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## BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN

ORDINANCE DATED 4-25, 2008ORDINANCE NUMBER: 4-25-08-07*Sideth A. Glasser, C.O.*  
AUDITOR OF ALLEN COUNTY

**WHEREAS**, the Allen County Surveyor's office has operated under the proposed "Allen County Storm Drainage, Erosion, and Sediment Control Ordinance" since November, 1998 which established a methodology for stormwater management and sediment control in order to regulate the control of runoff of stormwater and to protect, conserve and promote the orderly development of the land in Allen County and its water resources. This Ordinance was primarily targeted at stormwater discharge quantity, and erosion and sediment control.

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

**WHEREAS**, The Board of Commissioners of the County of Allen is required to establish a regulatory mechanism for regulating stormwater quality management.

**WHEREAS**, it is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues in Allen County, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers. Through the use of BMP, stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed. Allen County has established a minimum standard that the measurement of the effectiveness of the control of stormwater quality will be based on the management of Total Suspended Solids (TSS).

**WHEREAS**, the Board of Commissioners of the County of Allen find that:

- A. Water bodies, roadways, structures, and other property within and downstream of Allen County are at times subjected to flooding;
- B. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;
- C. Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;
- D. Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes, and reservoirs;

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

- E. Pollutant contributions from illicit discharges within Allen County will, absent reasonable regulation, monitoring, and enforcement, adversely affect Allen County's water bodies and water resources;
- F. Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;
- G. Adopting the standards, criteria, and procedures contained and referenced in this Ordinance and implementing the same will address many of the deleterious effects of stormwater runoff and illicit discharges;
- H. Adopting this Ordinance is necessary for the preservation of the public health, safety, and welfare, for the conservation of our natural resources, and for compliance with State and Federal regulations.

**WHEREAS**, the Allen County Surveyor has recommended and the Board of Commissioners of the County of Allen desire to establish a Stormwater Management Ordinance for the citizens of Allen County for the purpose of providing for the health, safety, and general welfare of the citizens of Allen County through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve and promote the orderly development of land and water resources within Allen County. This Ordinance establishes methods for managing the quantity and quality of stormwater entering into the stormwater drainage system in order to comply with State and Federal requirements. The objectives of this Ordinance are:

- A. To reduce the hazard to public health and safety caused by excessive stormwater runoff.
- B. To regulate the contribution of pollutants to the stormwater drainage system from construction site runoff.
- C. To regulate the contribution of pollutants to the stormwater drainage system from runoff from new development and re-development;
- D. To prohibit illicit discharges into the stormwater drainage system.
- E. To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.
- F. To create a uniform application of standard throughout the community.

**NOW, THEREFORE**, be it ordained that

**Section 1.** Title 19 shall be added to the Allen County Code to read as follows:

# **ALLEN COUNTY CODE TITLE 19**

## **ALLEN COUNTY STORMWATER MANAGEMENT**

### **ARTICLE 1**

#### **STORMWATER MANAGEMENT**

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##### **19-1-1 Chapter 1: General Information**

###### **19-1-1-1 Abbreviations and Definitions**

For the purpose of this Ordinance, the following abbreviations and definitions shall apply.

**ACSTM** is defined as the Allen County Stormwater Technical Standards Manual adopted by the Board of Commissioners and amended from time to time.

**BMP** is defined as Best Management Practices as more clearly set forth in the ACSTM.

**Board** is defined as the Board of Commissioners of the County of Allen.

**Business Day** is defined as a day upon which the Board is open to the public for the transaction of business.

**Drainage Board** is defined as the Allen County Drainage Board.

**IDE** is defined as the Indiana Department of Environmental Management.

**NOI** is defined as Notice of Intent

**NOT** is defined as Notice of Termination

**Surveyor** is defined as the Allen County Surveyor or other designee of the Board

**SWPPP** is defined as stormwater pollution prevention plan

**TSS** is defined as Total Suspended Solids.

Definitions found in the ACSTM are included herein by reference.

###### **19-1-1-2 Authority and Title**

This Ordinance is adopted in accordance with statutory authority granted to the Board under “Home Rule” as well as the “Indiana Drainage Code”, and further is required by IC 36-9-28.5, IC 36-9-27-69.5, Phase II of the National Pollution Discharge Elimination System program (FR Doc. 99-29181) authorized by the 1972 amendments to the Clean Water Act, the Indiana Department of Environmental Management’s Rule 13 (327 IAC 15-13), and the Indiana Department of Environmental Management’s Rule 5 (327 IAC 15-5). Based on this authority and these requirements, this Ordinance regulates:

- A. Discharges of prohibited non-stormwater flows into the stormwater drainage system.

- B. Stormwater drainage improvements related to development of lands located within Allen County, Indiana.
- C. Drainage control systems installed during new construction and grading of lots and other parcels of land.
- D. Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
- E. The design, construction, and maintenance of stormwater drainage facilities and systems.
- F. The design, construction, and maintenance of stormwater quality facilities and systems.
- G. Land disturbing activities affecting wetlands.

This Ordinance shall be known and may be cited as the Allen County Stormwater Management Ordinance.

### **19-1-1-3 Policy on Stormwater Pollution Prevention**

The following principles apply to all land-disturbing activities and should be considered in the preparation of a SWPPP within unincorporated Allen County and areas served by agreement or permittee under the Allen County NPDES Permit.

- A. Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fills in areas with steep slopes should be avoided wherever possible, and natural contours should be followed as closely as possible.
- B. Existing natural vegetation should be retained and protected wherever possible. Areas immediately adjacent (within 35 feet of top of bank) to watercourses and lakes also should be left undisturbed wherever possible. Unvegetated or vegetated areas with less than 70% cover that are scheduled or likely to be left inactive for 15 days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.
- C. All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
- D. The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet. Methods for determining acceptable velocities are included in the ACSTSM.
- E. Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
- F. Appropriate measures shall be implemented to prevent wastes or unused building materials, including, garbage, debris, packaging material, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being

carried from a project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable State statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures (including having spill response equipment on site) shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

- G. Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
- H. Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.
- I. Natural features, including wetlands, shall be protected from pollutants associated with stormwater runoff.

## **19-1-2 Chapter 2: Prohibited Discharges and Connections**

### **19-1-2-1 Applicability and General Exemptions**

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

- A. Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this chapter unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residences are not included in this exemption.
- B. Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations is exempt from this chapter.

### **19-1-2-2 Prohibited Discharges and Connections**

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

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

Gasoline outlets and refueling areas must install appropriate practices to reduce lead, copper, zinc, and hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks.

### **19-1-2-3 Exempted Discharges and Connections**

EXEMPTED DISCHARGES AND CONNECTIONS: Notwithstanding other requirements in this Ordinance, the following categories of non-stormwater discharges or flows are exempted from the requirements of this chapter:

- A. Water line flushing;
- B. Landscape irrigation;
- C. Diverted streamflows;
- D. Rising ground waters;
- E. Uncontaminated groundwater infiltration;
- F. Uncontaminated pumped ground water;
- G. Discharges from potable water sources;
- H. Foundation drains;
- I. Air conditioning condensation;
- J. Irrigation water;
- K. Springs;
- L. Uncontaminated water from crawl space and basement sump pumps;
- M. Footing drains;
- N. Lawn watering;
- O. Flows from riparian habitats and wetlands;
- P. Dechlorinated swimming pool discharges;
- Q. Street wash water;
- R. Discharges from firefighting activities.
- S. Non-commercial automobile washing

### **19-1-2-4 Storage of Hazardous or Toxic Material**

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is prohibited. Storage or stockpiling of hazardous or toxic material, including

sewage treatment plant stockpiles, must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

### **19-1-2-5 Spill Reporting**

Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the Fort Wayne Allen County Board of Health concerning the discharge. A written report concerning the discharge shall be filed with the Surveyor's Office and IDEM, by the dischargers, within five (5) business days. The written report shall specify:

- A. The composition of the discharge and the cause thereof;
- B. The date, time, and estimated volume of the discharge;
- C. All measures taken to clean up the accidental discharge, and all measures proposed to be taken to prevent any recurrence;
- D. The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

A properly reported accidental discharge shall be an affirmative defense to an infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this chapter. This requirement does not relieve discharger from notifying other entities as required by State or Federal regulations.

## **19-1-3 Chapter 3 Regulations Concerning Development in Wetlands**

### **19-1-3-1 Applicability and Exemptions**

No building permit shall be issued and no land disturbance shall be allowed within a wetland until the owner thereof has obtained all required state and federal permits or releases related to the dredging or filling of wetlands. As a pre-condition to receiving a building or land disturbance permit for a development identified as containing wetlands where the applicant for the permit does not intend to fill a wetland, such unaffected wetland must be identified in one of the methods enumerated in Section 3 of this Chapter, shown on the proposed development plans, and submitted to the Surveyor along with plans to protect and avoid any disturbance to such unaffected wetland.

The requirements under this chapter do not apply to the following

- A. Artificially-constructed ponds, drainage ditches, stormwater retention/detention basins, gravel pits, stone quarries, and treatment lagoons that exist at the site and that may appear to display wetland-like properties;
- B. Wetlands or portions thereof for which federal or state permits for fill were issued;
- C. Any area or use excluded from local planning and zoning jurisdiction by federal or state law.

### **19-1-3-2 Policy on Wetlands Disturbance Prevention**

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

### **19-1-3-3 Wetlands Identification**

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

- A. National Wetlands inventory maps produced or maintained by the United States Fish and Wildlife Service.
- B. Maps produced, or maintained and utilized, by the United States Corps of Engineers for identification and/or delineation of wetlands.
- C. Maps produced, or maintained and utilized, by the United States Natural Resources Conservation Service for the identification and/or delineation of wetlands.
- D. Field investigations performed by the United States Army Corps of Engineers or private consultants using the latest U.S. Corps of Engineers methodology.

## **19-1-4 Chapter 4 Stormwater Quantity Management**

### **19-1-4-1 General Requirements**

The storage and controlled release rate of excess stormwater runoff shall be required for all new business, commercial and industrial developments, residential subdivision, planned development, rural estate subdivisions, and any redevelopment or other new construction located within unincorporated Allen County for any construction for which a building permit is required, except new home construction in a subdivision which has a previously issued Secondary Stormwater Management Permit. A Secondary Stormwater Management Permit meeting the requirements of the ACSTM must be obtained, even if the development is exempt from the requirements of Chapter 5. In accordance with the requirements of the ACSTM, the Surveyor, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization. Any construction project which has had its final drainage plan approved by the Surveyor within a 2-year period prior to the effective date of this ordinance shall be exempt from all requirements of this chapter that are in excess of the requirements of ordinances in effect at the time of approval.

### **19-1-4-2 Drainage Easement Requirements**

There shall be no trees or shrubs planted, nor any structures or fences erected, in any drainage easement, unless otherwise approved by the Drainage Board. All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, may be incorporated into the Allen County Regulated Drainage System at the discretion of the Drainage Board. The owner or developer shall petition to incorporate the storm system into the Allen County Regulated Drainage System. If inclusion is required, the stormwater management permit shall not be approved until such petition is submitted in a form accepted by the Drainage Board.

### **19-1-4-3 Placement of Utilities**

No owner, developer, utility company, governmental unit or other entity may disturb existing storm drainage facilities, or facilities installed in accordance with this ordinance, without the consent of the Surveyor, whose decision may be appealed to the Drainage Board. Owners, developers, or utility companies that disturb or encroach on said facilities and fail to return same shall return the facility to its original status upon notification or be subject to the penalties set forth in chapter 8.

#### **19-1-4-4 Structures Near County Regulated Drains**

For regulated drains, no permanent structure (including fences) shall be erected within seventy-five (75) feet measured at right angles from (a) the existing top edge of each bank of a regulated open drain, as determined by the Surveyor; or (b) the center line of a tiled Regulated Drain, unless otherwise approved by the Drainage Board.

#### **19-1-4-5 Private Property Maintenance Duties**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. 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.

### **19-1-5 Chapter 5 Stormwater Quality Management**

#### **19-1-5-1 Applicability**

Except as otherwise set forth in 19-1-5-2, Chapters 5 through 7 regulate all development and redevelopment occurring within unincorporated Allen County, Indiana, and areas served by agreement or co-permittee under the Allen County NPDES Permit. Any project that includes clearing, grading, pond construction, excavation, and other land disturbing activities, resulting in the disturbance of one (1) acre or more of total land area, is subject to the requirements of these chapters. These chapters also apply to disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land. No building permit shall be issued and no land disturbance started for any construction in a development, as defined in the ACSTSM, until the plans required by this Ordinance for such construction have been approved in writing by the Surveyor.

#### **19-1-5-2 Exemptions**

A Allen County public works projects done under the auspices of the Board shall be exempt from obtaining a permit, but are expected to meet all applicable technical requirements of this Ordinance and the ACSTSM.

B Any construction project which has had its final drainage plan approved by the Surveyor within a 2-year period prior to the effective date of this Ordinance shall be exempt from all requirements of chapters 5 through 7 that are in excess of the requirements of ordinances in effect at the time of approval.

C The requirements under chapters 5 through 7 do not apply to the following activities:

- 1 Agricultural land disturbing activities; or

2 Forest harvesting activities.

D The requirements under chapters 5 through 7 do not apply to the following activities, provided other applicable State permits contain provisions requiring immediate implementation of soil erosion control measures:

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

### **19-1-5-3 Conflicting Ordinances**

The provisions of this Ordinance shall be deemed as additional requirements to minimum standards required by other Allen County ordinances, and as supplemental requirements to Indiana's Rule 5 regarding Stormwater Discharge Associated with Construction Activity, (327 IAC 15-5), and Indiana's Rule 13 regarding Stormwater Runoff Associated with Municipal Separate Storm Sewer System Conveyances (327 IAC 15-13).

### **19-1-5-4 Calculations and Design Standards and Specifications**

In calculating the total area of land disturbance, for the purposes of determining applicability of this chapter to the project, the following guidelines should be used:

- A. Off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.
- B. Strip developments will be considered as one (1) project site and must comply with this chapter unless the total combined disturbance on all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale.
- C. To determine if multi-lot project sites are regulated by this rule, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:
  - i. For a single-family residential project site where the lots are one-half (0.5) acre or more, one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.
  - ii. 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.
  - iii. To calculate lot disturbance on all other types of projects sites, such as industrial and commercial projects project sites, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.

The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the “Indiana Stormwater Quality Manual” or the ACSTSM. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of IDEM’s Rule 5.

## **19-1-6 Chapter 6 Permit Requirements and Procedures**

### **19-1-6-1 Preliminary Drainage Plan Review**

In order to ensure that an adequate drainage outlet(s) exists for a proposed development, an owner or developer seeking a Primary Plat, Primary Development Plan or Improvement Location Permit for land not in a Platted Subdivision or subject to a Secondary Development Plan from the Allen County Plan Commission, an owner or developer must first apply for a Preliminary Stormwater Management Permit issued by the Surveyor. As part of the noted Preliminary Stormwater Management Permit application, an owner or developer shall submit conceptual drainage plans for review by the Surveyor prior to the Plan Commission hearing. Any Preliminary Stormwater Management Permit issued by the Surveyor as a result of such a review is based on preliminary data and shall not be construed as a final drainage approval or considered binding on either party. A list of detailed items to be included in the Preliminary Stormwater Management Permit application is provided in the ACSTSM.

### **19-1-6-2 Permit Requirements**

The owner or developer shall submit an application for a Secondary Stormwater Management Permit to the Surveyor’s Office. Specific information to be included in the application can be found below and in the ACSTSM. The required number of hard copies of all application material and construction plans, as set forth in the ACSTSM, must be submitted to the Surveyor’s Office. In addition to the hard copies, an optional digital copy of the construction plans and application material may be submitted to the Surveyor’s Office in an acceptable format as set forth in the ACSTSM.

Specific projects or activities may be exempt from all or part of the informational requirements listed below. If a project or activity is exempt from any or all requirements of this ordinance, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below.

The different elements of a permit submittal for a Secondary Stormwater Management Permit approval include the following:

**A. Draft Notice of Intent (NOI)**

If the total disturbance is more than one (1) acre, a NOI shall be submitted to IDEM as well two (2) business days prior to the commencement of construction.

**B. Construction Plans**

Construction plan sheets (larger than 11” by 17”, but not to exceed 24” by 36” in size) and an accompanying narrative report shall describe and depict the existing and proposed conditions. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. A list of detailed items to be included in the Construction Plans is provided in the ACSTSM.

C. Stormwater Drainage Technical Report

A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. A list of detailed items to be included in the technical report is provided in the ACSTM.

D. Application to the Drainage Board if the proposed system is required to become a Regulated Drain.

E. SWPPP for Construction Sites

For sites with total disturbance of 1 acre or more, a SWPPP associated with construction activities must be designed to, at least, meet the requirements of this Ordinance and must include the information provided in the ACTSM. For land disturbances totaling less than 1 acre but greater than 10,000 square feet, appropriate erosion and sediment control measures that are consistent with the ACTSM must be designed and shown on the plans.

F. Post-Construction Storm Water Pollution Prevention Plan

The post-construction storm water pollution prevention plan must include the information that is provided in the ACTSM and is only required for non-residential sites with total disturbance of one (1) acre or more, and residential sites of five (5) acres or more.

Elements may be approved separately as deemed appropriate by the Surveyor.

### **19-1-6-3 General Requirements for Individual Lots Within a Permitted Project**

Except as set forth in 19-1-6-4, if applicable, individual lots developed within a larger permitted project that has not been issued a “verified” Notice of Termination (NOT) need not apply for an Individual Lot Plot Plan Permit. All stormwater management measures necessary to comply with this Ordinance must be implemented in accordance with permitted plan for the larger project. A formal review and issuance of an Individual Lot Plot Plan Permit is required before a building permit can be issued for any lot after the issuance of a “verified” NOT for the permitted project. The list of information to be provided by the individual lot owner or the owner’s agent for obtaining an Individual Lot Plot Plan Permit is set forth in the ACSTM.

### **19-1-6-4 Requirements for Individual Residential Lots With a Disturbance of One Acre or More**

For individual residential lots resulting in the disturbance of one (1) acre or more of total land area a formal review and issuance of an Individual Lot Plot Plan Permit is required before a building permit can be issued. In addition to applying for the Individual Lot Plot Plan Permit, the individual lot owner must complete a NOI. All stormwater management measures necessary to comply with this Ordinance must be implemented. The information to be provided by the individual lot owner or the owner’s agent for obtaining an Individual Lot Plot Plan Permit is included in the ACSTM.

## **19-1-6-5 Changes to Plans**

Any changes or deviations in the detailed plans and specifications after approval of the applicable stormwater management permit shall be filed with, and approved by, the Surveyor prior to the land development involving the change. Copies of the changes, as approved, shall be attached to the original plans and specifications. Additionally, an updated NOI may need to be submitted to IDEM if these changes result in differences between the original NOI submittal and the newly approved plans and specifications.

## **19-1-6-6 Terms and Conditions of Permits**

In granting a stormwater management permit, the Surveyor may impose such terms and conditions as are reasonably necessary to meet the purposes of this Ordinance.

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

In the event that a project site is determined to impact or discharge to a Sensitive Area or is located in an Impact Drainage Area as defined in the ACSTM, the Surveyor may require more stringent stormwater quantity and quality measures than detailed in this Ordinance or in the Indiana Stormwater Quality Manual as adopted by IDEM.

If wetlands are suspected on a site, wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers (COE) and the wetland addressed in accordance to the requirements of Chapter 6 of this Ordinance. Special terms and conditions for development determined to impact or discharge to any Sensitive Area shall be included in the stormwater management permit.

**Determination of Impact Drainage Areas:** The following areas shall be designated as Impact Drainage Areas, unless good reason for not including them is presented to the Surveyor.

- A. A floodway or floodplain as designated by the most updated Allen County Code dealing with floodplain regulation.
- B. Land within 75 feet of each bank of any ditch within the Allen County Regulated Drainage System.
- C. Land within 75 feet of the centerline of any drain tile or enclosed conduit within the Allen County Regulated Drainage System.

The Drainage Board is authorized, but is not required, to classify certain additional geographical areas as Impact Drainage Areas. In determining Impact Drainage Areas, the Drainage Board shall consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility.

Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an Impact Drainage Area by the Drainage Board. Special terms and conditions for development within any Impact Drainage Area shall be included in the stormwater management permit.

## **19-1-6-7 Post Permit Process**

An updated version of the NOI, accompanied by proof of publication (in a form similar to the one set forth below) in a newspaper of general circulation in Allen County must be resubmitted at least two (2) business days prior to commencement of construction. The NOI form developed by the IDEM shall be completed in full based on data and information available at the time of application.

The publication must include the following language:

“(Company name, address) is submitting an NOI letter to notify the Surveyor and the Indiana Department of Environmental Management of our intent to comply with the requirements of the Allen County Stormwater Management Ordinance, as well as the requirements of 327 IAC 15-5 and 327 IAC 15-13, to discharge stormwater from construction activities for the following project: (name of the construction project, address of the location of the construction project, and Parcel Identification Number). Runoff from the project site will discharge to (stream(s) receiving the discharge(s)).”

A pre-construction meeting is required to be held with the participation of the Surveyor’s Office and other entities that may be involved prior to any site grading activity in order to review the erosion control plan before grading and ensure that appropriate perimeter control measures have been implemented on the site and the location of any existing tiles has been properly marked.

## **19-1-6-8 Monitoring During Construction**

Once construction starts, the owner/developer shall monitor construction activities and inspect all stormwater pollution prevention measures to verify compliance with this Ordinance and the terms and conditions of the approved permit. All persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this chapter and this Ordinance.

A self-monitoring program must be implemented by the owner/developer to ensure the SWPPP is working effectively. A trained individual, acceptable to Allen County Surveyor, shall perform a written evaluation of the project site by the end of the next business day following each measurable storm event. If there are no measurable storm events within a given week, the site should be monitored at least once in that week. Weekly inspections by the trained individual shall continue until the entire site has been stabilized and a “verified” copy of the Notice of Termination has not been issued. The trained individual shall review the maintenance of existing stormwater pollution prevention measures, including erosion and sediment control measures, drainage structures, and construction materials storage/containment facilities, to ensure they are functioning properly. The trained individual should also identify additional measures, beyond those originally identified in the SWPPP, necessary to remain in compliance with all applicable statutes and regulations.

The resulting evaluation reports must include the name of the individual performing the evaluation, the date of the evaluation, problems identified at the project site, and details of maintenance, additional measures, and corrective actions recommended and completed.

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

quality measures should be implemented. Such recommendations shall not constitute a change of plans under 19-1-6-5.

Although self-monitoring reports do not need to be submitted to the Surveyor, the Surveyor has the right to request complete records of maintenance and monitoring activities involving stormwater pollution prevention measures. All evaluation reports for the project site must be made available to the Allen County Surveyor, in an organized fashion, within two (2) business days upon request.

### **19-1-6-9 Completion Notice**

Notice of scheduled date for completion of construction shall be provided to the Surveyor's Office at least three (3) business days prior to its planned completion. The project site owner will schedule the final inspection with the Surveyor's Office.

### **19-1-6-10 Post Construction**

Upon completion of construction activities, as-built plans must be submitted to the Surveyor's Office, if required by 19-1-6-11. A NOT shall be sent to the Surveyor's Office once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed. The Surveyor, or a representative, shall inspect the construction site to verify the requirements for a NOT have been met. If the requirements for a NOT have been met and no corrective actions are needed, the Surveyor's Office will forward a "verified" NOT copy to the applicant and to IDEM. Permits issued will expire five (5) years from the date of issuance. If construction is not completed within five (5) years, the NOI must be resubmitted at least ninety (90) days prior to expiration.

### **19-1-6-11 Certification of As-Built Plans**

After completion of construction of the project and before final project acceptance (issuance of a "verified" NOT and Drainage Board Final Project Acceptance), a professionally prepared and certified 'as-built' set of plans shall be submitted to the Surveyor for review. In addition to the hard copy, a digital copy of the 'as-built' plans as required by the ACSTSM must be submitted. These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include at a minimum the following together with any other details required by the Surveyor's Office or stipulated in the ACSTSM:

- A. Pipe size and pipe material
- B. Invert elevations
- C. Top rim elevations
- D. Elevation of the emergency overflow (spillway) for ponds
- E. Pipe structure lengths
- F. BMP types, dimensions, and boundaries/easements
- G. "As-planted" plans for BMPs, as applicable
- H. Data and calculations showing detention basin storage volume
- I. Data and calculations showing BMP treatment capacity

J. Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the stormwater management permit as approved by the Surveyor. (See certificate in ACSTSM.)

In addition to the digital copy of as-built plans, digital copies of all reports and plans noted in Sections 2, 3 and 4 of this Chapter shall be submitted in their final accepted forms to the Surveyor's Office so that they can be electronically filed for any future reference.

### **19-1-6-12 Maintenance Bond**

The property owner, developer, or contractor shall be required to file a one year maintenance bond or other acceptable guarantee with the Surveyor, prior to final project acceptance, in an amount not less than twenty five percent (25%) of the cost of the stormwater drainage system in a form satisfactory to the Drainage Board's attorney in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans, and this Ordinance. The bond or other acceptable guarantee shall be in effect for a period of one year after the date of the final project acceptance by the Surveyor and/or the Drainage Board, as applicable. The bond requirements stated above do not apply to individual residential lots in accepted subdivisions.

### **19-1-6-13 Ongoing Maintenance**

Stormwater quantity and quality facilities shall be maintained in good condition, in accordance with the terms and conditions of the approved stormwater management permit, and shall not be subsequently altered, revised or replaced except in accordance with the approved stormwater permit, or in accordance with approved amendments or revisions to the permit. If deficiencies are found during the inspection, the owner of the facility will be notified by the Surveyor and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, (weather permitting) as specified in the notification letter, said owner shall be in violation of this ordinance.

Assignment of responsibility for maintaining facilities serving more than one (1) parcel shall be documented by appropriate recorded covenants applying to the parcel per se or restrictive covenants applicable to the platted area within which the parcel lies.

## **19-1-7 Chapter 7 Fee Structure**

### **19-1-7-1 Fee Amount**

As a condition of the submittal and the review of permit application by the Surveyor, the applicant shall pay the Surveyor the applicable fees, as set by the Board with respect to the review of all drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data. Prepaid inspection fees must be paid prior to storm pipe installation and prior to the initial erosion and sediment control and post-construction inspections.

### **19-1-7-2 Time of Payment**

The Surveyor will furnish written notification(s) to the applicant specifying the total amount due the Surveyor in connection with the review of the applicant's submittals, plans and accompanying information and data, including the amount required to be paid by applicant for review and pre-paid inspection fees.

As a condition of acceptance of final drainage plans by the Surveyor, the applicant shall pay to the Surveyor the sum set forth in said notification(s). The Surveyor may issue such billing notification(s) before the project advances to the final acceptance stage and such payment is due by applicant upon receipt of said billing notification(s) regardless of whether the project has advanced to the final acceptance stage.

The Surveyor will not approve the drainage improvements and will not approve the advancement of any project for which the applicable fees have not been paid.

### **19-1-7-3 Method of Payment**

Fees shall be paid by one of the following methods:

- Certified Check
- Cashier's Check
- Money Order
- Such other methods as may be agreed in writing by the Surveyor

All checks shall be made payable to the Treasurer of Allen County, but delivered to the Surveyor's Office for recording.

### **19-1-7-4 Refund of Payment**

Fees are refundable only if the Surveyor determines that compliance by the development to this Ordinance is not necessary.

## **19-1-8 Chapter 8 Enforcement**

### **19-1-8-1 Compliance with this Ordinance**

Violations of the requirements of this Ordinance are subject to the penalties listed below.

### **19-1-8-2 Penalties for Violations**

Inspections by the Surveyor's Office on a periodic basis shall be made. If a violation of any provision of this Ordinance is noted, immediate notification to the responsible party will be initiated in an effort to resolve the issue. If the violation is not rectified within five (5) days from notification (unless more immediate action is required and dictated by the Surveyor's Office in a timeframe less than five (5) days), weather permitting, the violator shall be responsible for a civil infraction and subject to a maximum fine of Two Thousand Five Hundred Dollars (\$2,500) (minimum fine of Five Hundred Dollars (\$500)) for a first offense, and a maximum of Two Thousand Five Hundred Dollars (\$2,500) (minimum fine of One Thousand Dollars (\$1,000)) for a subsequent offense, plus costs, damages, and expenses. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

Any person or entity (including the corporate officers and primary owners) who aids or abets a person in a violation of this Ordinance shall be subject to the penalties provided in this section.

For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible.

### **19-1-8-3 Stop Work Order**

In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this Ordinance or the accepted final stormwater management plans, the Surveyor may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Surveyor to proceed with the work. The Surveyor may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this Ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.

Any person who neglects or fails to comply with a stop work order shall, upon conviction, be guilty of an infraction, punishable by a fine of not less than One Thousand Dollars (\$1,000). A permit reinstatement fee may be assessed by the Surveyor.

### **19-1-8-4 Failure to Comply or Complete**

In addition to any other remedies, should any owner/developer fail to comply with the provisions of this ordinance, the Surveyor may, after giving notice and opportunity for compliance, have the necessary work done, and the owner/developer shall be required to promptly reimburse the Surveyor for all costs of such work. The Surveyor also shall have the authority to utilize the maintenance bond where applicable.

### **19-1-8-5 Suspension of Access to the Storm Drain System**

The Surveyor may, without prior notice, suspend stormwater drainage system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the stormwater drainage system or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, Allen County may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or Waters of the United States, or to minimize danger to persons.

**Suspension Due to the Detection of Illicit Discharge:** Any person discharging to the stormwater drainage system in violation of this Ordinance may have their stormwater drainage system access terminated if such termination would abate or reduce an illicit discharge. The Surveyor will notify a violator of the proposed termination of its MS4 access. The violator may petition the Surveyor for a reconsideration and hearing.

### **19-1-8-6 Corrective Action**

Nothing herein contained shall prevent the Surveyor from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the stormwater drainage system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the Allen County NPDES permit, attorney fees, and other costs and expenses.

## **19-1-8-7 Appeals**

Upon issuance of a stop work order or suspension of access order, all actions shall cease and assist until all violations are brought in compliance or appeal is resolved and relief granted. Any person to whom any provision of this Ordinance, including fines, has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Board the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Board shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Board may consider the recommendations of the Surveyor and the comments of other persons having knowledge of the matter. In considering any such appeal, the Board may grant a variance from the terms of this Ordinance to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- A. The application of the Ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the Ordinance; and
- B. The granting of the relief requested will not substantially prevent the goals and purposes of this Ordinance, nor result in less effective management of stormwater runoff.

## **19-1-9 Chapter 9 Miscellaneous**

### **19-1-9-1 Inspections and Monitoring**

The Surveyor has the authority to periodically inspect the portion of the storm drainage system under the Board's control. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system.

After approval of the stormwater management permit by the Surveyor and the commencement of construction activities, the Surveyor has the authority to conduct inspections of the work being done to insure full compliance with the provisions of this Ordinance and the terms and conditions of the approved permit.

If a discharger is suspected of an illicit discharge, the Surveyor may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the Surveyor's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Surveyor or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

### **19-1-9-2 Waiver of Requirements**

The Surveyor has the authority to modify, grant exemptions, and/or waive any and all the requirements of the ACSTSM when the Surveyor determines it is in the best interests of the citizens of Allen County to so do. Any such modification, grants or waivers shall be in writing.

### **19-1-9-3 Responsibility for Administration**

The Surveyor shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the

Surveyor to qualified persons or entities acting in the beneficial interest of or in the employ of the Surveyor.

#### **19-1-9-4 Interpretation**

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

#### **19-1-9-5 Severability**

The provisions of this Ordinance are hereby declared severable, and if any court of competent jurisdiction should declare any part or provision of this Ordinance invalid or unenforceable, such invalidity or unenforceability shall not affect any other part or provision of the Ordinance.

#### **19-1-9-6 Disclaimer of Liability**

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

**Section 2.** Section 19-1-1 through 19-1-7 and 19-1-9 become effective upon passage. Section 19-1-8 shall become effective upon publication.

**Section 3.** The Allen County Surveyor's office has operated under the proposed "Allen County Storm Drainage, Erosion, and Sediment Control Ordinance" since November, 1998 which established a methodology for stormwater management and sediment control in order to regulate the control of runoff of stormwater and to protect, conserve and promote the orderly development of the land in Allen County and its water resources. Said Ordinance is hereby repealed.

Passed this 25 day of April, 2008.

THE BOARD OF COMMISSIONERS  
OF THE COUNTY OF ALLEN, INDIANA  
By: Linda K. Bloom  
Linda K. Bloom

ATTEST:

Lisbeth A. Blosser

Lisbeth A. Blosser, Auditor

By: F. Nelson Peters  
F. Nelson Peters

By: Wm E. Brown  
Wm. E. Brown

192479.10 (W) (3-12-2008)