

**TITLE 14**  
**STORM WATER**

**Chapter 14**  
**STORM WATER**

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## STORM WATER SYSTEM

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### **14.15.005 Purpose.**

- (1) The City of Jasper, Indiana by and through its Common Council, created a Department of Storm Water Management in Ordinance No. 2003-14, to provide for the installation, maintenance, and operation of a system of storm water collection and disposal for the City of Jasper, Indiana; and
- (2) I.C. 8-1.5-5-7 et. seq. allows the City of Jasper to fund its Department of Storm Water Management through a user fee; and
- (3) Internal studies and a rate study have been conducted by and for the Department of Storm Water Management and a determination has been made as to the initial budget to fund the Department and complete necessary projects; and
- (4) The Storm Water Management Board finds that assessing and collecting user fees to fund installation, maintenance and operation of the storm water system is in the best interest of the City of Jasper and the Storm Water District and has recommended said user fees to the Common Council by their Resolution No. SWMB 2003-1; and
- (5) The Common Council of the City of Jasper finds that the Storm Water system that provides for the collection, treatment, storage and disposal of Storm Water provides benefits and services to all property within the city limits. Such benefits include, but are not limited to: the provision of adequate system of collection, conveyance, detention, treatment and release of storm water; the reduction of hazards to property and life resulting from storm water runoff; improvements in general health and welfare through reduction of undesirable storm water conditions; and improvements to the water quality in the storm water and surface water system and its receiving waters; and

- (6) The Common Council of the City of Jasper finds that said user fees are fair and equitable and based on the actual costs to provide storm water services to the citizens of the City of Jasper and are in the best interests of the City of Jasper and the Storm Water District. (Ord. 2003-24, Whereas, June 25, 2003)

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

- (1) **"Board"** means the City of Jasper, Indiana, Storm Water Management Board.
- (2) **"Bonds"** means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the Costs of Construction.
- (3) **"Calendar Year"** means a 12-month period commencing on the first day of January of any year.
- (4) **"City Engineer"** means the Engineer of the City of Jasper or his designee.
- (5) **"Costs of Construction"** means costs reasonably incurred in connection with providing capital improvements to the System or any portion thereof, including, but not limited to, the costs of
  - (a) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor,
  - (b) physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith,
  - (c) architectural, engineering, legal and other professional services,
  - (d) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction,
  - (e) any taxes or other charges which become due during construction,
  - (f) expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against any contractor or sub-

contractor in respect of any default under a contract relating to construction,

- (g) principal of and interest of any Bonds, and
  - (h) miscellaneous expenses incidental thereto.
- (6) **"Debt Service"** means, with any particular series of Bonds, an amount equal to the sum of (a) all interest payable on such Bonds during such Calendar Year, plus (b) any principal installments of such Bonds during such Calendar Year.
  - (7) **"Developed Property"** means real property other than Undisturbed Property and Vacant Improved Property.
  - (8) **"Dwelling Unit"** means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
  - (9) **"Equivalent Residential Unit", "ERU"** means up to 5000 square feet increments of Impervious Surface.
  - (10) **"ERU Rate"** means a fee charged on each ERU.
  - (11) **"Exempt Property"** means public rights of way, public streets, public alleys and public sidewalks.
  - (12) **"Extension and Replacement"** means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the System, or land acquisitions for the System and any related costs thereto, or paying extraordinary maintenance and repair, including the Costs of Construction, or any other expenses which are not costs of Operation and Maintenance or Debt Service.
  - (13) **"Impervious Area"** means the number of square feet of hard surfaced areas, including compressed rock or gravel, which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as Undisturbed Property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as Undisturbed Property, including, but not limited to, roofs, roof extensions, driveways, pavement, parking lots and athletic courts.
  - (14) **"Nonresidential Developed Property"** means developed property that is not utilized for dwelling units. Said property includes the following Jasper

Municipal Utilities billing office customer classifications: Institutional, Governmental, Commercial and Industrial.

- (15) **"Operating Budget"** means the annual operating budget adopted by the City for the succeeding Calendar Year.
- (16) **"Operations and Maintenance"** means the current expenses, paid or accrued, of operation, maintenance and current repair of the System, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of equipment, materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.
- (17) **"Residential Developed Property"** means developed property that is utilized for dwelling units. Said property includes the following Jasper Municipal Utilities billing office customer classifications: Single-Family and Multi-Family Residential.
- (18) **"Revenues"** mean all rates, fees, assessments, rentals or other charges or other income received by the appropriate fund, in connection with the management and operation of the System, including amounts received from the investment or deposit of monies in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.
- (19) **"Storm Water Management System" or "System"** means the existing Storm Water Management of the City and all improvements thereto which by this Chapter are constituted as the property and responsibility of the City, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such System.
- (20) **"Storm Water User Fee"** means a fee authorized by Ordinance(s) established to fund the Department of Storm Water Management including, but not limited to, Operations and Maintenance, Extension and Replacement and Debt Service.
- (21) **"Undisturbed Property"** means real property, which has not been altered from its natural state by dredging, filling, removal of trees and vegetation

or other activities, which have disturbed or altered the topography or soils on the property.

- (22) **"User"** means the property owner of record of Residential Developed Property, Nonresidential Developed Property, Undisturbed Property or Vacant Improved Property. A User includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver or personal representative.
- (23) **"User Fee District"** means the area or property within the Corporate Limits of the City of Jasper, Indiana and any other area that may become a part of the District pursuant to applicable State law.
- (24) **"Vacant Improved Property"** means vacant property, which is, or could reasonably be, served by any subdivision improvements that allow egress. (Ord. 2003-24,S1, June 25, 2003)

**14.15.020 Fee Established.** Subject to the provisions of this Chapter, each and every Developed Property, except Exempt Property, within the Corporate Limits of the City, and the owners thereof, have imposed upon them a Storm Water User Fee. The Storm Water User Fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this ordinance and the ERU and ERU Rate which shall be established and changed from time to time by the Storm Water Management Board and the Common Council of the City of Jasper, Indiana. (Ord. 2003-24,S2, June 25, 2003)

**14.15.030 Storm Water User Fee Collection.** The Storm Water User Fee for Developed Property, except Exempt Property, shall be billed and collected monthly with the monthly utility services bill for those properties within the Corporate Limits of the City of Jasper. The Storm Water User Fee shall be billed as part of a consolidated statement for City utility customers, which is generally paid by a single payment to the Jasper Municipal Utilities. In the event that a partial payment is received, the storm water portion of the bill shall be credited for payment only after the other utilities billed, i.e. gas, electric, water and sewer, have been credited for payment. In the event the User has no other City utilities, said Fee shall be collected and billed through the Jasper Municipal Utility Business Office. In all cases the Storm Water User Fee shall be billed to the property owner, regardless of whether the owner occupies the property. All bills for Storm Water User Fees shall become due and payable in accordance with the rules and regulations of the Jasper Municipal Utilities. All rates and charges not paid when due, as stated on the monthly bill, are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates or charges shall thereupon attach thereto. (Ord. 2003-24,S3, June 25, 2003)

**14.15.040 User Fee Determination.** There is hereby established the following uniform schedule of user fees for the services and use of facilities of the Storm Water Management System by the owner of the premises using the services and facilities of said system:

- (1) Each and every owner of Developed Property, except Exempt Property, shall be billed for one equivalent residential unit (ERU) and the user fee for each such ERU which shall be Three Dollars and 96/100 (\$3.96).
- (2) Parcels which are Exempt Property, Vacant Improved Property and Undisturbed Property shall not be assessed a Storm Water User Fee.
- (3) Using the City's GIS mapping system, a determination shall be made as to the multiple of ERUs to be assigned to each Developed Property, except Exempt Property.
- (4) Each and every property shall be billed according to their actual number of ERUs, according to the following schedule:

0	-	5,000 Sq Ft	=	One (1) ERU	=	\$3.96/month
5,001	-	10,000 Sq Ft	=	Two (2) ERU	=	\$7.92/month
10,001	-	15,000 Sq Ft	=	Three (3) ERU	=	\$11.88/month
15,001	-	20,000 Sq Ft	=	Four (4) ERU	=	\$15.84/month

and continuing in 5,000 Sq Ft increments. The billing amount shall be updated by the City Engineer based on any additions to the square footage of the impervious area of the Developed Property. (Ord. 2013-27, S1, Sept. 18, 2013) (Ord. 2003-24, S4, June 25, 2003)

**14.15.050 Appeals.** If, in the opinion of any User, the amount of ERUs attributable to such User is inaccurate, the User shall have the right to contest said calculation in the following manner:

- (1) The appeal shall be filed in writing with the City Engineer and shall state the grounds for the appeal, with a copy of any verifiable documentation supporting the User's claim.
- (2) Upon review of the User's claim, the City Engineer may request additional information from the appealing party. The City Engineer shall render a written determination that either the original calculation should be affirmed or the User should be assigned a new ERU amount.
- (3) If the User receives a new ERU amount that is lower than the original amount assigned to such User, the User shall be credited accordingly for any overpayment made by User (not a previous property owner) made from the date twelve (12) months preceeding the date the User filed their appeal. Said credit shall apply to future service provided to the User until the overpayment has been fully satisfied. If the User's appeal is denied, said opinion shall be forwarded to the User by certified mail, return receipt requested. The User shall then have seven (7) days from date of receipt to



request a reconsideration by the Storm Water Management Board. If the User fails to accept said opinion, the seven (7) days shall be counted from the date of mailing of the certified mail. The User shall submit a copy of the original appeal and supporting documents to the Board and any additional facts concerning the dispute. The City Engineer shall submit a copy of the determination denying the User's claim, along with any supporting documents.

- (4) The Storm Water Management Board shall conduct an informal hearing, as soon as practicable, to determine and resolve the dispute based upon the documentation submitted and oral testimony of the User and the City Engineer and any other persons with information relevant to the dispute. The Storm Water Management Board shall render a final written decision within thirty (30) days thereafter and their decision shall be binding.
- (5) Dispute or appeal of the amount of ERUs attributable to a User shall not be a valid reason for non-payment of the User Fees and any fees not paid in a timely manner remain subject to applicable penalties. (Ord. 2003-24,S5, June 25, 2003)

**14.15.055 Other Billing Adjustments.** All other billing errors may be adjusted to the known date of error or for a period of one (1) year, whichever period is shorter. (Ord. 201-28, S1, Nov. 17, 2010)

**14.15.060 Operating Budget.** That the Common Council of the City of Jasper shall adopt an operating budget for the Department of Storm Water Management each calendar year. The operating budget shall set forth for such calendar year the estimated revenues and the applicable appropriations, such as: operations and maintenance, depreciation, bond and interest redemption and any other necessary appropriations. The Clerk-Treasurer of the City of Jasper, Indiana, shall account for all funds collected and expended for Storm Water Management. (Ord. 2003-24,S6, June 25, 2003)

**14.15.070 Spending of Funds.** That, pursuant to I.C. 8-1.5-5-6 and other appropriate sections, the Storm Water Management Board retains the right to direct the spending of funds through directive to the Clerk-Treasurer of the City of Jasper, Indiana, through the claims approval process and after approval of claims by the Board of Public Works and Safety of the City of Jasper. (Ord. 2003-24, S7, June 25, 2003)

## CHAPTER 14.20

### STORM WATER ILLICIT DISCHARGE DETECTION AND ELIMINATION REGULATIONS

#### Sections:

14.20.010	Definitions.
14.20.020	General Provisions.
14.20.030	Prohibitions.
14.20.040	Suspension of MS4 Access.
14.20.050	Industrial or Construction Activity Discharges.
14.20.060	Monitoring of Discharges.
14.20.070	Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.
14.20.080	Watercourse Protection.
14.20.090	Notification of Accidental Discharges and Spills.
14.20.100	Violations, Enforcement and Penalties.

**14.20.010 Definitions.** For the purposes of clarification, the following definitions are provided and become a part of and applicable to the purposes, policies, regulations, requirements, provisions, specifications, and applications of this chapter. Terminology not specifically defined in this section or chapter will have the meaning as otherwise defined in this Title or the meaning commonly understood in the technology or industry relevant to the use of the terminology, or will have the most relevant meaning given in Webster's Collegiate Dictionary.

- (1) **"Accidental Discharge"** means a discharge prohibited by this ordinance which occurs by chance and without planning or consideration prior to occurrence.
- (2) **"Best Management Practices (BMPs)"** are schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water 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.
- (3) **"Board"** means the City of Jasper Storm Water Management Board.
- (4) **"City Engineer"** means the Engineer of the City of Jasper or his designee.

- (5) **“City of Jasper Municipal Separate Storm Sewer System or MS4”** means any facility designed or used for collecting and/or conveying storm water, including but not limited to any roads with drainage systems, highways, City of Jasper streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural storm water controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures which is:
- Owned or maintained by the City of Jasper;
  - Not a combined sewer; and
  - Not part of a publicly-owned Treatment Works.
- (6) **“Clean Water Act”** means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (7) **“Construction Activity”** means activities subject to Indiana Rule 5 327 IAC 15-5 or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (8) **“Hazardous Materials”** means 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.
- (9) **“Illicit Discharge”** means any direct or indirect non-storm water discharge to the City of Jasper MS4, except as exempted in Section 14.20.030 of this chapter.
- (10) **“Illegal Connection”** means either of the following:  
Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

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

- (11) “**Industrial Activity**” means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (12) “**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit**” means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (13) “**Non-Storm Water Discharge**” means any discharge to the storm drain system that is not composed entirely of storm water.
- (14) “**Person**” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.
- (15) “**Pollutant**” means anything that 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 and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form 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.
- (16) “**Pollution**” means the contamination or other alteration of any water’s physical, chemical or biological properties, including change in temperature, taste, color, turbidity, or odor of such waters or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

- (17) **“Premises”** means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (18) **“State Waters”** means 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 and retained completely upon the property of a single individual, partnership or corporation.
- (19) **“Storm Water Coordinator”** means the Storm Water Coordinator of the City of Jasper or his designee.
- (20) **“Storm Water Pollution Prevention Plan (SWP3)”** is a document which describes the Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to the MS4 or State Waters or Waters of the United States to the maximum extent practicable.
- (21) **“Storm Water Runoff”** or **“Storm Water”** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (22) **“Structural Storm Water Control”** means a structural storm water management facility or device that controls storm water 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. (Ord. 2004-35, S2, Sept. 22, 2004)

#### **14.20.020 General Provisions.**

- (1) Purpose and Intent. The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Jasper through the regulation of non-storm water discharges to the City of Jasper MS4 to the maximum extent practicable as required by Federal law. This ordinance establishes methods for controlling the introduction of pollutants into the City of Jasper MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:
  - (a) Regulate the contribution of pollutants to the City of Jasper MS4 by any user;

- (b) Prohibit illicit connections and illegal discharges to the City of Jasper MS4;
  - (c) Control discharges to the City of Jasper MS4 of spills, dumping or disposal of materials other than storm water;
  - (d) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.
- (2) **Applicability.** This ordinance shall apply to all water entering the City of Jasper MS4 generated on any developed and undeveloped lands unless explicitly exempted by the Board or its designee.
- (3) **Compatibility with Other Regulations.** This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.
- (4) **Responsibility for Administration.** The Storm Water Management Board or its designee shall administer, implement, and enforce the provisions of this ordinance. (Ord. 2004-35, S3, Sept. 22, 2004)

#### **14.20.030 Prohibitions.**

- (1) **Prohibition of Illicit Discharges.** No person shall throw, drain, or otherwise discharge or cause to throw, drain, run, or allow to seep or otherwise be discharged into the City of Jasper MS4 any materials, including but not limited to pollutants or waters containing any pollutants, other than storm water. The commencement, conduct or continuance of any illicit discharge to the City of Jasper MS4 is prohibited.

The following are exempt from the prohibition provision above:

- (a) Water line flushing performed by a government agency, 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, and any other water source not containing pollutants.

- (b) Dye testing, only when written notification is given to the City Engineer or Storm Water Coordinator prior to the time of the test.
- (c) Discharges or flows from fire fighting.
- (d) Other discharges as specified in writing by the Board or its designee as being necessary to protect public health and safety; provided, however, if the Board or its designee finds that any exemptions previously granted are causing adverse impacts to water quality, then the Board or its designee shall have the authority to rescind such exemption on a case-by-case basis and regulate the discharge under the provisions of this ordinance.

The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the State and 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 by the City for any discharge to the City of Jasper MS4.

- (2) Prohibition of Illicit Connections. The construction, connection, use, maintenance or continued existence of any illicit connection to the City of Jasper MS4 is prohibited.
  - (a) 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.
  - (b) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the City of Jasper MS4, or allows such a connection to continue.
  - (c) Improper connections in violation of this article must be disconnected and redirected, if necessary, to the sanitary sewer system upon directive of the City Engineer or Storm Water

Coordinator or the City of Jasper Wastewater Department. (Ord. 2004-35, S4, Sept. 22, 2004)

**14.20.040 Suspension of MS4 Access.**

- (1) Suspension due to Illicit Discharges in Emergency Situations. The City Engineer or Storm Water Coordinator may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or State Waters or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City Engineer or Storm Water Coordinator may take such steps as deemed necessary to prevent or minimize damage to the MS4 or State Waters or Waters of the United States, or to minimize danger to persons.
- (2) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City Engineer or Storm Water Coordinator will notify a violator of the proposed termination of its MS4 access. The violator may petition the Board for reconsideration and a hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Board or its designee. (Ord. 2004-35, S5, Sept. 22, 2004)

**14.20.050 Industrial or Construction Activity Discharges.** Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Board or its designee prior to the allowing of discharges to the City of Jasper MS4. (Ord. 2004-35, S6, Sept. 22, 2004)

**14.20.060 Monitoring of Discharges.**

- (1) Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.
- (2) Access to Facilities. Upon just cause, The City Engineer or Storm Water Coordinator shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.



- (a) 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 the City Engineer or Storm Water Coordinator.
- (b) Facility operators shall allow the City Engineer or Storm Water Coordinator ready access to those parts of the premises necessary for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by State and Federal law.
- (c) The City Engineer or Storm Water Coordinator shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City Engineer or Storm Water Coordinator to conduct monitoring and/or sampling of the facility's storm water discharge.
- (d) Upon issuance of a Notice of Violation, the City Engineer or Storm Water Coordinator has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (e) 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 owner at the written request of the City Engineer or Storm Water Coordinator and shall not be replaced. The costs of clearing such access shall be borne by the owner.
- (f) Unreasonable delays in allowing the City Engineer or Storm Water Coordinator access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

- (g) If the City Engineer or Storm Water Coordinator has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Engineer or Storm Water Coordinator may seek issuance of a search warrant from any court of competent jurisdiction. (Ord. 2004-35, S7, Sept. 22, 2004)

**14.20.070 Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.** The Board or its designee will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWP3) as necessary for compliance with requirements of the NPDES permit. (Ord. 2004-35, S8, Sept. 22, 2004)

**14.20.080 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. (Ord. 2004-35, S9, Sept. 22, 2004)

**14.20.090 Notification of Accidental Discharges and Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the City of Jasper MS4, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of

hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone, facsimile or in person no later than the next business day of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Engineer or Storm Water Coordinator within three business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

In either case, such person shall also take immediate steps to ensure no recurrence of the discharge or spill. (Ord. 2004-35, S10, Sept. 22, 2004)

#### **14.20.100 Violations, Enforcement and Penalties.**

- (1) Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this ordinance, 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.
  
- (2) Notice of Violation. Whenever the City Engineer or Storm Water Coordinator finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City Engineer or Storm Water Coordinator shall order compliance by written notice of violation to the responsible person. However, in the event that an emergency exists and immediate action is required, the City may abate or remedy the emergency and the notice may be given after said remediation has already occurred. An emergency exists when there is an imminent threat to public health, safety or welfare in the opinion of the City Engineer or Storm Water Coordinator. In the event of such an emergency, the City Engineer or Storm Water Coordinator shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

The notice of violation shall contain:

- (a) The name and address of the owner and violator;

- (b) The address when available or a description of the building, structure or land upon which the violation is occurring/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 ordinance and a time schedule for the completion of such remedial action, which may include designating that the violation requires immediate action, i.e. twenty-four (24) hours or less and/or a description of the remedial measures that were necessary to bring the illegal activity into compliance with this ordinance that were already taken by the City Engineer or Storm Water Coordinator; and,
- (e) A statement of the fine and/or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
  2. The elimination of illicit connections or discharges;
  3. That violating discharges, practices, or operations shall cease and desist;
  4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  5. Payment of a fine and/or penalties to cover administrative and remediation costs; and
  6. The implementation of Pollution Prevention Practices.
- (3) Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the City Engineer or Storm Water Coordinator to the Board. In addition, a fine and/or penalty issued against a violator by the Board may be appealed to the Board of Public Works and Safety of the City of Jasper, Indiana. In either case, the notice

of appeal must be received by the City Engineer or Storm Water Coordinator within fifteen (15) days from the date of the Notice of Violation or the issuance of the fine and/or penalty. Hearing on the appeal before the Board or the Board of Public Works and Safety shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the Boards on these issues shall be final.

- (4) Enforcement Measures After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within thirty (30) days of the Board's ruling upholding the decision of the City Engineer or Storm Water Coordinator, then the City Engineer or Storm Water Coordinator shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
- (5) Cost of Abatement of the Violation. Within thirty (30) days after abatement of the violation, the owner of the property and violator will be billed for the cost of abatement, including administrative costs. The notification will include copies of all invoices paid by the City, and a log of all hours spent by City personnel. If the amount due is not paid within thirty (30) days of receipt of the bill, the City 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.
- (6) Violations Deemed a Public Nuisance. In addition to the enforcement processes and penalties provided in Section 14.20.100 of this chapter, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is deemed a threat to public health, safety, and welfare, and is declared 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.
- (7) Prosecution in Court. Any person that has violated or continues to violate this ordinance and has received notice of such violation shall be subject to a fine of up to \$2,500.00 per violation per day, at the discretion of the Board. In the event the fine is not paid, the ordinance violation may be filed in court and the owner of the property or the violator, upon conviction, shall be guilty of an ordinance violation and shall be responsible for the fine, court costs, attorney's fees, costs incurred by the City to abate the violation - if said amounts have not been certified to the County Auditor under Section 14.20.100(5), fines or penalties that the

City has been required to pay because of the illicit discharge, and any other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Each day a violation continues after the original notification thereof, shall be deemed a separate offense under this Ordinance.

All fines collected by the City under this section shall be deposited in the Storm Water Management Fund.

- (8) Remedies Not Exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State or local law and it is within the discretion of the Board or its designee to seek cumulative remedies. (Ord. 2004-35, S11, Sept. 22, 2004)

## Chapter 14.30

### Construction Site Runoff Control

#### Sections:

- 14.30.010** Legislative findings and policy and purpose.
- 14.30.020** Definitions.
- 14.30.030** Project site classifications and Construction plan requirements.
- 14.30.040** Applicability.
- 14.30.050** Requirements for owners.
- 14.30.060** Determination of land disturbance criteria, regulation.
- 14.30.070** Construction plan submittal, review, and approval.
- 14.30.080** Notice of intent (NOI) letter requirements.
- 14.30.090** Construction plan requirements for a major project site.
- 14.30.100** Construction plan requirements for a small, residential major project site without land improvements.
- 14.30.110** Specific project site planning and application requirements for a major project site.
- 14.30.120** Construction plan requirements and specific project site planning and application requirements for a large, individual residential project site.
- 14.30.130** Specific planning and application requirements for a minor project site.
- 14.30.140** Specific planning and application requirements for construction activity on individual lots in unregulated developments.
- 14.30.150** Standard reference manuals and guidance documents.
- 14.30.160** Permit Fees.
- 14.30.170** Powers of inspection and enforcement.
- 14.30.180** Violations and penalties.
- 14.30.190** MS4 personnel qualifications, certifications, and education.
- 14.30.200** Public input.
- 14.30.210** Measurable program goals.
- 14.30.220** Project termination.
- 14.30.230** Compliance with all pertinent ordinances.
- 14.30.240** Storm Water Management Board retains statutory and discretionary powers.
- 14.30.250** Interdepartmental and co-regulatory agreements.

#### **14.30.010** Legislative findings and policy and purpose.

- (1) Legislative findings and policy. The Common Council of the City of Jasper, Indiana, hereinafter referred to as the Common Council, finds,

determines, and declares that the network of natural surface watercourses, natural streams, and constructed drains in the City of Jasper, Indiana, provides for the collection, conveyance, storage, treatment, discharge, and disposal of storm water, and thereby benefits and serves all property within the various watersheds contributing storm water to the storm water drainage network. The benefits include, but are not limited to, the provision of adequate collection, conveyance, detention, retention, treatment, and release of storm water, the reduction of hazards to life and property resulting from storm water runoff, the improvements in general health, safety, and welfare through reduction of undesirable storm water condition, and the improvements to the quality of storm water arriving through the storm water drainage network to the receiving waters of the state and navigable water of the United States.

- (2) Purpose. The purpose of this Chapter is:
- (a) To enable the City of Jasper, Indiana, to comply with federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for storm water discharges from constructions sites.
  - (b) To prevent or eliminate the discharge of contaminated storm water runoff from construction sites into storm water conveyances owned or operated by the city, or into waters of the state, and waters of the U.S.
  - (c) To establish a procedure that requires submittal, review, and approval of construction plans in accordance with 327 IAC 15-5 before the commencement of construction activities at project sites where land disturbance will be to equal or greater than one (1) acre.
  - (d) To establish a procedure that offers the Dubois County Soil and Water Conservation District an opportunity to make technical comments and recommendations on individual plans for project sites regulated by this chapter.
  - (e) To establish a process that ensures the implementation of appropriate control measures and management practices at construction sites through guidance, assistance, inspection, evaluation, plan modification, enforcement, and penalty when necessary to ensure compliance with regulations under this chapter.
  - (f) To require regular and appropriate training and certification for persons involved in reviewing plans, inspecting project sites,



evaluating control measures, making corrective recommendations, directing work, supervising personnel, or otherwise assuming a technical, professional, managerial, or administrative role in the City of Jasper's construction site runoff control program.

- (g) To establish procedures and a tracking system for the receipt, consideration, documentation, and response by appropriate staff to information, comments, and inquiries from the public regarding construction sites and storm water quantity and quality issues.
- (h) To establish measurable goals for attainment of applicable code requirements. (Ord. 2004-44, S2, Oct. 20, 2004)

**14.30.020 Definitions.** For the purposes of clarification, the following definitions are provided and become a part of and applicable to the purposes, policies, regulations, requirements, provisions, specifications, and applications of this chapter. In some instances, a definition incorporated herein establishes policy within the definition; as such establishment of policy shall have the same effect as if the policy were established in another section of this chapter. The definitions established in this section shall be the effective definitions for certain terminology used within this chapter, and within documents, activities, and exchanges of dialogue appended to or associated with this chapter. When a definition given in this section or chapter conflicts or varies with a definition given in a document other than this section or chapter, the definition given in this section or chapter will prevail as the operative definition relative to the requirements of and regulation under this chapter. Terminology not specifically defined in this section or chapter will have the meaning as otherwise defined in this title or the meaning commonly understood in the technology or industry relevant to the use of the terminology, or will have the most relevant meaning given in Webster's Collegiate Dictionary. The following definitions are incorporated by this chapter and shall apply throughout unless the context clearly indicates another meaning:

- (1) **"Agricultural land disturbing activity"** means tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, and the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tiles. For the purposes of this chapter, the term does not include land disturbing activities for the construction of agricultural-related facilities such as barns, buildings to house livestock, roads associated with infrastructure, other infrastructure, agricultural waste lagoons and facilities that process residential, workshop, or human wastes, and lakes, ponds, wetlands, and other infrastructure.
- (2) **"Best Management Practices (BMPs)"** are schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other

management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water 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.

- (3) **“Board”** means the City of Jasper Storm Water Management Board.
- (4) **“City Engineer”** means the Engineer of the City of Jasper or his designee.
- (5) **“City of Jasper Municipal Separate Storm Sewer System or MS4”** means any facility designed or used for collecting and/or conveying storm water, including but not limited to any roads with drainage systems, highways, City of Jasper streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural storm water controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures which is:
  - Owned or maintained by the City of Jasper;
  - Not a combined sewer; and
  - Not part of a publicly-owned Treatment Works.
- (6) **“Certified technician”** means a qualified professional or trained individual who has achieved state accreditation through coursework and continuing education specifically prescribed, provided, or approved by IDEM or IDNR/DSC for the purpose of achieving state certification as a technician qualified to select or supervise the selection of, install or supervise the installation of, manage, inspect, evaluate, and report on ECMs and BMPs related to storm water quantity, quality, and pollution fate.
- (7) **“Construction activity”** means activities subject to Indiana Rule 5 327 IAC 15-5 or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition. The term “construction activity” does not include routine ditch or road maintenance or minor landscaping projects.
- (8) **“Construction plan”** means an ordered collection of drawings, narratives, data, and documents assembled for review, approval, authorization, and establishment of guidelines for the initiation, management, and completion of construction activities at a project site regulated by this chapter. A storm water pollution prevention plan (SWP3) is a part of the construction plan.

- (9) **“Construction project”** or **“project”** means an organized effort to start, conduct, manage, and complete a single construction activity, or a series of construction activities.
- (10) **“Construction project site”** means 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.
- (11) **“Construction site access”** means a stabilized stone surface at all points of construction related ingress to and egress from an approved reference manual, and maintained throughout the period of land disturbing activities for the purpose of capturing and detaining sediment carried by tires, tracks, or other surface contact components of vehicles, earthmoving equipment, or material and personnel transport conveyances.
- (12) **“Construction site operator”** shall have the same meaning as project site operator.
- (13) **“Contractor”** or **“subcontractor”** means an individual or company hired by the project site owner or by an individual lot owner or individual lot operator to perform services on or connected to the project site or individual lot.
- (14) **“Department”** or **“IDEM”** means the Indiana Department of Environmental Management.
- (15) **“Developer”** means a project site owner or person financially responsible for construction activity; or an owner of property who sells, leases, or offers for sale or lease, any lots in a subdivision or larger common plan of development or sale.
- (16) **“DNR-DSC”** means the same as **“IDNR/DSC”** which means the Indiana Department of Natural Resources, Division of Soil Conservation.
- (17) **“Director”** means the chief executive officer of IDEM.
- (18) **“Drain”** means an open channel or a pipe, or combination thereof, implemented to gather, convey, store, treat, and release storm water runoff.
- (19) **“ECM”** or **“erosion control measure”** means 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.
- (20) **“EPA”** means the federal Environmental Protection Administration.

- (21) **“Erosion”** means the detachment and movement of soil, sediment, or rock fragments by water, wind, or ice.
- (22) **“Erosion and sediment control measure”** means an appropriate component or components or an erosion and sediment control plan or system.
- (23) **“Erosion and sediment control system”** means the use of appropriate control measures to prevent or minimize the wearing away of soil, sediment, and rock fragments by water, wind, or ice, and to intercept detached or suspended particles to prevent their discharge from or within a project site.
- (24) **“Final stabilization”** means the establishment of permanent vegetative cover or the application of a permanent, non-erosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current permit.
- (25) **“Grading”** means the cutting and filling of the land surface to a desired slope or elevation.
- (26) **“IDEM”** means the Indiana Department of Environmental Management, the NPDES permitting authority for the State of Indiana.
- (27) **“IDNR”** means the Indiana Department of Natural Resources.
- (28) **“IDNR/DSC”** means the Division of Soil Conservation of IDNR, which through a memorandum of agreement (MOA) with IDEM, reviews plans, makes site inspections, evaluates ECMs and BMPs, and determines compliance with 327 IAC 15-5 (Rule 5).
- (29) **“Impervious Area”** means the number of square feet of hard surfaced areas, including compressed rock or gravel, which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as Undisturbed Property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as Undisturbed Property, including, but not limited to, roofs, roof extensions, driveways, pavement, parking lots and athletic courts.
- (30) **“Impervious surface”** or **“impervious land surface”** means a surface layer of application, like pavement or rooftops that prevents the infiltration of storm water into the soil.
- (31) **“Individual building lot”** means a single parcel of land within a multi-parcel development.

- (32) **“Individual lot operator”** means a contractor or subcontractor working on an individual building lot.
- (33) **“Individual lot owner”** means a person who has financial control of construction activities for an individual lot.
- (34) **“Land disturbing activity”** means any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.
- (35). **“Larger common plan of development or sale”** means a plan undertaken by a developer, project site owner, or group of developers or project site owners, to offer lots for sale or lease where land is contiguous or the land development is known, planned, designated, purchased, or advertised as a common unit or by a common name and is presumed to be offered for sale or lease as part of a larger common plan. The term includes phased or other construction activity by a single unit for the unit’s own use.
- (36) **“Legally binding agreement”** means a written, enforceable legal document used to describe responsibilities between joint municipal executives, MS4 entities, City Engineer or Storm Water Coordinators, or other entities providing, receiving, or sharing services with regard to this chapter.
- (37) **“MEP”** or **“maximum extent practicable”** means the greatest degree of fair, economic, practical, successful, and appropriate control and treatment that reasonably can be expected to result from the diligent application of control measures, management practices, requirements, and regulations implemented to cause the adequate effects intended by the control measures, management practices, requirements, and regulations.
- (38) **“Measurable storm event”** means a precipitation event that results in a total measured accumulation of precipitation equal to or greater than one half (0.5) inch of rainfall.
- (39) **“MS4”** means **“Municipal Separate Storm Sewer System”** or a system of storm water conveyances either owned or operated by a governmental agency (MS4 entity) that EPA or IDEM has designated as responsible to eliminate or minimize pollutant loadings of the storm water entering waters of the state, and water of the U.S.
- (40) **“MS4 area”** means a land area comprising one or more places that receives coverage under one NPDES storm water permit regulated by 327 IAC 15-13 or 327 IAC 5-4-6(a)(4) and 327 IAC 5-4-6(a)(5).

- (41) **“MS4 conveyance”** means a waterway or drain owned or operated by an MS4 entity.
- (42) **“MS4 operator”** means the person responsible for development, implementation, or enforcement of the minimum control measures (MCMs) for a designated MS4 area regulated under 327 IAC 15-13.
- (43) **“Mutual drain”** means a channel, pipe, or other storm water conveyance that exists on two or more properties owned by two or more entities and constructed or otherwise placed with the consent of the owning entities.
- (44) **“Notice of Deficiency letter”** or **“NOD letter”** means a written notification from City Engineer or Storm Water Coordinator indicating to the project site owner that the construction plan for a project site has been reviewed and has been found to have deficiencies by the City Engineer or Storm Water Coordinator.
- (45) **“Notice of Intent letter”** or **“NOI letter”** means a written notification from the project site owner sent to the Director of IDEM and to the City Engineer or Storm Water Coordinator at least forty-eight (48) hours prior to initiating construction activities at the project site.
- (46) **“Notice of Termination letter”** or **“NOT letter”** means a written notification from the project site owner to the Director of IDEM and to the City Engineer or Storm Water Coordinator that the construction activities for a project site has been terminated and has met the conditions of this ordinance.
- (47) **“Notice of Plan Sufficiency”** or **“NPS”** means a notification from the City Engineer or Storm Water Coordinator to the project site owner that the construction plan for a project site has been reviewed and approved by the Board. The project site owner must insert the NPS with the NOI sent to the Director of IDEM at least forty-eight (48) hours prior to initiating construction activities at the project site.
- (48) **“NPDES”** means the National Pollution Discharge and Elimination System, a program administered by the EPA to reduce or eliminate the pollutant loadings into public waters.
- (49) **“NRCS”** means the Natural Resource Conservation Service of United States Department of Agriculture (USDA).
- (50) **“Peak discharge”** means the maximum rate of flow from a point of storm water discharge during or immediately following a storm event, usually in reference to a specific return period storm or “design storm.”

- (51) **“Permanent stabilization”** means the establishment, at a uniform minimum of seventy percent (70%) across the disturbed areas, of vegetative cover or permanent non-erosive material that ensures the resistance of the underlying soil to erosion, sliding, or other movement.
- (52) **“Phasing of construction”** means sequential development of smaller portions of a large project site, stabilizing each portion before initiating land disturbing activities on the next portion, to minimize exposure of land to erosion.
- (53) **“Project site”** means the entire area on which construction activity will be performed.
- (54) **“Project site owner”** means the person or entity 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, and the ability to modify or cause modification of project plans and specifications for a project site.
- (55) **“Rule 5”** means 327 IAC 15-5, the Indiana Administrative Rule, as adopted in 2003, requiring NPDES permits for construction activities disturbing one acre or greater of land, and to follow specific planning and management requirements regarding storm water quality and quantity.
- (56) **“Rule 13”** means 327 IAC 15-13, the Indiana Administrative Rule implementing the NPDES Phase II unfunded federal mandates requiring municipalities to implement specific minimum control measures (MCMs) regarding storm water runoff from land use activities in urbanized areas.
- (57) **“Runoff”** means an accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains, or waterways.
- (58) **“Sediment”** means solid material, both organic and mineral, 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.
- (59) **“Sedimentation”** means the settling and accumulation of unconsolidated sediment carried by storm water runoff.
- (60) **“Soil”** means the unconsolidated mineral and organic material on the surface of the earth that serves as the natural medium of vegetative growth.

- (61) **“Soil and Water Conservation District”** or **“SWCD”** means a political subdivision established under IC 14-32.
- (62) **“State waters”** means 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 and retained completely upon the property of a single individual, partnership or corporation.
- (63) **“Storm Water Coordinator”** means the Storm Water Coordinator of the City of Jasper or his designee.
- (64) **“Storm water pollution prevention plan”** or **“SWP3”** is a document which describes the Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to the MS4 or State Waters or Waters of the United States to the maximum extent practicable.
- (65) **“Storm water runoff”** or **“storm water”** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (66) **“Structural storm water control”** means a structural storm water management facility or device that controls storm water 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.
- (67) **“Storm water quality measure”** means a practice or combination of practices to control or minimize pollutants associated with storm water runoff.
- (68) **“Strip development”** means a multi-lot project where building lots front on an existing road.
- (69) **“Temporary stabilization”** means the covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive materials applied at a uniform minimum density of seventy percent (70%) across the disturbed areas of a project site.
- (70) **“Tracking”** means the movement and re-depositing of dirt, mud, aggregate, sediment, or other storm water pollutants from a project site by the actions of wheels, tires, skids, tracks, or other surface contact



components of cars, trucks, and heavy equipment, or material and personnel transport conveyances.

- (71) **“Trained individual”** means a person who in accordance with a definition given by IDEM in 327 IAC 15-5 (Rule 5) is sufficiently “Trained and experienced in the principles of storm water 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 storm water control or treatment and monitoring.
- (72) **“Undisturbed Property”** means real property, which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities, which have disturbed or altered the topography or soils on the property. (Ord. 2004-44, S3, Oct. 20, 2004)

#### **14.30.030 Project site classifications and Construction plan requirements.**

- (1) Project site classifications.
- (a) Subject construction site defined as a **major project site**. Any new construction activity which shall result in land disturbance equal to or greater than one (1) acre shall be defined as a “major project site.” A major project site shall require an approved construction plan, and shall be initiated, managed, and terminated in accordance with an approved construction plan and with the requirements of and regulations under this chapter. The following are exceptions to the definition of a “major project site” and each are regulated under the provisions of this chapter:
1. Subject construction site defined as a **small residential major project site**. A “small residential major project site” is defined as a single-family, residential development consisting of four (4) or fewer lots, or for a single-family, residential strip development where the developer offers for sale or lease without land improvements, and the project is not part of a larger common plan of development and sale.
  2. Subject construction site defined as a **large individual residential project site**. Any new construction activity which establishes a single-family, residential dwelling that is not a part of a larger common plan of development or sale, and the land disturbance at the project site will not equal or exceed five (5) acres, shall be defined as a “large individual residential project site.”

3. Subject construction site defined as a **small individual residential project site**. Any new construction activity for a single-family or two-family residence which shall result in land disturbance of one (1) acre or more, and the construction activity is a part of a larger common plan of development or sale shall be defined as a “small individual residential project site.”
  - (b) Subject construction site defined as a **minor project site**. Any new construction activity which shall result in land disturbance of less than one (1) acre shall be defined as a “minor project site.”
- (2) Construction plan required. A construction plan shall be submitted in quadruplicate to the City Engineer or Storm Water Coordinator for any new construction activity that results in a land disturbance equal to or greater than one (1) acre located within the City of Jasper MS4, along with the permit fee required under Section 17 (14.30160).
  - (a) Subject construction site defined as a major project site. A “major project site” shall require an approved construction plan, and shall be initiated, managed, and terminated in accordance with an approved construction plan and with the requirements of and regulations under this chapter.
  - (b) Subject construction site defined as a small residential major project site. A “small residential major project site” shall require an approved construction plan, and shall be initiated, managed, and terminated in accordance with an approved construction plan and with the requirements of and regulations under this chapter.
  - (c) Subject construction site defined as a large individual residential project site. A “large individual residential project site” shall require an approved construction plan, and shall be initiated, managed, and terminated in accordance with an approved construction plan and with the requirements of and regulations under this chapter.
- (3) The City Engineer or Storm Water Coordinator will determine the appropriate route of review for a construction plan.
- (4) Notice of plan sufficiency is required before construction activity initiated at a major project site. A construction plan for a major project site shall be submitted, reviewed, and approved and that a Notice of Intent (NOI) letter or application shall be sent to the Director of the Indiana Department of Environmental Management (IDEM) and/or the City of Jasper as required

by this chapter before construction activity commences at a major project site.

- (5) Construction plan not required.
  - (a) Subject construction site defined as a small individual residential project site. Any new construction activity for a single-family or two-family residence which shall result in land disturbance of one (1) acre or more, and the construction activity is a part of a larger common plan of development or sale shall be defined as a “small individual residential project site.” Although a construction plan is not required, a small residential project site shall be initiated, managed, and terminated in accordance with specific provisions of a construction plan approved for the larger common development and/or with the requirements of and regulations under this chapter.
  - (b) Subject construction site defined as a minor project site. Any new construction activity which shall result in land disturbance of less than one (1) acre shall be defined as a “minor project site.” Although a construction plan is not required, a minor project site shall be initiated, managed, and terminated in accordance with specific provisions of a construction plan approved for the larger common development and/or with the requirements of and regulations under this chapter. (Ord. 2004-44, S4, Oct. 20, 2004)

#### **14.30.040 Applicability.**

- (1) The requirements under this chapter apply to all persons who do not obtain an individual NPDES permit under 327 IAC 15-2-6, meet the general permit rule applicability requirements under 327 IAC 15-2-3, and are involved in construction activity, except operations that result in the land disturbance of less than one (1) acre of total land area as determined under Section 4 (14.30.030) of this chapter, and are not part of a larger common plan of development or sale.
- (2) The requirements under this chapter do not apply to persons who are involved in agricultural land disturbing activities, or forest harvesting activities.
- (3) Agricultural conservation practices (ACPs), means practices that are constructed on agricultural land for the purposes of controlling soil erosion and sedimentation, including grass waterways, sediment basins, terraces, and grade stabilization structures. ACPs must be planned, installed, and managed in accordance with applicable guidance and specifications from the United States Department of Agriculture (USDA), Natural Resource

Conservation Service (NRCS), Purdue University agricultural extension program, or comparable Indiana governmental sources.

- (4) The requirements under this chapter do not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:
  - (a) 329 IAC 10, landfills issued a certificate of closure, or municipal solid waste landfills accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management containing equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary; and
  - (b) IC 14-34 permitted coal mining activities.
- (5) General jurisdictional boundary.
  - (a) The regulations of this chapter apply to all construction sites and construction activities on all lands within the jurisdictional boundaries of the City of Jasper MS4 unless exempted from this chapter.
  - (b) The regulations of this chapter may be expanded into another municipal jurisdiction, or MS4 area, upon the execution of a legally binding agreement between the Board and another municipal executive authority, legislative authority, or designated MS4 entity. (Ord. 2004-44, S5, Oct. 20, 2004)

#### **14.30.050 Requirements for owners.**

- (1) Major Project Site.
  - (a) For a “major project site” or a “small residential major project site” regulated under this chapter, the project site owner has the following responsibilities:
    1. To complete a sufficient Notice of Intent letter (NOI).
    2. To ensure that a sufficient construction plan is completed and submitted in accordance with Section Ten (10) (14.30.090) or Section Eleven (11) (14.30.100), whichever is applicable, of this chapter.
    3. To ensure compliance with this chapter during the implementation of the approved construction plan for the

project site, and during subsequent construction activities at the project site.

4. To ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this chapter and the approved construction plan.
5. To notify the Indiana Department of Environmental Management and the City Engineer or Storm Water Coordinator with a sufficient Notice of Termination letter (NOT).

(b) Individual lot where disturbance is one acre or more. For an individual lot that where land disturbance is expected to be one (1) acre or more and is not regulated elsewhere in this chapter and the lot lies within a major project site regulated under this chapter and permitted in accordance with 327 IAC 15-5, the individual lot owner must:

1. Complete and submit his or her own NOI in accordance with the applicable requirements of this chapter; and
2. Ensure that a sufficient construction plan is completed and submitted in accordance with Section Ten (10) (14.30.090) of this chapter.

(2) Large Individual Residential Project Site.

(a) For a large residential project site regulated under this chapter, the project site owner has the following responsibilities:

1. To complete and submit to the City Engineer or Storm Water Coordinator a sufficient Notice of Intent letter (NOI).
2. To ensure that a sufficient construction plan is completed and submitted in accordance with Section Ten (10) (14.30.090) or Section Eleven (11) (14.30.100), whichever is applicable, of this chapter.
3. To ensure compliance with this chapter during the implementation of the approved construction plan for the project site, and during subsequent construction activities at the project site.

4. To ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this chapter and the approved construction plan.
  5. To notify the City Engineer or Storm Water Coordinator with a sufficient Notice of Termination letter (NOT).
- (3) Small Individual Residential Project Site.
- (a) For any new construction activity for a single-family or two-family residence which shall result in land disturbance of one (1) acre or more, and the lot lies within a major project site regulated under this chapter and permitted in accordance with 327 IAC 15-5, the individual lot owner must comply with the following:
    1. The provisions and requirements of the approved construction plan developed by the project site owner; and
    2. Section Fourteen (14) (14.30.130) of this chapter.
- (4) Minor Project Site.
- (a) For an individual lot where the land disturbance is less than one (1) acre, and the lot lies within a major project site regulated under this chapter and permitted in accordance with 327 IAC 15-5, the individual lot owner must comply with the following:
    1. The provisions and requirements of the approved construction plan developed by the project site owner; and
    2. Section Fourteen (14) (14.30.130) of this chapter.
  - (b) For an individual lot where the land disturbance is less than one (1) acre, and the lot does not lie within a major project site regulated under this chapter and permitted in accordance with 327 IAC 15-5, the individual lot owner must comply with the following:
    1. The provisions and requirements of the approved construction plan developed by the project site owner; and
    2. Section Fifteen (15) (14.30.140) of this chapter. (Ord. 2004-44, S6, Oct. 20, 2004)

#### **14.30.060 Determination of land disturbance criteria, regulation.**

- (1) For off-site construction activities that provide services such as road extensions, sewers, water, and other utilities to a permitted site, the 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.
- (2) Project sites are regulated by this chapter in accordance with the following criteria of land disturbance calculations:
  - (a) A determination of the area of land disturbance on single-family residential project sites shall be calculated by adding the total area of land disturbance for improvements, such as roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following criteria:
    1. For a single-family project site where the lots are one-half (0.5) acre or more, a minimum of one-half (0.5) acre of land disturbance or the actual area to be disturbed, whichever is greater, must be used as the expected lot disturbance.
    2. For a single-family, residential project site where the lots are less than one-half (0.5) acre in size, the total lot must be calculated as being disturbed.
  - (b) A determination of the area of land disturbance on all other types of project sites, such as multi-family residential, industrial, and commercial project sites, shall be calculated by adding the total area of land disturbance for improvements, such as roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following criteria:
    1. Where lots are one (1) acre or greater in size, a minimum of one (1) acre of land disturbance or the actual area to be disturbed, whichever is greater, must be calculated as the expected lot disturbance.
    2. Where lots are less than one (1) acre in size, the total lot must be calculated as being disturbed.
  - (c) For purposes of this chapter, strip developments:
    1. Are considered as one (1) project site; and

2. Must comply with this chapter, unless the total combined disturbance on all individual lots is less than one (1) acre and is not of a larger common plan of development or sale. (Ord. 2004-44, S7, Oct. 20, 2004)

**14.30.070 Construction plan submittal, review, and approval.**

- (1) Requirement for the submittal of a compliant construction plan. The owner of a major project site must submit, or cause to be submitted, a construction plan for a major project subject to regulation by this chapter.
- (2) Submittal in quadruplicate. The construction plan must contain the elements, requirements, provisions, and other content as enumerated for the project site in accordance with this chapter, and must be submitted in quadruplicate, four (4) separate and identical copies, to the City Engineer or Storm Water Coordinator.
- (3) The City Engineer or Storm Water Coordinator will record the time and date of each construction plan submittal on each copy and will manage the four (4) copies of each project's construction plan in accordance with the following procedure:
  - (a) One (1) copy will be forwarded to review staff as directed by the City Engineer or Storm Water Coordinator.
  - (b) One (1) copy will be held in a separate file for field use by MS4 inspectors and other field representatives of the City Engineer or Storm Water Coordinator.
  - (c) One (1) copy will be returned to the project site owner with the recorded time and date of submittal.
  - (d) One (1) copy will be held in a separate file to facilitate an opportunity for the Dubois County SWCD to make technical comments and recommendations regarding the construction plan.
  - (e) Upon the request of an authorized SWCD representative, the City Engineer or Storm Water Coordinator must make one (1) copy of a construction plan available to SWCD staff at any time during normal county business hours. SWCD may transport the copy of the construction plan designated for SWCD comment and recommendation to any location of SWCD's choosing for appropriated viewing, comment, recommendation, and repository.
- (4) Route of review. The City Engineer or Storm Water Coordinator will determine the appropriate route of review and approval a construction plan



takes in accordance with this chapter and subject to the direction, approval, or action of the Board.

- (5) Notice of plan sufficiency before initiation of construction. Notice of plan sufficiency is required before the initiation of construction activity at a project site for which a construction plan is required. The initiation of construction activity prior to the City Engineer or Storm Water Coordinator's notification of plan sufficiency constitutes a violation of this chapter subject to an enforcement action, penalty or fine. If no land disturbing activities occur, then initial mobilization of equipment, machinery, and tools to the site is permitted. At the project site owner's risk for subsequent modification, installation of anticipated ECMs may begin.
- (6) Plan review period.
  - (a) Individual single-family and two-family residential major project sites. If the project site owner of an individual single-family or two-family residential lot which is classified as a major project site under this chapter does not receive notification from the City Engineer or Storm Water Coordinator within fourteen (14) days after the construction plan is received by the City Engineer or Storm Water Coordinator, stating that the City Engineer or Storm Water Coordinator finds the construction plan is deficient, the project site owner may submit the required NOI letter of information to the Director of IDEM and to the City Engineer or Storm Water Coordinator, and, after forty-eight (48) hours, proceed with construction activity.
  - (b) All other major project sites. If the project site owner of any major project site, except those sited above in subsection 8.6.A, does not receive notification from the City Engineer or Storm Water Coordinator within thirty (30) days after the construction plan is received by the City Engineer or Storm Water Coordinator, stating that the City Engineer or Storm Water Coordinator finds the construction plan is deficient, the project site owner may submit the required NOI letter of information to the Director of IDEM and to the City Engineer or Storm Water Coordinator, and, after forty-eight (48) hours, proceed with construction activity.
- (7) The City Engineer or Storm Water Coordinator will provide the project site owner, or the designated representative of the project site operator, with a Notice of Plan Sufficiency (NPS) as soon as is practicable following the City Engineer or Storm Water Coordinator's review and approval of the plan. The project site owner must include the NPS as verification of plan sufficiency with the NOI sent to the Director of IDEM.

- (8) Notice of plan deficiency. If the City Engineer or Storm Water Coordinator determines that a construction plan is deficient, the City Engineer or Storm Water Coordinator will issue a notice of deficiency (NOD) letter requiring modifications, terms, and conditions as necessary for the plan to meet the requirements of this chapter.
- (9) Appeal of notice of plan deficiency. If the City Engineer or Storm Water Coordinator determines that a construction plan is deficient, the project site owner receives a notice of deficiency (NOD) letter, and the project site owner disagrees with the determination, the project site owner must appeal said determination to the Board before taking any other legal action on the NOD.
- (10) Construction activity with a deficient plan constitutes a violation. The initiation of construction activity at a project site following notification by the City Engineer or Storm Water Coordinator that the construction plan for the site does not meet the requirements of the chapter constitutes a violation of this chapter subject to an enforcement action, penalty, or fine.
- (11) Required re-submittal of a corrected construction plan. If the project site owner receives a NOD letter of plan deficiency after the plan review period expires and following commencement of construction activities at the site, the construction plan must be modified to meet the requirements of this chapter, and resubmitted within fourteen (14) days of receipt of the NOD.
- (12) The City Engineer or Storm Water Coordinator will determine the sufficiency of a construction plan based upon the requirements, provisions, and criteria enumerated, referenced, or attached to this chapter. (Ord. 2004-44, S8, Oct. 20, 2004)

**14.30.080 Notice of intent (NOI) letter requirements.**

- (1) For any new construction activity that will result in land disturbance equal to or greater than one (1) acre, the project site owner must submit to the Director of IDEM and the City Engineer or Storm Water Coordinator a complete NOI letter in accordance with this chapter and 327 IAC 15-5. The NOI letter must comprise, and otherwise comply with the following criteria:
  - (a) Name, mailing address, and location of the project site for which the notification is submitted.

- (b) The project site owner's name, address, telephone number, e-mail address (if available), ownership status as federal, state, public, private, or other entity.
- (c) Contact person (if different than project site owner), person's name, company name, address, e-mail address (if available), and telephone number.
- (d) A brief description of the construction project, including a statement of the total acreage of the project site. Total acreage claimed in the NOI letter shall be consistent with the acreage covered in the construction plan.
- (e) Estimated dates for the initiation and completion of construction activities. Within forty-eight (48) hours of the initiation of construction activity, the project site owner must notify the Director of IDEM and the City Engineer or Storm Water Coordinator of the actual project start date.
- (f) The latitude and longitude of the approximate center of the project site to the nearest fifteen (15) seconds, and to the nearest quarter section, township, range, and civil township in which the project site is located.
- (g) Total impervious surface area, in square feet, of the final project site including structures, roads, parking lots, and other similar improvements.
- (h) The number of acres to be involved in the construction activities.
- (i) Proof of publication in a newspaper of general circulation in the affected area that notified the public that a construction activity is to commence, that states, "(Company name, address) is submitting an NOI letter to notify the Indiana Department of Environmental Management of our intent to comply with the requirements under 327 IAC 15-5 to discharge storm water from construction activities for the following project (Project name). Runoff from the project site will discharge to (stream(s) receiving the discharge(s))."
- (j) As applicable, a list of all MS4 areas designated under 327 IAC 15-13 within which the project site lies.
- (k) A written certification by the operator that:
  - 1. The storm water quality measures included in the construction plan comply with the requirements under this

chapter, and under 327 IAC 15-5, section 6.5, 7 and 7.5, and that the storm water pollution prevention plan complies with all applicable federal, state, and local storm water requirements.

2. The measures required by 327 IAC 15-5-7 will be implemented in accordance with the storm water pollution prevention plan;
  3. If the projected land disturbance is one (1) acre or more, every applicable construction plan reviewing entity designated by IDEM has been sent a copy of the construction plan for review;
  4. Storm water quality measures beyond those specified in the storm water pollution prevention plan will be implemented during the life of the permit if necessary to comply with 327 IAC 15-5-7; and
  5. Implementation of storm water quality measures will be inspected by trained individuals.
- L. The name of the receiving water, or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.
- M. The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g).
- N. A notification from each applicable construction plan reviewing entity designated by IDEM indicating that the construction plans are sufficient to comply with 327 IAC 15-5. This requirement may be waived if the project site owner has not received notification from the reviewing agency within the time frame specified in subsection 8.6. of Section Eight (8) (14.30.070) of this chapter.
- (2) After the project site owner has received notification from the City Engineer or Storm Water Coordinator that the construction plans meet the requirements of this chapter or the review period has expired, all NOI letter information required in Section Eight (8) (14.30.070), subsection B of this chapter must be submitted to the Director of IDEM at least forty-eight (48) hours prior to the initiation of land disturbing activities at the project site. A copy of the completed NOI letter also must be sent to the City Engineer or Storm Water Coordinator. If the NOI letter is deficient, the project site owner must address the deficient items and submit an

amended NOI letter to the Director at the address specified below in subsection 9.3 (14.30.080(3)) of this chapter.

- (3) The project site owner must send, or cause to be sent, the NOI letter to:  
Attention: Rule 5 Storm Water Coordinator  
Indiana Department of Environmental Management  
Office of Water Quality, Urban Wet Weather Section  
100 North Senate Avenue  
Indianapolis, Indiana 46206-6015  
(Ord. 2004-44, S9, Oct. 20, 2004)

#### **14.30.090 Construction plan requirements for a major project site.**

- (1) For project sites that do not meet the criteria for a small, residential development in Section Eleven (11) (14.30.100) of this chapter, a project site owner must develop and submit a set of construction plans. Storm water quality measures included in the plan must achieve the minimum project site requirements specified in Section Twelve (12) (14.30.110) of this chapter. The construction plans must include the following components, content, requirements and provisions as hereinafter provided.
- (2) The construction plan must include the following eight (8) major components.
  - (a) Project narrative and supporting documents; see subsection 10.3.A-(14.30.090(3)(a)).
  - (b) Vicinity map; see subsection 10.3.B-(14.30.090(3)(b)).
  - (c) Existing project site layout; see subsection 10.3.C-(14.30.090(3)(c)).
  - (d) Final project site layout; see subsection 10.3.D-(14.30.090(3)(d)).
  - (e) Grading plan or land disturbing activity plan; see subsection 10.3.E-(14.30.090(3)(e)).
  - (f) Storm water drainage plan; see subsection 10.3.F-(14.30.090(3)(f)).
  - (g) Construction phase storm water pollution prevention plan; see subsection 10.3.G-(14.30.090(3)(g)).
  - (h) Post-construction storm water pollution prevention plan; see subsection 10.3.H-(14.30.090(3)(h)).

- (3) Each of the eight (8) major components of the construction plan must consist of the following sub-components and their subdivisions of content:
- (a) Project narrative and supporting documents, including the following information:
1. An index indicating the location, in the construction plan, of all information required by this section.
  2. Description of the nature and purpose of the project.
  3. Legal description of the project site. The description must be to the nearest quarter section, township, and range, and include the civil township.
  4. Soil properties, characteristics, limitations, and hazards associated with the project site, and the measures that will be integrated into the project to overcome or minimize adverse soil conditions.
  5. General construction sequence of how the project site will be built, including phases of construction.
  6. Hydrologic unit code (14 Digit) available from the United States Geologic Survey (USGS) or the office of the Storm Water Coordinator to indicate within which watershed or watersheds the project site lies.
  7. A plat or project site map showing lot numbers, lot boundaries, road layout and names. The plat must be legible and submitted on a sheet or sheets no larger than twenty four (24) inches by thirty six (36) inches and drawn at a maximum scale of one (1) inch equals one hundred (100) feet for all phases or sections of the project. The City Engineer or Storm Water Coordinator will determine the appropriateness of the size and scale of the plat or map.
  8. Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site.
- (b) Vicinity map depicting the project site's location in relationship to recognizable local landmarks, cities, towns, major roads, and railways. The applicable portion of a USGS topographical quadrangle map or county or municipal road map with the project site limits linked in will suffice.

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

1. Location and name of all wetlands, lakes, streams, waterways, and drains on, or adjacent to, the project site.
2. Location of all existing structures on the project site.
3. One hundred (100) year floodplains, floodway fringes, and floodways. Note if none exists.
4. Soil map of the predominant soil types, as determined by the USDA, NRCS Soil Survey, or equivalent publication, or as determined by a soil scientist. The soil map must include a soil legend.
5. Identification and delineation of the pre-development vegetative cover such as grass, weeds, brush, and trees on the project site.
6. Land use of all adjacent properties.
7. Existing topography extending at a minimum of fifty (50) feet beyond the property lines to adequately indicate drainage patterns on and off the project site. The contour intervals shall be drawn in accordance to the following criteria:
  - A. average ground slope between 0 and 2% use 1 foot contour intervals.
  - B. average ground slope between 2 and 10% use 2 foot contour intervals.
  - C. average ground slope greater than 10% use 5 foot contour intervals.

The City Engineer or Storm Water Coordinator reserves the right to determine the appropriateness of the contour intervals and request additional spot elevations to adequately indicate drainage patterns on and off the project site.

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

1. Location of all proposed site improvements including roads, utilities, lot delineations and identification, proposed structures, and common areas.
2. One hundred (100) year floodplains, floodway fringes, and floodways. Note if none exists.
3. Proposed final topography extending at a minimum of fifty (50) feet beyond the property lines to adequately indicate drainage patterns on and off the project site. The contour intervals shall be drawn in accordance to the following criteria:
  - A. average ground slope between 0 and 2% use 1 foot contour intervals.
  - B. average ground slope between 2 and 10% use 2 foot contour intervals.
  - C. average ground slope greater than 10% use 5 foot contour intervals.

The City Engineer or Storm Water Coordinator reserves the right to determine the appropriateness of the contour intervals and request additional spot elevations to adequately indicate drainage patterns on and off the project site.

- (e) A grading plan, including the following information:
  1. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site.
  2. Location of all soil stockpiles and borrow areas.
  3. Information regarding any off-site borrow, stockpile, or disposal areas that are associated with the project site and under the control of the project site owner.
  4. Existing and proposed topographic information per subsections 10.3.C.7-14.30.090(3)(c)7. and 10.3.D.3-14.30.090(3)(d)3. above.
- (f) A drainage plan, including the following information:



1. An estimate of the peak discharge based on the ten (10) year storm event of the project site for pre-construction conditions and estimates of the peak discharge based on the ten (10) year, twenty five (25) year, and fifty (50) year storm events of the project site for post construction conditions. The calculations to determine these discharges shall be included in the drainage plan.
  2. Location, size and dimensions of all components of the storm water drainage systems such as inlets, culverts, storm sewers, and conveyance channels.
  3. Locations where storm water potentially will be directly discharged into ground water, such as abandoned wells or sinkholes. Note if none exists.
  4. Location of every specific point where storm water discharge will leave the project site.
  5. Name of all receiving waters. If a discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the name of the ultimate receiving water.
  6. Location, size, and dimensions of features such as permanent retention or detention facilities, including existing or manmade wetlands, used for the purpose of storm water management.
- (g) A storm water pollution prevention plan (SWP3) associated with construction activities. The SWP3 must be assembled to meet, at a minimum, the requirements, provisions, and criteria of Section Twelve (12) (14.30.110) and Section Sixteen (16) (14.30.150) of this chapter, and must include the following:
1. Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures, ECMs, and BMPs.
  2. Temporary stabilization plans and sequence of implementation.
  3. Permanent stabilization plans and sequence of implementation.
  4. Final stabilization plans.

5. All stabilization plans shall include the following:
    - A. Specification and application rates for soil amendments and seed mixtures.
    - B. The type and application rate for soil amendments and seed mixtures.
    - C. Other applicable data as may be required by the City Engineer or Storm Water Coordinator.
  6. Construction sequence describing the relationship between implementation of storm water quality measures, ECMs, and BMPs, and the stages of construction activities.
  7. The project site owner's self-monitoring program including plan implementation and procedures.
  8. A description of potential pollutant sources associated with construction activities, which may reasonably be expected to add a significant amount of pollutants to storm water discharges.
  9. Material handling and storage associated with construction activities that shall meet the spill prevention and spill response requirements in 327 IAC 2-6-1.
- (h) The post-construction storm water pollution prevention plan (SWP3). The post-construction SWP3 must include the following information:
1. A description of potential pollutant sources from the project site's proposed land use, which sources may reasonably be expected to add a significant amount of pollutants to storm water discharges from the post-construction project site.
  2. Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality measures and BMPs adequate to address subsection 10.3.G.1-14.30.090(3)(g)1. above.
  3. A description of control measures and BMPs that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed. Such measures and practices include

infiltration of storm water runoff; flow reduction by use of open vegetated swales and natural depressions; installation of filter strips, buffer strips, parking lot tree islands, and riparian zones; minimization of land disturbance and surface imperviousness; maximum of open space; and storm water retention and detention ponds.

4. A sequence describing when each post-construction storm water quality measure and BMP will be installed.
  5. Storm water quality measures and BMPs that will remove or minimize pollution from storm water runoff within or from the project site.
  6. Storm water quality measures and BMPs that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.
  7. A narrative description of the maintenance guidelines for all post-construction storm water quality measures and BMPs to facilitate their proper long-term function.
  8. A verifiable procedure, such as recorded plat notices and covenants, by which the narrative description of water quality measure and BMP maintenance guidelines will be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction storm water quality measures and BMPs.
- (4) Plan and profile sheets, project site layouts, plats, and vicinity maps, must be drawn to a standard engineering scale as indicated on each sheet, plat, or map, and be oriented north as indicated by a north arrow on each sheet, plat, or map. All dimensions must be accurately scaled, drawn, and labeled with dimensions given in feet and tenths of a foot.
- (5) Revision of approved construction plans. The requirements for construction plan content enumerated in this section are qualified by the following statements:
- (a) The City Engineer or Storm Water Coordinator may require, upon finding reasonable cause, the revision of a construction plan if it is determined that a modification or modifications are necessary to accomplish adequate control the quantity or quality of storm water runoff, in accordance with this chapter or with applicable federal, state, and local rules, from a project site due to site conditions or

project specification changes identified, effected, or extant during or after plan review and approval.

- (b) If the City Engineer or Storm Water Coordinator requests a revised construction plan under this subsection, the project site owner must submit the revised plan to the appropriate entity or entities within twenty-one (21) calendar days of a request for plan revision. (Ord. 2004-44, S10, Oct. 20, 2004)

**14.30.100 Construction plan requirements for a small, residential major project site without land improvements.**

- (1) For a single-family, residential development consisting of four (4) or fewer lots, or for a single-family, residential strip development where the developer offers for sale or lease without land improvements, and the project is not part of a larger common plan of development and sale, a project site owner must develop and submit a set of construction plans containing storm water quality measures specifically selected to achieve the minimum project site requirements specified in Section Twelve (12) (14.30.110) of this chapter. The construction plan must include the following components, contents, requirements, and provisions:
- (2) The construction plan must include the following four (4) major components:
  - (a) Project narrative and supporting documents; see subsection 11.3.A-14.30.100(3)(a).
  - (b) Vicinity map; see subsection 11.3.B-14.30.100(3)(b).
  - (c) Project site layout; see subsection 11.3.C-14.30.100(3)(c).
  - (d) Storm water pollution prevention plan; see subsection 11.3.D-14.30.100(3)(d).
- (3) Each of the four (4) major components of the construction plan must consist of the following sub-components and their subdivisions of content:
  - (a) Project narrative and supporting documents including the following information:
    - 1. An index indicating the location, in the construction plans, of all required items in this section.
    - 2. Description of the nature and purpose of the project.

3. Legal description of the project site. The description must be to the nearest quarter section, township, and range, and include the civil township.
  4. Soil properties, characteristics, limitations, and hazards associated with the project site, and the measures that will be integrated into the project to overcome or minimize adverse soil conditions.
  5. Hydrologic unit code (14-digit code) available from the United States Geologic Survey (USGS) to indicate within which watershed or watersheds the project lies.
  6. Identification of any other state or federal permits that are required for construction activities associated with the project site owner's project site.
- (b) Vicinity map depicting the project site's location in relationship to recognizable local landmarks, towns, major roads, and railways. The applicable portion of a USGS topographic quadrangle map or a county or municipal road map with the project site limits inked in will suffice.
- (c) A project site layout that must include the following information:
1. Location and name of all wetlands, lakes, streams, waterways, and drains on, or adjacent to, the project site.
  2. Location of all existing structures on the project site (if applicable). One hundred (100) year floodplains, floodway fringes, and floodways. Note if none exists.
  3. Soil map of the predominant soil types, as determined by the USDA, NRCS Soil Survey, or equivalent publication, or as determined by a soil scientist. The soil map must include a soil legend.
  4. Identification and delineation of the pre-development vegetative cover such as grass, weeds, brush, and trees on the project site.
  5. Land use of all adjacent properties.
  6. Existing and proposed topography extending at a minimum of fifty (50) feet beyond the property lines to adequately indicate drainage patterns on and off the project site. The

contour intervals shall be drawn in accordance to the following criteria:

- A. average ground slope between 0 and 2% use 1 foot contour intervals.
- B. average ground slope between 2 and 10% use 2 foot contour intervals.
- C. average ground slope greater than 10% use 5 foot contour intervals.

The City Engineer or Storm Water Coordinator reserves the right to determine the appropriateness of the contour intervals and request additional spot elevations to adequately indicate drainage patterns on and off the project site.

- 7. Location of all proposed site improvements, including roads, utilities, lot delineations and identifications, and proposed structures.
- (d) A storm water pollution prevention plan (SWP3) associated with construction activities. The SWP3 must be assembled to meet, at a minimum, the requirements, provisions, and criteria of Section Twelve (12) (14.30.110) and Section Sixteen (16) (14.30.150) of this chapter, and must include the following information:
- 1. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site.
  - 2. Location of all soil stockpiles and borrow areas.
  - 3. Location, size, and dimensions of all storm water drainage systems such as inlets, culverts, storm sewers, and conveyance channels.
  - 4. Locations where storm water potentially will be directly discharged into ground water, such as abandoned wells or sinkholes. Note if none exists.
  - 5. Location of every specific point where storm water discharge will leave the project site.

6. Name of all receiving waters. If a discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water.
  7. Location, dimensions, detailed specification, and construction details of all appropriate temporary and permanent storm water quality measures, ECMs, and BMPs.
  8. Plans for appropriate temporary stabilization, permanent stabilization, and final stabilization compliant with this chapter, and a sequence for the implementation of applicable stabilization.
  9. Temporary, permanent, final stabilization plans must include the following:
    - A. Specifications and application rates for soil amendments and seed mixtures.
    - B. The type and application rate for anchored mulch.
  10. The project site owner's self-monitoring program including plan implementation and procedures.
- (4) Plan and profile sheets, project site layouts, plats, and vicinity maps, must be drawn to a standard engineering scale as indicated on each sheet, plat or map, and be oriented north as indicated by a north arrow on each sheet, plat, or map. All dimensions must be accurately scaled, drawn, and labeled with dimensions given in feet and tenths of a foot.
- (5) Revision of approved construction plans. The requirements for construction plan content enumerated in this section are qualified by the following statements:
- (a) The City Engineer or Storm Water Coordinator may require, upon finding reasonable cause, the revision of a construction plan if it is determined that a modification or modifications are necessary to accomplish adequate control the quantity or quality of storm water runoff, in accordance with this chapter or with applicable federal, state, and local rules, from a project site due to site conditions or project specification changes identified, effected, or extant during or after plan review and approval.
  - (b) If the City Engineer or Storm Water Coordinator requests a revised construction plan under this subsection, the project site owner must

submit the revised plan to the appropriate entity or entities within twenty-one (21) calendar days of a request for plan revision. (Ord. 2004-44, S11, Oct. 20, 2004)

**14.30.110 Specific project site planning and application requirements for a major project site.**

- (1) The project site owner of a major project site requiring a construction plan must initiate, manage, and complete construction activities, or must otherwise cause the initiation, managements, and completion of construction activities at the project site in accordance with the requirements and provisions of this section.
- (2) The project site owner of a major project site must implement and manage, or must otherwise cause the implementation and management of the project site's storm water quality.
- (3) For every project site regulated under this chapter, the project site owner, individual project site operator, individual lot owner, contractor, subcontractor, homeowner, and resident of a regulated project site must initiate, manage, and complete, or cause the initiation, management, and completion of construction activities at a project site in accordance, at a minimum, with the following requirements and provisions of this section that are applicable to the project site according to this chapter:
  - (a) Sediment-laden water which otherwise would flow from the project site must be treated by erosion and sediment control measures appropriate to minimize sedimentation.
  - (b) Appropriate measures must 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 the project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the project site. Wastes and unused building materials must be managed and disposed of in accordance with all applicable statutes and regulations.
  - (c) An adequate stable construction site access must be installed at each point of construction traffic ingress to and egress from a project site.
  - (d) Public or private roadways must be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of sediment must not include flushing the area with water. Cleared



sediment must be redistributed or disposed of in a manner that is in accordance with applicable statutes and regulations.

- (e) Storm water runoff leaving a project site must be discharged in a manner that is consistent with applicable federal, state, and local laws and rules.
- (f) The project site owner must 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:
  - 1. Copy of the completed NOI letter and the NPDES permit number, where applicable.
  - 2. Name, company, name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.
  - 3. Location of the construction plan if the project does not have an on-site location to store the plan.
- (g) The permit and posting of the notice under subsection 12.3.F-14.30.110(3)(f) does not provide the public with any right to trespass on a project site for any reason, and does not require that the project site owner allow members of the public access to the project site.
- (h) The storm water pollution prevention plan must serve as a guideline for storm water quality, but will not be interpreted as the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this chapter, all measures necessary to adequately prevent polluted storm water runoff from the project site.
- (i) The project site owner must inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the individual lot operators of the terms and conditions of this chapter and the conditions and standards of the storm water pollution prevention plan and the schedule for proposed implementation of the plan.

- (j) Phasing of construction activities must be used, where possible, to minimize disturbance of large areas of land.
- (k) Appropriate storm water quality and quantity control measures must be planned, installed, managed, and monitored as part of an erosion and sediment control system.
- (l) All storm water quality measures must be planned, installed, managed, and monitored under the guidance of a trained individual.
- (m) Collected storm water runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property by an adequate method that does not cause an erosion, sediment, or pollution problem on the adjacent property.
- (n) Drainage channels and swales must be sized, configured, constructed, and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.
- (o) Natural features, including wetlands and sinkholes, must be protected from pollutants associated with storm water runoff.
- (p) Unvegetated areas that are scheduled or likely to be inactive for fifteen (15) days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to temporary or permanent stabilization are acceptable if the project site owner, or the project site owner's designated representative, can demonstrate the implementation of appropriate erosion and sediment control measures are adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent (70%) must be re-stabilized using appropriate methods to minimize erosion.
- (q) During the period of construction activities, all storm water quality measures, ECMs, and BMPs necessary to meet the requirements of this chapter must be maintained in working order.
- (r) The project site owner must implement a self-monitoring program that includes the following requirements from the initiation to the completion of construction activities at the project site:
  - 1. A trained individual must perform a written evaluation of the project site:
    - A. by the end of the next business day following a measurable storm event; and

- B. at a minimum of one (1) time per week.
2. The evaluation must address:
    - A. the maintenance of existing storm water quality measures to ensure they are functioning properly; and
    - B. identify additional measures necessary to remain in compliance with this chapter and all applicable statutes and rules.
  3. Written evaluation reports must include:
    - A. the name of the individual performing the evaluation;
    - B. the date of the evaluation;
    - C. problems identified at the project site; and
    - D. details of corrective actions recommended and completed.
  4. All evaluation reports for the project site must be made available to the inspecting authority within forty-eight (48) hours of a request.
- (s) Proper storage and handling of materials such as fuels or hazardous wastes must be implemented and managed. Spill prevention and clean-up measures must be planned and implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
- (t) Final stabilization of a project site must be achieved by the following criteria:
1. All land disturbing activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a minimum density of seventy percent (70%) has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and

2. For construction projects on land used for agricultural purposes, the site is returned to its pre-construction agricultural use, or disturbed areas not previously used for agricultural production, such as filter strips and areas that are not being returned to their pre-construction agricultural use, must meet the final stabilization requirements in subsection 12.3.T.1-14.30.110(3)(t)1 above. (Ord. 2004-44, S12, Oct. 20, 2004)

**14.30.120 Construction plan requirements and specific project site planning and application requirements for a large, individual residential project site.**

- (1) The project site owner is required to submit an NOI and construction plan for construction activities associated with a single-family residential dwelling disturbing less than five (5) acres, when the dwelling is not part of a larger common plan of development or sale to the City Engineer or Storm Water Coordinator.
- (2) The construction plan must include the following four (4) major components:
  - (a) Project narrative and supporting documents; see subsection 13.3.A-14.30.120(3)(a).
  - (b) Vicinity map; see subsection 13.3.B-14.30.120(3)(b).
  - (c) Project site layout; see subsection 13.3.C-14.30.120(3)(c).
  - (d) Storm water pollution prevention plan; see subsection 13.3.D-14.30.120(3)(d).
- (3) Each of the four (4) major components of the construction plan must consist of the following sub-components and their subdivisions of content:
  - (a) Project narrative and supporting documents including the following information:
    1. An index indicating the location, in the construction plans, of all required items in this section.
    2. Description of the nature and purpose of the project.
    3. Legal description of the project site. The description must be to the nearest quarter section, township, and range, and include the civil township.

4. Hydrologic unit code (14-digit code) available from the United States Geologic Survey (USGS) to indicate within which watershed or watersheds the project lies.
  5. Identification of any other state or federal permits that are required for construction activities associated with the project site owner's project site.
- (b) Vicinity map depicting the project site's location in relationship to recognizable local landmarks, towns, major roads, and railways. The applicable portion of a USGS topographic quadrangle map or a county or municipal road map with the project site limits inked in will suffice.
- (c) A project site layout that must include the following information:
1. Location and name of all wetlands, lakes, streams, waterways, and drains on, or adjacent to, the project site.
  2. Location of all existing structures on the project site (if applicable). One hundred (100) year floodplains, floodway fringes, and floodways. Note if none exists.
  3. Identification and delineation of the pre-development vegetative cover such as grass, weeds, brush, and trees on the project site.
  4. Land use of all adjacent properties.
  5. Location of all proposed site improvements, including roads, utilities, lot delineations and identifications, and proposed structures.
- (d) A storm water pollution prevention plan (SWP3) associated with construction activities. The SWP3 must be assembled to meet, at a minimum, the requirements, provisions, and criteria of Section Twelve (12) (14.30.110) and Section Sixteen (16) (14.30.150) of this chapter, and must include the following information:
1. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site.
  2. Location of all soil stockpiles and borrow areas.

3. Location, size, and dimensions of all storm water drainage systems such as inlets, culverts, storm sewers, and conveyance channels.
  4. Locations where storm water potentially will be directly discharged into ground water, such as abandoned wells or sinkholes. Note if none exists.
  5. Location of every specific point where storm water discharge will leave the project site.
  6. Name of all receiving waters. If a discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water.
  7. Location, dimensions, detailed specification, and construction details of all appropriate temporary and permanent storm water quality measures, ECMs, and BMPs.
  8. Plans for appropriate temporary stabilization, permanent stabilization, and final stabilization compliant with this chapter, and a sequence for the implementation of applicable stabilization.
- (4) Revision of approved construction plans. The requirements for construction plan content enumerated in this section are qualified by the following statements:
- (a) The City Engineer or Storm Water Coordinator may require, upon finding reasonable cause, the revision of a construction plan if it is determined that a modification or modifications are necessary to accomplish adequate control the quantity or quality of storm water runoff, in accordance with this chapter or with applicable federal, state, and local rules, from a project site due to site conditions or project specification changes identified, effected, or extant during or after plan review and approval.
  - (b) If the City Engineer or Storm Water Coordinator requests a revised construction plan under this subsection, the project site owner must submit the revised plan to the appropriate entity or entities within twenty-one (21) calendar days of a request for plan revision.
- (5) For every project site comprising construction activities associated with a single-family residential dwelling disturbing less than five (5) acres, when the dwelling is not part of a larger common plan of development or sale,

the project site owner must initiate, manage, and complete or cause the initiation, management, and completion of construction activities at the project site in accordance, at a minimum, with the requirements of provisions in subsections 12.3.A-14.30.110(3)(a) through 12.3.E-14.30.110(3)(e), subsections 12.3.J-14.30.110(3)(j) through 12.3.Q-14.30.110(3)(q), subsection 12.3.S-14.30.110(3)(s) and subsection 12.3.T-14.30.110(3)(t) of Section Twelve (12) (14.30.110) and with Section Thirteen (13) (14.30.120) of this chapter. (Ord. 2004-44, S13, Oct. 20, 2004)

**14.30.130 Specific planning and application requirements for a minor project site.**

- (1) Neither an individual NOI nor construction plan is required for an individual lot where land disturbance will be less than one (1) acre and the lot lies within a project site regulated under this chapter, and permitted under 327 IAC 15-5. The individual lot operator, contractors, and subcontractors working on an individual lot must comply with the requirements and provisions of this section.
- (2) From the initiation of construction activities or land disturbing activities on the individual lot, or minor project site, the individual lot operator, whether owning the property or acting as the agent for the property owner, shall be responsible for the following requirements and provisions:
  - (a) Compliance with provisions and requirements of the approved construction plan developed by the project site owner of the larger common development.
  - (b) Installation and maintenance of an adequate stable construction site access at each point of ingress to and egress from the individual lot by construction traffic.
  - (c) Installation of appropriate perimeter erosion and sediment control measures prior to land disturbance, and maintenance perimeter erosion and sediment control measures until completion of construction activities on the lot.
  - (d) Minimization of sediment discharge and tracking from the lot throughout the land disturbing activities on the lot until applicable temporary, permanent, or final stabilization has been achieved.
  - (e) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment must not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner compliant with all applicable statutes and rules.

- (f) The repair of any damaged land surface to a condition the same as or better than existed before the damage occurred, and the establishment of permanent stabilization upon a lot adjacent to the individual lot operator's project site whenever the lot operator, or the lot operator's employees, representatives, suppliers, subcontractors, or visitors disturb, or cause to be disturbed, a land surface of a lot adjacent to the individual lot operator's project site. The corrective work must be accomplished by a process that indemnifies the City of Jasper, the Board, the City Engineer, Storm Water Coordinator, and their officials, employees, and representatives against any claim of loss or damage resulting from actions by or on behalf of the individual lot operator.
- (3) For individual residential lots, the individual lot operator must achieve final stabilization by one (1) of the two (2) following criteria:
  - (a) The individual lot operator must complete all land disturbing activities and establish a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a minimum density of seventy percent (70%) on all unpaved areas of the lot and areas of the lot not covered by permanent structures, or must employ equivalent permanent stabilization measures; or
  - (b) The individual lot operator must install appropriate erosion and sediment control measures for the individual lot prior to the occupation of the home by the homeowner, and must inform the homeowner of the requirements for and benefits of final stabilization. (Ord. 2004-44, S14, Oct. 20, 2004)

**14.30.140 Specific planning and application requirements for construction activity on individual lots in unregulated developments.**

- (1) Neither an individual NOI nor construction plan is required for an individual lot where land disturbance will be less than one (1) acre and the lot lies within an unplatted area or an existing subdivision that is not regulated under this chapter and is not permitted under 327 IAC 15-5. The individual lot operator, contractors, and subcontractors working on an individual lot must comply with the requirements and provisions of this section.
- (2) From the initiation of construction activities or land disturbing activities on the individual lot the individual lot operator, whether owning the property or acting as the agent for the property owner, shall be responsible for the following requirements and provisions:



- (a) Installation and maintenance of an adequate stable construction site access at each point of ingress to and egress from the individual lot by construction traffic.
  - (b) Installation of appropriate perimeter erosion and sediment control measures prior to land disturbance, and maintenance perimeter erosion and sediment control measures until completion of construction activities on the lot.
  - (c) Minimization of sediment discharge and tracking from the lot throughout the land disturbing activities on the lot until applicable temporary, permanent, or final stabilization has been achieved.
  - (d) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment must not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner compliant with all applicable statutes and rules.
  - (e) The repair of any damaged land surface to a condition the same as or better than existed before the damage occurred, and the establishment of permanent stabilization upon a lot adjacent to the individual lot operator's project site whenever the lot operator, or the lot operator's employees, representatives, suppliers, subcontractors, or visitors disturb, or cause to be disturbed, a land surface of a lot adjacent to the individual lot operator's project site. The corrective work must be accomplished by a process that indemnifies the City of Jasper, the Board, the City Engineer, Storm Water Coordinator, and their officials, employees, and representatives against any claim of loss or damage resulting from actions by or on behalf of the individual lot operator.
- (3) For individual residential lots, the individual lot operator must achieve final stabilization by one (1) of the two (2) following criteria:
- (a) The individual lot operator must complete all land disturbing activities and establish a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a minimum density of seventy percent (70%) on all unpaved areas of the lot and areas of the lot not covered by permanent structures, or must employ equivalent permanent stabilization measures; or
  - (b) The individual lot operator must install appropriate erosion and sediment control measures for the individual lot prior to the occupation of the home by the homeowner, and must inform the homeowner of the requirements for and benefits of final stabilization. (Ord. 2004-44, S15, Oct. 20, 2004)

#### 14.30.150 Standard reference manuals and guidance documents.

- (1) The following reference manuals and guidance documents are hereby incorporated by reference into this chapter for use by the City Engineer, Storm Water Coordinator, MS4 personnel, project site owners, individual lot owners, planners, trained individuals, certified personnel, and other persons operating subject to this chapter. The manuals and documents are hereby incorporated by reference into this chapter to assist in the selection, planning, implementation, management, inspection, evaluation, monitoring, making corrective recommendations, and reporting performance of storm water quality measures, ECMs, and BMPs. Options are not limited to these manuals and documents and the City Engineer or Storm Water Coordinator may approve the selection of control measures and management practices from other sources:
  - (a) The Indiana Handbook for Erosion Control in Developing Areas, and its subsequent revisions, updates, addendums, and replacement additions.
  - (b) HERPICC “Storm Water Drainage Manual”, and its subsequent revisions, updates, addendums, and replacement additions.
  - (c) Urban Hydrology for Small Watersheds, and its subsequent revisions, updates, addendums, and replacement additions.
  - (d) The Georgia Storm Water Management Manual, Vol. 2: Technical Handbook, available at: <http://georgiastormwater.com>.
- (2) The Board may direct the creation of the “City of Jasper Storm Water Manual and Standards” as a part of the “City of Jasper Design and Development Standards.” After adoption of said “City of Jasper Storm Water Manual and Standards”, by resolution of the Board, said standards shall become incorporated by reference to this chapter, and the Board may subsequently approve and adopt amendments to the manual. In addition the Board may by resolution incorporate by reference additional reference materials to this chapter, or delete references, in order to assist and guide compliance with this chapter.
- (3) The City Engineer or Storm Water Coordinator will decide appropriateness of selection of an ECM, BMP, or other storm water quality or quantity control measure submitted for review based upon the most applicable engineering and technical criteria from among the standard reference manuals and guidance documents incorporated by reference attached to this chapter. (Ord. 2004-44, S16, Oct. 20, 2004)

#### **14.30.160 Permit Fees.**

- (1) Fees for review of construction plans and erosion control permits issued by the City Engineer of Storm Water Coordinator shall be according to the following schedule:
  - (a) Large Individual Residential Project Site – Fifty Dollars (\$50.00).
  - (b) All other projects requiring construction plans – One Hundred Dollars (\$100.00)
- (2) All fees collected by the City under this section shall be deposited in the Storm Water Management Fund. (Ord. 2004-44, S17, Oct. 20, 2004)

#### **14.30.170 Powers of inspection and enforcement.**

- (1) The City Engineer and Storm Water Coordinator will develop appropriate procedures for project site inspection, including protocols for use by project site inspectors and other authorized representatives of the City Engineer or Storm Water Coordinator who will visit project sites for the purpose of evaluating control measures and management practices, examining conditions or information relative to this chapter, and making recommendations to ensure proper installation and maintenance of sufficient appropriate control measures and management practices at project sites regulated by this chapter.
- (2) The inspection procedures developed by the City Engineer and Storm Water Coordinator will prioritize, to the extent allowable by state law, project sites for inspection and enforcement based on nature and extent of construction activity, topography, and the characteristics of soils and receiving water quality.
- (3) The City Engineer or Storm Water Coordinator may inspect any project site involved in construction activities regulated by this chapter at reasonable times for the purpose of ascertaining the sufficient implementation and management of appropriate storm water quality measures, ECMs, and BMPs at the project site and for the purpose of enforcing compliance with this chapter.
- (4) The City Engineer or Storm Water Coordinator will make recommendations to the project site owner, individual lot operator, or to the contractor, subcontractor, or other designated representative of the project site owner or the individual lot operator to correct or install appropriate control measures or management practices corresponding to or beyond those specified in the storm water pollution prevention plan (SWP3) necessary to achieve compliance with this chapter.

- (5) If after a specific or corrective recommendation from the City Engineer or Storm Water Coordinator to the project site operator, or the designated representative of the project site operator, the storm water quality measures, ECMs, and BMPs at a project site remain insufficiently and improperly installed or maintained, the City Engineer or Storm Water Coordinator will pursue enforcement in accordance with the penalty procedures in Section Nineteen (19) (14.30.180) of this chapter.
- (6) All persons engaging in construction activities on a project site must comply with the storm water pollution prevention plan (SWP3) for the project site, and with the requirements, provisions, and regulations of this chapter.
- (7) The City Engineer or Storm Water will investigate violations, alleged violations, and potential violations of this chapter to determine which person or persons may be responsible for violations. The City Engineer or Storm Water Coordinator will, if appropriate, consider public records of ownership, building permits issued by local units of government, and other relevant information which may include site inspection records, SWP3s, NOIs, and other documents related to the facts and circumstances of a violation.
- (8) Any person or persons causing or contributing to a violation of any requirement, provision, or regulation of this chapter shall be subject to enforcement and penalty under terms of this chapter, and additionally under IC 13-14-10, IC 13-15-7, IC 13-30, and any other applicable state or federal law. (Ord. 2004-44, S18, Oct. 20, 2004)

#### **14.30.180 Violations and penalties.**

- (1) Violations. The following acts, conditions, and circumstances are violations of this chapter and subject to enforcement, penalties, and fines under this chapter:
  - (a) An act, a series of acts, or a group of acts that contradicts the requirements, provisions, and regulations of this chapter.
  - (b) A condition, a series of conditions, or a group of conditions that exists in contradiction to the requirements, provisions, and regulations of this chapter.
  - (c) Each act and each condition that contradicts or is in contradiction to a requirement, provision, and regulation of this chapter constitutes a separate and single violation.

- (d) Each day that a violation exists constitutes a separate violation and is subject to penalty or prosecution.
- (2) Penalty procedures. The City Engineer and Storm Water Coordinator will employ the following procedures with regard to assigning penalties to enforce the requirements, provisions, and regulations of this chapter.
- (a) **“First violation”** means the initial determination of a violation or group of violations at a project site. Upon ascertaining and documenting the occurrence of a first violation at a project site, the City Engineer or Storm Water Coordinator, project site inspector, or authorized representative of the City Engineer or Storm Water Coordinator will make a corrective recommendation to the appropriate individual or individuals responsible for correcting the violation, together with a notice that the correction must be accomplished within ten (10) working days after the issuance of the notice to prevent the citation of a second violation with regard to the same condition or conditions that caused the first violation.
  - (b) **“Second violation”** means the determination that after ten (10) working days past the notification of a first violation, the condition or conditions constituting the first violation remain uncorrected or otherwise not compliant with the requirements, provisions, and regulations of this chapter or that the condition or conditions constituting the first violation have reoccurred within ninety (90) days of the previous violation. Upon ascertaining and documenting the occurrence of a second violation at a project site, the City Engineer or Storm Water Coordinator will issue a non-compliance citation to the appropriate individual or individuals responsible for correcting the violating condition or conditions, together with a notice that the correction must be accomplished within five (5) calendar days from the date of the non-compliance citation, and the potential for personnel or a contractor employed by the City of Jasper complete work to correct the violating condition or conditions at the project site. The civil penalty for the non-compliance citation of a second violation will be no less than One Hundred Dollars (\$100.00) and no more than Two Hundred Dollars (\$200.00). If the penalty is not paid within thirty (30) days, the citation may be enforced in Court by any remedy allowed by Law, and an action or any other remedy allowed by law, including filing a lien on the project site, may be maintained to recover the costs of corrective measures employed by the City Engineer or Storm Water Coordinator in addition to the fine or penalty referred to above.

- (c) **“Third violation”** means the determination that any time after a specified or reasonable period for the correction of a second violation has elapsed, the condition or conditions constituting the second violation remain uncorrected or otherwise not compliant with the requirements, provisions, and regulations of this chapter or the conditions or conditions constituting the second violation have reoccurred within ninety (90) days of the previous violation. Upon ascertaining and documenting the occurrence of a third violation at a project site, the City Engineer or Storm Water Coordinator will issue a second non-compliance citation to the appropriate individual or individuals responsible for correcting the violating condition or conditions, together with a notice that the project site is subject to a “stop work order” issued by the City of Jasper Building Commissioner or other agency with the authority to stop work at the project site, and the potential for the immediate employment of personnel or a contractor employed by the City of Jasper to complete work to correct the violating condition or conditions at the project site. The civil penalty for the second non-compliance citation will be no less than Five Hundred Dollars (\$500.00) and no more than Seven Hundred Fifty Dollars (\$750.00). If the penalty is not paid within thirty (30) days, the citation may be enforced in Court by any remedy allowed by Law, and an action or any other remedy allowed by law, including filing a lien on the project site, may be maintained to recover the costs of corrective measures employed by the City Engineer or Storm Water Coordinator in addition to the fine or penalty referred to above.
- (d) The Board, the City Engineer or Storm Water Coordinator reserve the right to assign a deadline for corrective action, impose a stop work order, or work to complete corrective measures on a schedule or by a deadline accelerated or shortened comparatively to the schedule or deadline assigned in this section for correcting a violating condition if an accelerated schedule or deadline is required to protect life or property from an eminent and severe threat of loss or damage.
- (e) The Board, the City Engineer or Storm Water Coordinator may perform or cause to be performed, such work as necessary to accomplish corrective measures at a project site by employees of the City of Jasper or by a contractor hired to perform the work.
- (f) A stop work order issued pursuant to this section and chapter shall not be rescinded until all recommended corrective measures have been completed and the City of Jasper or its contractor have been paid for all costs incurred.

- (g) Any project site owner, individual lot operator, contractor, subcontractor, property owner, or other person or persons responsible for construction activities at a project site who violate the terms, requirements, provisions, or regulations of this chapter are liable for the costs of removal of sediment and other storm water pollutants deposited in any right-of-way, drain, storm sewer, drainage easement, city-maintained or controlled property and any and all other corrective action required to restore the property to a condition equal to or better than the condition prior to a violation. Such costs may be pursued in Court and/or filed as a lien against the property pursuant to IC 36-1-6-2, or under any other State Law.
- (3) Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the City Engineer or Storm Water Coordinator to the Board. The notice of appeal must be received by the City Engineer or Storm Water Coordinator within ten (10) working days from the date of the Notice of Violation. Hearing on the appeal before the Board shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the Board shall be final. (Ord. 2010-16, S1, Aug. 18, 2010) (Ord. 2004-44, S19, Oct. 20, 2004)

**14.30.190 MS4 personnel qualifications, certifications, and education.**

- (1) The City Engineer and Storm Water Coordinator and all personnel responsible for plan review, inspection, and enforcement of construction activities must be trained individuals as defined by this chapter and must receive annual training addressing topics including, but not limited to, appropriate control measures, inspection protocol, and enforcement procedures.
- (2) The Board, the City Engineer, and Storm Water Coordinator will ensure each technician who reviews plans, inspects project sites, exercises enforcement procedures, or presents or instructs an element of this program does coursework annually, and progresses toward certification as a trained individual, and eventually as a state-certified technician in technologies related to storm water management and MS4 program assignments.
- (3) The educational element of the City of Jasper's construction site runoff control program will require that each technician attend the following programs provided by Indiana Department of Natural Resources:
  - (a) IDNR/DSC's existing and expanded outreach and education program of specific training for local technicians to achieve adequacy in plan review and permitting process procedures, and

project site implementation of erosion and sediment control measures.

- (b) IDNR/DSC's comprehensive erosion and sediment control courses established and available for in-house MS4 training. (Ord. 2004-44, S20, Oct. 20, 2004)

**14.30.200 Public input.**

- (1) The City Engineer and Storm Water Coordinator must develop procedures for the receipt and considerations of public inquiries, concerns, and information submitted whether written or oral, regarding the quality of storm water runoff from construction sites.
- (2) The City Engineer and Storm Water Coordinator must implement a tracking process by which public information, whether submitted orally or in writing, is documented and then given to appropriate staff for follow-up, including an adequate investigation when needed to determine appropriate resolution of the concern.
- (3) The City Engineer and Storm Water Coordinator may utilize other city agencies' applicable resources and will use standardized documentation to other appropriate agencies to accomplish appropriate follow-up. (Ord. 2004-44, S21, Oct. 20, 2004)

**14.30.210 Measurable program goals.**

- (1) The City Engineer and Storm Water Coordinator will develop measurable goals for the MS4 construction site runoff control program that identify specific outreach, compliance, and implementation percentages and timetables.
- (2) The measurable goals will address the implementation of this chapter and the MS4 program, especially with regard to developer/contractor education outreach, site inspection procedure implementation, construction site operator compliance improvement, and the processing of public inquiries, concerns, and information.
- (3) The City Engineer and Storm Water Coordinator will set measurable goals to address the implementation and steadily increasing achievement of the following four (4) categories:
  - (a) Awareness and understanding of the requirements established by this chapter;



- (b) Inspection protocol, frequency, assistance, and enforcement toward achievement of project site control through appropriate use of control measures;
- (c) Construction site operator compliance with regulation under this chapter; and
- (d) Public input and response regarding construction activities. (Ord. 2004-44, S22, Oct. 20, 2004)

#### **14.30.220 Project termination.**

- (1) Regular termination of a project. The project site owner must plan an orderly and timely termination of construction activities, including the implementation of storm water quality measures that are to remain on the project site.
- (2) The project site owner must submit a notice of termination (NOT) letter to the Director of IDEM, and transmit a copy of the NOT to the City Engineer or Storm Water Coordinator or their designee in accordance with this section.
- (3) Except as provided in this section, at subsection 23.5. (early release termination), the project site owner shall submit an NOT letter only when the following conditions have been met:
  - (a) All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.
  - (b) All temporary erosion and sediment control measures have been removed.
- (4) The NOT letter must contain a statement, verified by the City Engineer or Storm Water Coordinator, that each of the conditions in this section, at subsection 23.3-14.30.220(3) have been met.
- (5) Early release termination. The project site owner may submit an NOT letter to obtain early release from compliance with this chapter and from permit regulation under IAC 327 15-5, if the following conditions are met:
  - (a) The project site owner has notified existing owners of title of the remaining undeveloped lots that the individual lot owners and the individual lot operators will be responsible for the implementation, management, and timely removal of storm water quality measures appropriate and sufficient to meet the requirements, provisions, and regulations of this chapter, and for final stabilization of the individual lot in accordance with this chapter.

- (b) The project site owner has recorded a copy of each of the notifications to the property owners in the record appropriate for chain of title documents in the office of the Dubois County Recorder.
  - (c) The project site owner has provided the City Engineer or Storm Water Coordinator with verification of the recording of the notification documents and verification of their delivery to the affected property owners of record.
  - (d) The remaining undeveloped acreage does not exceed five (5) acres, with contiguous undeveloped areas not to exceed one (1) acre in aggregate.
  - (e) A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter sent to IDEM, with a copy sent to the City Engineer or Storm Water Coordinator.
  - (f) The map must contain a list of names and addresses of the individual lot owners of title of all undeveloped lots and, if applicable, the individual lot operators.
  - (g) All public and common improvements, including infrastructure and storm water drainage facilities in accordance with the approved construction plans and applicable plans approved by the City Engineer or Storm Water Coordinator, have been completed and permanently stabilized and have been transferred to the appropriate local entity, homeowners association, or applicable property owner or land management entity.
  - (h) The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.
  - (i) All permanent storm water quality measures have been implemented and are operational.
- (6) IDEM requires notice to subsequent lot owners and lot operators in accordance with the state rule. Following the acceptance of the NOT letter and written approval from IDEM for early release under 327 IAC 15-5-8(b), a project site owner shall notify all current individual lot owners and all subsequent individual lot owners of the remaining undeveloped acreage and acreage with construction activity that they are responsible for complying with 327 IAC 15-7-5. The notice must contain a statement verified by the City Engineer or Storm Water Coordinator that each of the conditions enumerated above in subsection 23.5-14.30.220(5) have been met; and the project site owner must inform the individual lot owners of remaining undeveloped lots of the following two (2) requirements:

- (a) To install and maintain appropriate measures to prevent sediment from leaving the individual building lots; and
  - (b) To maintain all erosion and sediment control measures that are to remain on-site as part of the construction plan.
- (7) Final inspection prior to early release NOT. The City Engineer or Storm Water Coordinator must inspect the project site to evaluate the adequacy of the remaining storm water quality measures and compliance with the NOT letter requirements and make a relevant report to IDEM. If the inspecting entity finds that the project site owner has sufficiently filed a NOT letter, the City Engineer or Storm Water Coordinator shall forward (verified NOT) notification to IDEM. Upon receipt of the verified NOT letter by IDEM and receipt of written approval from IDEM, the project site owner shall no longer be responsible for compliance with 327 IAC 15-5.
- (8) Post-permit responsibility for maintenance. After a verified NOT letter has been submitted for a project site and approved by IDEM, maintenance of the remaining storm water quality measures will be the responsibility of the individual lot owner or occupier of the property in accordance with this chapter and other applicable local codes. (Ord. 2004-44, S23, Oct. 20, 2004)

**14.30.230 Compliance with all pertinent ordinances.**

- (1) The project site owner must comply with all appropriate ordinances and regulations related to storm water discharges within the jurisdictional areas regulated under this chapter.
- (2) This chapter is required by 327 IAC 15-13-15(b) and 327 IAC 15-13-16(b) and shall be considered to have the same authority as 327 IAC 15-5 within the jurisdictional areas of the City of Jasper, Indiana, regulated by this chapter. (Ord. 2004-44, S24, Oct. 20, 2004)

**14.30.240 Storm Water Management Board retains statutory and discretionary powers.**

- (1) The Storm Water Management Board retains the right to certain statutory and discretionary powers including, but not necessarily limited to considering appeals of a project site owner, making findings and determinations, issuing orders, or instructing and directing the City Engineer or Storm Water Coordinator with regard to and in accordance with this chapter and other applicable federal, state and local laws and rules. (Ord. 2004-44, S25, Oct. 20, 2004)

**14.30.250 Interdepartmental and co-regulatory agreements.**

- (1) The Board may enter into agreements with or direct the use of another entity, county or municipal agency, or agent for the purpose of accomplishing the requirements of and regulations under this chapter so long as the City Engineer or Storm Water Coordinator maintains the administrative control, within the jurisdictional area of the City of Jasper, of the plan review and approval process and construction site runoff control program established by this chapter.
  
- (2) The Board may enter into a legally binding agreement with another MS4 entity by which agreement the City Engineer or Storm Water Coordinator performs services for, receives services from, or exchanges services with the other MS4 entity to the benefit of the parties to the agreement. (Ord. 2004-44, S26, Oct. 20, 2004)

## Chapter 14.40

### POST CONSTRUCTION STORM WATER RUNOFF CONTROL

#### Sections:

- 14.40.010 Purpose.**
- 14.40.020 Authority.**
- 14.40.030 Applicability.**
- 14.40.040 Responsibility for Administration.**
- 14.40.050 Compatibility with other Permit and Code Requirements.**
- 14.40.060 Definitions.**
- 14.40.070 Design Criteria, Standards and Specifications for Control of Post Construction Storm Water Runoff.**
- 14.40.080 Submission of Application, Storm Water Pollution Prevention Plan, and Approval.**
- 14.40.090 General Requirements for Control of Post Construction Storm Water Runoff.**
- 14.40.100 Maintenance of Storm Water Runoff Control Measures.**
- 14.40.110 Inspection.**
- 14.40.120 Proper Credential or Identification Required.**
- 14.40.130 Enforcement.**
- 14.40.140 Project Termination.**
- 14.40.150 Violations Deemed a Public Nuisance.**
- 14.40.160 Judicial Enforcement Remedies.**
- 14.40.170 Remedies not Exclusive.**

**14.40.010 Purpose.** The purpose of this Chapter is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction by: minimizing increases in storm water runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion; minimizing increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality; minimizing the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable; and reducing storm water runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety. The City of Jasper has adopted Erosion Control Standards which are included in its City of Jasper Design Standards and Specifications Manual. This Manual and IDEM's Indiana Storm Water Quality Manual shall be used as a guide to meet the purpose stated above. (Ord. 2008-15, S2, Aug. 20, 2008)

**14.40.020 Authority.** This Chapter is adopted under the authority granted by Indiana Code 36-1-4-11, 36-7-4, and all acts supplemental and amendatory thereto. This authority provides for the administration, enforcement, and amendment of this Chapter for control of Post Construction Storm Water Runoff in the City of Jasper. (Ord. 2008-15, S3, Aug. 20, 2008)

**14.40.030 Applicability.** This Chapter applies to all land-disturbing activities of over one acre on land within the corporate boundaries of the City of Jasper, including commercial, industrial, residential, and highway development, except for (1) cultivating activities, (2) conservation practices on agricultural land, (3) single family residential developments consisting of four or fewer lots, (4) a single family residential strip development where the developer offers for sale or lease without land improvements and the project is not part of a larger common plan of development or sale, and (5) single or two (2) family residential lots within a permitted project. In addition, this Chapter also applies to all areas of ‘redevelopment’ as defined herein and any other sensitive critical areas. (Ord. 2008-15, S4, Aug. 20, 2008)

**14.40.040 Responsibility for Administration.** The City of Jasper shall administer, implement, and enforce the provisions of this Chapter by and through the City Engineer’s office. Any powers granted or duties imposed upon the City of Jasper may be delegated in writing by the City to persons or entities acting in the beneficial interest of or in the employ of the City. (Ord. 2008-15, S5, Aug. 20, 2008)

**14.40.050 Compatibility with other Permit and Code Requirements.** This Chapter is not intended to interfere with, abrogate, or annul any other Chapter, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other Chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence. (Ord. 2008-15, S6, Aug. 20, 2008)

**14.40.060 Definitions.** For the purposes of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) “APPLICANT” -- A property owner or agent of a property owner who has filed an application for a storm water management permit.
- (2) “BUILDING” -- Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.
- (3) “BUFFER STRIP” -- Areas of open vegetated land adjacent to drainage ways, storm water facilities, lakes, ponds, streams, wetlands, or other surface waters.

- (4) “CITY” -- The City of Jasper, or designated party.
- (5) “CHANNEL” -- A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- (6) “HOTSPOT” -- An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
- (7) “IMPERVIOUS SURFACE” -- A surface layer of application, like pavement or rooftops that prevents the infiltration of storm water into the soil.
- (8) “INFILTRATION” -- The process of percolating storm water into the subsoil.
- (9) “JURISDICTIONAL WETLAND” -- An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
- (10) “LAND DISTURBING ACTIVITY” -- Any manmade change of the land surface including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading. In the context of this Chapter, it includes only nonagricultural land-disturbing activities.
- (11) “LANDOWNER” -- The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
- (12) “MAINTENANCE AGREEMENT” -- A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (13) “NONPOINT SOURCE POLLUTION” -- Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- (14) “NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER 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.

- (15) “PERSON” -- Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, state agency, any interstate body or any other legal entity or their legal representative, agent or assigns legally capable of owning property in the state.
- (16) “POLLUTANT” – A pollutant is something that 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, ordnances, and accumulations so that some 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 or building a structure; sediments and noxious or offensive matter of any kind.
- (17) “RECHARGE” -- The replenishment of underground water reserves.
- (18) “REDEVELOPMENT” -- Any construction, alteration or improvement exceeding 5,000 square feet in areas where existing land use is business, industrial, institutional or multi-family residential.
- (19) “RIPARIAN ZONE” -- The area along water bodies that serve as interfaces between terrestrial and aquatic ecosystems
- (20) “RUNOFF” – An accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains, or waterways.
- (21) “SITE” -- The entire area included in the legal description of the land on which land-disturbing activity has been proposed in the permit application.
- (22) “STOP WORK ORDER” -- An order issued which requires that all construction activity on a site be stopped.
- (23) “STORM WATER MANAGEMENT” -- The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.
- (24) “STORM WATER MANAGEMENT FACILITY” – A storm water management structure or non structural practice.



- (25) “STORM WATER RUNOFF” – Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (26) “STORM WATER TREATMENT PRACTICES (STPS)” -- Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to storm water runoff and water bodies.
- (27) “STORM WATER POLLUTION PREVENTION PLAN” -- A document which describes the Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to the MS4 or State Waters or Waters of the United States to the maximum extent practicable.
- (28) “SWALE” -- A grassy depression in the ground designed to collect storm water runoff from streets, driveways, rooftops and parking lots. (Ord. 2008-15, S7, Aug. 20, 2008)

**14.40.070 Design Criteria, Standards and Specifications for Control of Post Construction Storm Water Runoff.** All post construction storm water runoff control measures including, but not limited to, those required to comply with this Chapter shall meet the design criteria, standards, and specifications for post construction storm water runoff control measures similar to or the same as those outlined in the City of Jasper Design Standards and Specifications Manual and the Indiana Storm Water Quality Manual, published by IDEM. (Ord. 2008-15, S8, Aug. 20, 2008)

**14.40.080 Submission of Application, Storm Water Pollution Prevention Plan, and Approval.** No person shall begin a land-disturbing activity or redevelopment subject to this Chapter without first submitting, and having approved, an Erosion Control Application, which includes submitting a Pollution Prevention Plan, to the City. In the event there is not a requirement for an Erosion Control Application, but the project is subject to this Chapter, then an application for approval of owner’s Pollution Prevention Plan must be submitted to the City. An application should be made after the initial coordination meeting with the City. By submitting an application, the applicant is agreeing that the City may enter the site to obtain information required for review of the storm water pollution prevention plan. This permit is in addition to a General Storm Water Permit (Rule 5) required under 327 IAC 15-5, if required.

- (1) Content of Storm Water Pollution Prevention Plan. At a minimum, the Storm Water Pollution Prevention Plan shall include a project narrative, a vicinity map, construction plans and calculations. A detailed listing of the plan requirements can be found in the City of Jasper Design Standards and Specifications Manual and the Indiana Storm Water Quality Manual, published by IDEM.

- (2) Review of the Storm Water Pollution Prevention Plan. The City shall review the application and the Storm Water Pollution Prevention Plan in conjunction with the subdivision plat and local improvement permit application (if required) to determine whether the requirements of this Chapter have been met. If the conditions are not met, the City shall inform the applicant in writing and either may require additional information or may disapprove the plan. If requested, additional information shall be submitted. The City shall again determine whether the plan meets the requirements of this Chapter. If the plan is disapproved, the City shall inform the applicant in writing, giving reasons for disapproval. If the plan is approved, the City shall inform the applicant of such in writing.
- (3) Duration of Approval. Approval under this section shall be valid from the date of approval through the date the City notifies the owner that all storm water management practices have passed the final inspection required under the approval conditions.
- (4) Surety Bond. As a condition of approval, the City may require the applicant to provide a surety bond or an irrevocable letter of credit, if one is not already included in the plat requirements approved by the Plan Commission of the City, when the storm water pollution prevention plan has been approved to guarantee a good faith execution of the erosion and sediment control plan and any conditions of approval.

The surety bond shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer or land surveyor employed by the applicant and upon certification of the City Engineer, Storm Water Coordinator or the Storm Water Management Board's designee that the storm water practice has been installed in accordance with the approved plan and other applicable provisions of this Chapter. Prior to release, the City will make a final inspection of the storm water practice to ensure that it is in compliance with the approved plan and the provisions of this Chapter.

- (5) Requirements
  - (a) Notify the City at least 24 hours before commencing any construction of storm water management measures;
  - (b) Obtain written approval from the City prior to implementing any changes to the most recently approved storm water pollution prevention plan with all requests for changes to be submitted to the City in writing;
  - (c) Install all storm water quality measures as identified in the approved storm water pollution prevention plan;

- (d) Maintain all road drainage systems, storm water drainage systems, erosion control measures, and other facilities identified in the storm water pollution prevention plan until the project has been terminated;
- (e) Where legal, remove sediment resulting from land-disturbing activities from adjacent surfaces and drainageways and/or repair erosion damage to adjacent surfaces and drainageways;
- (f) Allow the City to enter the site for verifying compliance with the storm water pollution prevention plan or for the performing of any work necessary to bring the site into compliance with the storm water pollution prevention plan; and
- (g) Notify the City of the completion of storm water management measures within seven days after their initial site installation. (Ord. 2008-15, S9, Aug. 20, 2008)

**14.40.090 General Requirements for Control of Post Construction Storm Water Runoff.**

- (1) All sites shall develop a Storm Water Pollution Prevention Plan. The plan must include: a description of potential pollutant sources from the proposed land use, that may reasonably be expected to add a significant amount of pollutants to storm water discharge; location, dimensions, detailed specifications, and construction details of all post construction storm water quality measures; a description of measures that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed; a sequence describing when each post construction storm water quality measure will be installed; and a narrative description of the maintenance guidelines for all post construction storm water quality measures to facilitate their proper long term function.
- (2) All site designs shall establish storm water management practices to control the peak flow rates of storm water discharge associated with specified design storms and reduce the generation of storm water. These practices should seek to utilize swales and natural depressions as site conditions allow, utilize pervious areas for storm water treatment and to infiltrate storm water runoff generated from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- (3) All storm water runoff generated from new development shall not discharge untreated storm water directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are

proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the Indiana Department of Natural Resources (IDNR).

- (4) All sites shall preserve buffer strips and riparian zones, create filter strips, minimize land disturbance, minimize surface imperviousness, minimize directly connected impervious areas, maximize open space, direct growth away from sensitive areas and toward areas that can support it without compromising water quality, have storage, have infiltration, in any combination, where appropriate to reduce the impact of pollutants in storm water run-off on receiving waters.
- (5) Infiltration practices will not be allowed in wellhead protection areas, as defined by IDEM.
- (6) Discharges from an MS4 area will not be allowed directly into sinkholes or fractured bedrock without treatment that results in the discharge meeting Indiana ground water quality standards as referenced in 327 IAC 2-11.
- (7) Any storm water practice that is a Class V injection well must ensure that the discharge from such practices meets Indiana ground water quality standards as referenced in 327 IAC 2-11.
- (8) As site conditions allow, the rate at which water flows through the MS4 conveyances shall be regulated to reduce outfall scouring and stream bank erosion. Where necessary, channel protection shall be provided to protect stream channels from degradation.
- (9) As site conditions allow, a vegetated filter strip of appropriate width shall be maintained along unvegetated swales and ditches.
- (10) New retail gasoline outlets, new municipal, state, federal, or institutional refueling areas, or outlets and refueling areas that replace their existing tank systems shall be required to design and install appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in storm water run-off.
- (11) Storm water discharges to critical areas with sensitive resources (i.e., wellhead protection areas, cold water fisheries, shellfish beds, swimming beaches, recreational waters, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.
- (12) Certain industrial sites are required to prepare and implement a storm water pollution prevention plan in accordance with 327 IAC 15-6, and

shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The storm water pollution prevention plan requirement applies to both existing and new industrial sites.

- (13) Storm water discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots”, may require the use of specific structural storm water treatment practices and pollution prevention practices.
- (14) Storm water management practices that are part of a Pollution Prevention Plan shall have a landscape detail showing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. (Ord. 2008-15, S10, Aug. 20, 2008)

#### **14.40.100 Maintenance of Storm Water Runoff Control Measures.**

- (1) Maintenance Agreement and/or Maintenance Covenants/Deed Restriction. Prior to the issuance of any approval under this Chapter that has a storm water management facility as one of the requirements of the approval, the owner of the site shall execute a maintenance agreement and/or shall assure that a maintenance covenant/deed restriction is in place that shall be binding on all subsequent owners of land served by the storm water management facility.

The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Chapter. The agreement shall be recorded by the owner in the Dubois County Recorder’s Office. The owner shall provide a copy of the recorded agreement to the City Engineer’s office.

In the alternative, or in addition to the agreement described above, maintenance of all storm water management facilities shall be ensured through the creation of a formal maintenance covenant or Deed Restriction in the plat or Deed for the property to which the covenant applies that shall be approved by the City and recorded in the Dubois County Recorder’s Office. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The covenant or restriction shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

- (2) Requirements for Maintenance Covenants/Deed Restrictions and Agreements. All storm water management facilities shall undergo, at the

minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this Chapter and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found shall be addressed in a timely manner, as determined by the City, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water management facility.

- (3) **Failure to Maintain Practices.** If an owner(s), after receiving notice from the City in which the owner(s) is given ten calendar (10) days to meet the requirements of the maintenance covenant/deed restriction or agreement, fails or refuses to meet the requirements of the maintenance covenant/deed restriction or agreement, the City may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.

In the event that the storm water management facility becomes an immediate danger to the public health, safety, economic impact or general welfare of the City, the City has the right to immediately effect maintenance and repair of the facility for the sole purpose of protecting the public health, safety, economic impact or general welfare of the City.

The City may assess the owner(s) of the storm water management facility for the cost of repair work and any penalties. An invoice of said cost of such work shall be sent to the owner who shall be given thirty (30) days to pay said invoice. An appeal may be taken to the Storm Water Management Board. If no appeal is taken or said invoice is not paid within the time period allowed, the amount may be filed as a lien on the property or an action may be filed in the Dubois County Circuit or Superior Court to recover the cost of the repair work and any penalties, attorney fees and any other costs of the work or proceeding. (Ord. 2008-15, S11, Aug. 20, 2008)

#### **14.40.110 Inspection.**

- (1) **Construction Inspection.** To ensure compliance with the storm water pollution prevention plan, the City shall inspect sites having ongoing land-disturbing activities as deemed appropriate by the City.

If land disturbing activities are being carried out without a permit, the City shall issue a stop work order pursuant to the provisions of IC 36-1-4-11 and IC 36-1-6-2.

- (2) **Post Construction Inspection.** Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections;

random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other storm water treatment practices.

- (3) Notice of Violation. Persons receiving a notice of violation may be required to halt all operational activities. This “cease and desist order” will be in effect until the City confirms that the operational activity is in compliance with all applicable City of Jasper Ordinances and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil or monetary penalties in accordance with the enforcement measures authorized in this Ordinance.
- (4) Right-of-Entry for Inspection. When any new storm water management facility is installed on private property, or when any new connection is made between private property and a public storm water management facility, the property owner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This also includes the right to enter a property when it has a reasonable basis to believe that a violation of this Chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Chapter. (Ord. 2008-15, S12, Aug. 20, 2008)

**14.40.120 Proper Credential or Identification Required.** The City shall present proper credentials or identification before entering upon the property of the person. (Ord. 2008-15, S13, Aug. 20, 2008)

**14.40.130 Enforcement.** Prior to the imposition of a fine, the intent of the City in enforcement of this ordinance is, wherever possible, to work with and communicate with the person doing the land disturbing activities.

- (1) Stop Work Order
  - (a) The City Engineer or Storm Water Coordinator shall post a stop work order if:
    - (i) Any non-complying land-disturbing activity regulated under this Chapter is being undertaken; or

- (ii) The post construction storm water plan is not being implemented in good faith; or
    - (iii) The conditions of the approval are not being met.
  - (b) Upon appeal to the Storm Water Management Board, a stop work order or the revocation may be retracted or modified.
  - (c) Ten (10) days after posting a stop work order, the City Engineer, or Storm Water Coordinator may issue a notice of intent to the owner and/or violator stating that 14 days after issuing the notice of intent the City will use the surety bond to perform the work necessary to provide compliance with this Chapter.
  - (d) If, within five (5) days after notification, the owner and/or violator does not comply with the erosion and sediment control plan or permit conditions, the City shall revoke its approval.
  - (e) Administrative Fines
    - (i) When the City Engineer or Storm Water Coordinator finds that a person has violated, or continues to violate, any provision of this Chapter, the City Engineer or Storm Water Coordinator may impose an administrative fine against such person in an amount not to exceed \$2,500.00 on a per violation, per day basis, plus any administrative or remediation costs.
    - (ii) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the person.
    - (iii) Upon appeal to the Storm Water Management Board, the fine may be retracted or modified.
    - (iv) Compliance with the provisions of this Chapter also may be enforced by injunction.
- (2) Cease and Desist Orders
- (a) When the City Engineer or Storm Water Coordinator finds that a person has violated, or continues to violate, or that City Engineer or Storm Water Coordinator determines that there is a danger to the public health, safety, welfare or economic impact, the City Engineer or Storm Water Coordinator may issue an order to the person directing it to cease and desist all such violations and directing the person to:



- (i) Immediately comply with all requirements; and
  - (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (b) Upon appeal to the Storm Water Management Board, the cease and desist order may be retracted or modified.
  - (c) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the person. (Ord. 2008-15, S14, Aug. 20, 2008)

**14.40.140 Project Termination.** An orderly and timely termination of a project with land-disturbing activities should be planned between all persons involved with a site.

- (1) When a project has been completed, a written request shall be submitted to the City for the review and approval of the required storm water management measures. “As built” drawings shall be submitted with the request. If “as built” drawings are not submitted with the request, the request will not be accepted.
  - (a) If the storm water management measures are approved, any surety bonds and/or letters of credit shall be released forthrightly by the Board of Public Works and Safety. However, maintenance responsibilities as set forth in Section 14.40.100 shall remain with the person owning the land.
  - (b) If the storm water management measures are not approved because they are not in line with either the storm water pollution prevention plan or the general principles of this Chapter, the City shall notify, in writing, the owner and/or person who had obtained approval for the Plan of the items that need remedied in order to complete the project. After a minimum period of two weeks during which corrective measures are taken, a request, again in writing, may be sent asking the City to evaluate the adequacy of the storm water management measures. If, in good faith, the City again decides that the storm water management measures are inadequate, the City may delay the release of any surety bonds and/or letters of credit for up to two months, but only if said bond or letter of credit remains valid past the new date for compliance. After an agreed upon time period of two months or longer has lapsed without corrective measures being taken, the City may use the surety bonds to finance changes or additions to the storm water management measures needed to complete the project. (Ord. 2008-15, S15, Aug. 20, 2008)

**14.40.150 Violations Deemed a Public Nuisance.** In addition to the enforcement process and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of the 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. (Ord. 2008-15, S16, Aug. 20, 2008)

**14.40.160 Judicial Enforcement Remedies.**

- (1) Injunctive Relief. When the Storm Water Management Board finds that a person has violated, or continues to violate, any provision of this Chapter, an NPDES permit, or order issued hereunder, or any other standard or requirement, the City may petition through any court of general jurisdiction within Dubois County, for the issuance of a temporary or permanent injunction. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the person to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a person.
- (2) Civil Penalties. A person who has violated, or continues to violate, any provision of this Chapter, or order issued hereunder, or any other standard or requirement shall also be liable to the City for a total maximum civil penalty and administrative fines of \$2,500.00 per violation, per day. Penalties and fines shall accrue for each day during the period of the violation.
- (3) The City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (4) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the person's violation, corrective actions by the person, the compliance history of the person, and any other factor as justice requires.
- (5) Filing a suit for civil penalties shall not be a bar against, or a prerequisite, for taking any other action against a person. (Ord. 2008-15, S17, Aug. 20, 2008)

**14.40.170 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. (Ord. 2008-15, S18, Aug. 20, 2008)

## Chapter 14.50

### STORM WATER DRAINAGE PERMITS

#### Sections:

- 14.50.005 Permit - Required - Conditions.**
- 14.50.010 Permit - Contents required - Filing time.**
- 14.50.015 Permit - Other conditions required.**
- 14.50.020 Excavated Area.**
- 14.50.025 Inspection - Street Commissioner Authority.**
- 14.50.030 Cleanup and repair - Applicant responsibility.**
- 14.50.035 Violation - Penalty.**

**Section 14.50.005 Permit - Required - Conditions.** It is unlawful for any person, firm, or corporation to cut into or connect to any City of Jasper drainage structure without having submitted to the Storm Water Coordinator a completed Storm Water Drainage Permit as is herein required, or without otherwise complying with the provisions of this chapter. When used in this ordinance, the terms 'drainage structure' and 'City of Jasper drainage structure' shall have the following meanings:

- (1) 'Drainage structure' includes, but is not limited to, culverts, storm sewers, curbs, gutters, streets and paved ditches.
- (2) 'City of Jasper drainage structure' includes all those drainage structures owned or maintained by the City of Jasper and all those drainage structures which are intended to be turned over to the City of Jasper for ownership and maintenance. (Ord. 2007-2, S2, Mar. 21, 2007)

**Section 14.50.010 Permit - Contents required - Filing time.** Storm Water Drainage Permits shall be obtained from the Building Commissioner or Storm Water Coordinator of the City of Jasper. All sections of the Permit shall be completed, including describing the location of the intended excavation, cutting and connection to the City of Jasper drainage structure, the size of pipe to be used thereof, the person, firm or corporation doing the actual excavation, cutting and connection work and the name of the person, firm or corporation for whom the work is being done. The Permit shall also contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. All completed Permits shall be filed with the Storm Water Coordinator or designated representative not less than forty-eight (48) hours in advance of any excavation and connection. Each Permit filed with the Storm Water Coordinator, after review, shall be forwarded to the Street Commissioner. (Ord. 2007-2, S3, Mar. 21, 2007)

**Section 14.50.015 Permit - Other conditions required.** It is unlawful to make any such cutting or connection in any way contrary to or at variance with the terms of the Storm Water Drainage Permit. No injury shall be done to any pipes, cables or conduits in the

making of such cuttings, excavations, tunneling or connections; and notice shall be given to the persons maintaining any such pipes, cables or conduits, or to the City Department in charge thereof before such pipes, cables or conduits are disturbed. (Ord. 2007-2, S4, Mar. 21, 2007)

**Section 14.50.020 Excavated Area.** It shall remain the responsibility of the applicant to maintain the excavated area in a safe condition. (Ord. 2007-2, S5, Mar. 21, 2007)

**Section 14.50.025 Inspection - Street Commissioner Authority.** The Street Commissioner of the City of Jasper, or designated representative, shall inspect or cause to be inspected all connections being made to any City of Jasper drainage structure to document the location of said connection and see that the connection was made in compliance with City of Jasper specifications. The Jasper Street Department will require a minimum of twenty-four (24) hours notice to schedule an inspection. Failure to have the drainage structure inspected before backfilling may require removal of backfill to expose the installed structures. (Ord. 2007-2, S6, Mar. 21, 2007)

**Section 14.50.030 Cleanup and repair - Applicant responsibility.** All cleanup, repairing of damaged pipes, cables, conduits or drainage structures, replacement of and cost of replacement or repair materials shall be the expense of the applicant. The applicant shall, at applicant's expense, clean up and remove all refuse and unused materials of any kind resulting from said work and return disturbed area to same or better condition as before work. The applicant shall also control and maintain refuse, unused materials, and excavated materials from leaving the work site onto the streets or into storm sewers. (Ord. 2007-2, S7, Mar. 21, 2007)

**Section 14.50.035 Violation - Penalty.** Any person, firm or corporation violating any of the provisions of this chapter may be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2007-2, S8, Mar. 21, 2007)