water passing a given point during or after a rainfall event, sometimes called “peak flow”.

**PRIVATE STORMWATER FACILITIES.** Various stormwater and drainage works not under the control or ownership of the county, the state, or the federal government, which may include inlets,

conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

**PROPERTY OWNER.** The individual, partnership, corporation or other legal entity holding the deed or record title to real property.

**PUBLIC DRAINAGE SYSTEM.** Various storm water and drainage works under the control and/or ownership of the county, the state, or the federal government, which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater

**RESIDENTIAL PROPERTY.** A lot or parcel of real estate encompassing State Land Use Codes 101 and 500 through 599, on which a building or house trailer is situated that contains a group of rooms forming an inhabitable dwelling unit, with facilities used or intended to be used primarily for living, sleeping, cooking and eating.

**RETENTION.** The holding of stormwater runoff in a constructed basin or pond or in a natural body of water with a controlled release rate.

**RIGHT-OF-WAY.** Any highway, street, avenue, boulevard, road, lane or alley, including the entire right-of-way for public use thereof, and all surface and subsurface improvements thereon, including without limitation, sidewalks, curbs, shoulders, utility lines and mains.

**STATE LAND USE CODES.** The classification system used by Indiana counties for purposes of classification of the assessment of real property.

**STORM SEWER.** A sewer designed or intended to convey only stormwater, surface runoff, street wash waters and drainage, and not intended for sanitary sewage and industrial wastes. A storm sewer begins at the grating or opening where water enters the

sewer, through the sewer and any other conduits to the outlet structure, where water enters a channel, natural watercourse or combined sewer.

***STORMWATER CONVEYANCES.***

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

***STORMWATER SERVICE CHARGE.*** A charge imposed on users of the stormwater system.

***STORMWATER SYSTEM.*** All constructed facilities, including separate storm sewers and conveyances, combined sewers, structures and natural watercourses owned by or under the jurisdiction of the county, the state, or the federal government used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations.

(SWM Ord. 2007-01, passed 8-29-07; Am. SWM Ord. 2008-1, passed 4-9-08)

**§ 55.03 STORMWATER SERVICE CHARGE.**

(A) A stormwater service charge shall be imposed on each and every lot and parcel of land within the county that directly or indirectly contributes to the stormwater system of the county.

(B) This charge shall be assessed against the property owner thereof, who shall be considered the user for the purposes of this chapter.

(C) This charge is deemed reasonable and necessary to pay for the repair, replacement, extension, planning, improvement, operation,

regulation and maintenance of the existing and future stormwater system.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.04 STORMWATER SERVICE CHARGE ESTABLISHMENT PROCEDURES.**

(A) *Stormwater service charge per ERU.* The stormwater service charge shall be \$5 per ERU per month.

(1) For the purpose of this chapter, a *MONTH* shall be considered 25 through 35 days.

(2) Any billings for stormwater service outside this time shall be on a per diem basis.

(B) *Basis for charge.*

(1) The stormwater service charge is designed to recover the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the stormwater service charge.

(2) This service charge is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.05 STORMWATER SERVICE CHARGE STRUCTURE AND CALCULATION.**

(A) *Generally.* There is hereby assessed a stormwater service charge for each property owner owning land situated within the county that contributes directly or indirectly to the stormwater system of the county, in an amount as determined below.

(B) *Impervious area.*

(1) For any such property, lot, parcel of land, building or premises that contributes directly

or indirectly to the storm water system of the county, such charge shall be based upon the quantity of impervious area, as measured on the records of the County Assessor or site examination, mapping information, aerial photographs, and other reliable information.

(2) Impervious area of public rights-of-way and railroad lines (which shall not be deemed to include adjacent property, such as a rail yard operated by a railroad) will not be included in the determination of a storm water service charge.

(3) In addition, the Department shall establish policies and procedures to make determinations whether commonly-owned, adjoining properties with separate plat or legal descriptions should be treated as a single parcel of land for purposes of calculating the storm water service fees to be charged for such properties.

(C) *Classification of property.*

(1) *Residential properties.* A monthly flat-rate charge for storm water service rendered to residential properties shall be assessed to each parcel of residential property within the county. Each parcel of residential property is hereby assigned one ERU.

(2) *Commercial properties.* A monthly flat-rate charge for storm water service shall be rendered to properties with impervious area other than residential properties, based on the total amount of impervious area on the property (measured in square feet).

(3) *Other properties.* A monthly flat-rate charge for storm water service shall be rendered to properties with impervious area other than residential properties, based on the total amount of impervious area on the property (measured in square feet) as follows:

<i>Calculated ERU</i>	<i>ERU Charged to Property</i>
Between 1 and 4	1
Between 4 and 9	2
9 or greater	3

(D) *Land alterations.*

(1) The issuance of any building permit or other action that results in a land alteration of a property other than a residential property, or a property that currently only contains residential properties but will be no longer used for such purpose, shall be cause for an adjustment of the stormwater service charge determined under this section.

(2) The property owner shall have the obligation of informing the Department of any such changes.

(E) *Exceptions/exemptions.*

(1) Agricultural properties with an impervious area under State Land Use Code 100-199, with the exception of those properties that qualify as residential properties, shall be exempt from the assessment of stormwater service charges.

(2) Except for public rights-of-ways and railroad lines, and agricultural properties as defined herein, there shall be no exceptions or exemptions from the assignment of gross stormwater ERUs for any property with impervious area, except that properties other than single-family residential parcels with impervious area of less than 500 square feet shall be exempted from the assignment of an ERU.

(F) *Contractual billing and collection.* The Department of Stormwater Management may delegate the billings to the County Treasurer to be forwarded to customers semiannually.

(SWM Ord. 2007-01, passed 8-29-07; Am. SWM Ord. 2008-1, passed 4-9-08)

**§ 55.06 BILLINGS; TERMS OF PAYMENT.***(A) Billings.*

(1) All stormwater service bills shall be rendered on a semiannual basis, unless additional or prorated billing is required to reflect customer changes, initial billings or is otherwise required to adjust billing cycles.

(2) Charges for miscellaneous services or work performed on behalf of a stormwater customer by the Department shall be assessed at the time the work is completed, and shall be included in the customer's next stormwater service bill.

(3) Stormwater billing for a new property shall commence with the date the property is assessed for purposes of property taxes, or date of occupancy, whichever shall first occur.

(4) Additional stormwater charges for an established service address necessitated by a change in the amount of impervious area at the property shall commence on the date the new certificate of occupancy or compliance is issued.

(5) Billing adjustments required to correct impervious area measurements shall be applied retroactively to the date of the customer's initial protest.

*(B) Rights and responsibilities of the property owner.*

(1) Charges for stormwater service shall remain the ultimate responsibility of the property owner, including all penalties, recording fees, attorney's fees, interest, and court costs.

(2) Other than the property owner, no other person shall be permitted to inspect, examine or otherwise obtain confidential information, including the Social Security number of the property owner, obtained by the Department for the sole purpose of billing for stormwater system service.

(3) Stormwater service charges attach to the property.

*(C) Terms of payment.*

(1) The stormwater service charges shall be due on the payment date set out on the bill.

(2) It shall be a violation of this chapter to fail to pay a stormwater service bill when due.

(3) All bills for stormwater services not paid on or before the due date shall be subject to a collection or deferred payment charge of 10% on the outstanding balance.

(4) Moving from one location to another in no way absolves the customer from responsibility for any unpaid charges incurred at a previous location.

*(D) Collection.* Delinquent stormwater service charges, along with reasonable attorney fees and court costs, may be collected in a civil action. (SWM Ord. 2007-01, passed 8-29-07) Penalty, see § 10.99

**§ 55.07 APPEALS OF ERU DETERMINATION.**

(A) If, in the opinion of any single-family residential property owner, the ERU multiple assigned to the property of such owner is inaccurate in light of the amount of impervious area contained on the property, such property owner shall have the right to contest such ERU determination.

(B) The Department shall develop and promulgate policies and procedures to resolve any such contests, including if necessary, the conducting of hearings and the making of determinations with respect to the measurement of impervious area contained on any property. (SWM Ord. 2007-01, passed 8-29-07)

**§ 55.08 STORMWATER REVENUE FUND.**

All revenues earned and fees collected for stormwater service, including but not limited to, drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds, shall be deposited pursuant to this chapter. Disbursements from this account shall be authorized by the Department. Such disbursements shall be used exclusively for the operation, maintenance, improvement and debt service of the county's stormwater system.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.09 DELINQUENT CHARGES AND PENALTIES AS LIENS; COLLECTION.**

Delinquent charges for stormwater services, and applied penalties, recording fees and service charges constitute a lien upon the property, and may be collected in accordance with the provisions of I.C. 36-9-25-11.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.10 VIOLATIONS AND ENFORCEMENT.**

Failure to pay a stormwater service charge when due shall constitute a violation of this chapter, which shall be enforced by the Department and such agents as it may appoint for such purposes.

(SWM Ord. 2007-01, passed 8-29-07)

