Ordinance No. 2006 - 14

An Ordinance of the Board of Commissioners of Warrick County, Indiana Regulating Construction Site & Post Construction Site Storm Water Control Ordinance

Overview: An ordinance requiring Stormwater Pollution Prevention Plans, which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of the construction plans and specifications in order for there to be issued a grading permit for construction sites disturbing one acre or more of land in Warrick County. This ordinance also requires the development of Post-Construction storm water control measures, for new development and redevelopment, to be submitted and approved as part of the construction plans and specifications.

Whereas, Warrick County, Indiana (the County) has constructed and has in operation a storm water collection system for the purpose of collecting storm water within its jurisdiction; and

Whereas, new requirements for storm water quality affect the County directly resulting from the United State Environmental Protection Agency (EPA) regulation entitled "National Pollutant Discharge Elimination System (NPDES) – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges" (Federal Register, Volume 64, Number 235, pages 68722 – 68852) on December 8, 1999 as required by section 402(p) of the Clean Water Act (CWA); and

Whereas, the program is administered by the Indiana Department of Environmental Management with the adoption of 327 IAC 15-5 for Storm Water Run-off Associated with Construction Activity, and 327 IAC 15-13 for Storm Water Run-Off Associated with Municipal Separate Storm Sewer System (MS4) Conveyances; and

Whereas, 327 IAC 15-13-15 (b) requires the County to pass an ordinance, or other local regulatory mechanism, establishing a construction program that controls polluted run-off from construction activities with a land disturbance greater than or equal to one acre, or disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land; and

Whereas, the required ordinance, or other local regulatory mechanism, must contain at a minimum the requirements of 327 IAC 15-5, except for state permitting process references, and submittal deadlines of construction plans; and

Whereas, the required ordinance, or other regulatory mechanism must contain, at a minimum, the post-construction requirements of 327 IAC 15-5-6.5(a)(8); and

Whereas, the County operates its storm water system under the provisions of IC 8-1.5-5-1;

Now Therefore be it Ordained by the Commissioners of Warrick County, Indiana that:

SECTION 1. PURPOSE/INTENT.

A. Site Construction Control

The purpose of this ordinance relative to Post-Construction Control is to establish requirements for stormwater discharges from construction activities of one acre or more so as to protect the public health, existing water uses, and aquatic biota. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

(1) To regulate construction activities disturbing more than one acre of land as governed by 327 IAC 15-5.

(2) To require construction site operators to develop and implement a Construction Plan including a Storm Water Pollution Prevention Plan in order to receive a grading permit from the County.

B. Post-Construction Control

The purpose of this ordinance relative to Post-Construction Control is to implement planning procedures that promote and improve water quality. The planning procedures will include, at a minimum, the post-construction requirements of 327 IAC 5-5-6.5(a)(8). The County may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants on stormwater runoff. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

(1) Buffer strip and riparian zone preservation.

(2) Filter strip creation.

(3) Minimization of land disturbance and surface imperviousness.

(4) Minimization of directly connected impervious areas.

(5) Maximization of open space.

(6) Directing the community's growth away from sensitive areas and towards areas that can support growth without compromising water quality.

SECTION 2. DEFINITIONS.

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

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, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile. The term does not include land disturbing activities for the construction of agricultural related facilities, such as:

   (A) barns;

   (B) buildings to house livestock;

   (C) roads associated with infrastructure;

   (D) agricultural waste lagoons and facilities;

   (E) lakes and ponds;

   (F) wetlands; and

   (G) other infrastructure.

2. Authorized Enforcement Agency: employees or designees of the County Commissioners of Warrick County, Indiana.

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

4. Board means the Warrick County Storm Water Management Board.

5. Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and

any subsequent amendments thereto.

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

7. Construction plan means a representation of a project site and all activities associated with the project. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A storm water pollution prevention plan is a part of the construction plan.

8. Construction project or project means an organized effort to start, conduct, manage, and complete a single construction activity, or a series of construction activities.

9. 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.

10. Construction site access means a stabilized stone surface at all points of ingress or egress to a project site for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

11. Construction site operator shall have the same meaning as project site operator.

12. Contractor or subcontractor means an individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

13. Department means the Indiana Department of Environmental Management.

14. Developer means:

    (A) any person financially responsible for construction activity; or

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

15. Drain means an open channel or a pipe, or a combination thereof, implemented to gather, store, convey and release storm water runoff.

16. 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.

17. Erosion means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

18. Erosion and sediment control measure means a practice, or a combination of practices, to control erosion and resulting sedimentation.

19. Erosion and sediment control system means the use of appropriate erosion and sediment control measures to minimize sedimentation by first reducing or eliminating erosion at the source and then, as necessary, trapping sediment to prevent it from being discharged from or within a project site.

20. Final stabilization means the establishment of permanent vegetative cover or the application of a permanent nonerosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current permit.

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

22. Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in the County Ordinance entitled, An Ordinance of the Board of Commissioners of Warrick County, Indiana Regulating the Illicit Discharge and Connection into Warrick County's Storm Water System.

23. Illicit Connections: An illicit connection is defined as either of the following:

    a. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-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,

    b. 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.

24. Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

25. Individual building lot means a single parcel of land within a multi-parcel development.

26. Individual lot operator means a contractor or subcontractor working on an individual lot.

27. Individual lot owner means a person who has financial control of construction activities for an individual lot.

28. 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.

29. 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.

30. Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

31. 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 Warrick County Department of Storm Water Management at least forty-eight (48) hours prior to initiating construction activities at the construction site.

32. Notice of Termination Letter or NOT Letter means a written notification from the project site owner to the Director of IDEM and to the Warrick County Department of Storm Water Management that the construction activities for a site have been terminated and have met the requirements of this Ordinance.

33. 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.

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

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

36. Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

37. Project site owner means the person required to submit an NOI under 327 IAC 15-5 (Rule5) 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 of ability to modify or cause modification of project plans and specifications.

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

39. Sedimentation means the settling and accumulation of unconsolidated sediment carried by storm water run-off.

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

41. Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

42. Storm water Pollution Prevention Plan: A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or receiving waters to the maximum extent practicable.

43. Storm water quality measure means a practice, or a combination of practices, to control or minimize pollutants associated with storm water run-off.

44. Structural storm water control means a structural storm water management facility or devise 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.

45. Trained individual means an individual who is 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.

46. 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.

47. Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

SECTION 3. APPLICABILITY.

A. Applicability.

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

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

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

B. Exclusions.

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

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

3. This ordinance does not apply to the following types of activities:

   a. Agricultural land disturbing activities.
   b. Forest harvesting activities.

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

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

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

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

SECTION 5. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance, or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 6. RESPONSIBILITY OF CONSTRUCTION SITE OWNER.

A. The project site owner has the following responsibilities:

1. Ensure that a sufficient construction plan is completed and submitted.
2. Complete a notice of intent letter.
3. Make application for a grading permit.
4. Ensure compliance with this ordinance during construction activity and the implementation of the construction plan.
5. Ensure that all persons engaging in construction activities, on a permitted project site, comply with the applicable requirements of this rule and the approved construction plan.
6. Notify the County with a sufficient notice of termination letter and send a copy to the Indiana Department of Environmental Management.

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

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

1. Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the County.
2. Complete a notice of intent letter.
3. Apply for a building permit in accordance with the procedures established by the County.

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

1. Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the County.
2. Comply with the provisions set forth in Section 10 of this ordinance.

3. Apply for a building permit in accordance with the procedures established by the County. (NOTE: There is no need to submit a notice of intent letter under this subsection D.)

SECTION 7. GENERAL REQUIREMENTS FOR STORMWATER QUALITY CONTROL.

A. All storm water quality measures and erosion and sediment controls necessary to comply with this ordinance must be implemented in accordance with the construction plan and sufficient to satisfy the following conditions.

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

1. Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.
2. Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.
3. A stable construction site access shall be provided for all traffic ingress and egress to the project site.
4. Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
5. Storm water run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.
6. The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:
   a. The completed NOI letter and the NPDES permit number, where applicable.
   b. Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.
   c. Location of the construction plan if the project site does not have an on-site location to store the plan.
7. This permit, and posting of the notice under subdivision (6), does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.
8. The storm water pollution prevention plan shall serve as a guideline for storm water quality, but should not be interpreted as the only requirements for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this rule, all measures necessary to adequately prevent polluted storm water run-off.
9. The project site owner shall inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary

oversight on individual building lots, of the terms and conditions of this rule and the conditions and standards of the storm water pollution prevention plan, and the schedule for proposed implementation.

10. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.
11. Appropriate measures shall be planned and installed as part of an erosion and sediment control system.
12. All storm water quality measures must be designed and installed under the guidance of a trained individual.
13. Collected run-off , leaving a project site, must be either discharged directly into a well-defined and stable receiving channel or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.
14. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.
15. Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water run-off.
16. Unvegetated areas that are scheduled, or likely to be left 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 site stabilization are acceptable if the project site owner, or their representative, can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas, with a density of less than seventy percent (70%), shall be restabilized using appropriate methods to minimize the erosion potential.
17. During the period of construction activities, all storm water quality measures necessary to meet the requirements of this rule shall be maintained in working order.
18. A self-monitoring program that includes the following must be implemented:

    A. A trained individual shall perform a written evaluation of the project site at a minimum of one time per week and by the end of the next business day following each 0.5 inch of rain.
    B. The evaluation must address the maintenance of existing storm water quality measures to ensure they are functioning properly and identify additional measures necessary to remain in compliance with all applicable laws and ordinances.
    C. Written evaluation reports must include the name of the individual performing the evaluation, the date of the evaluation, problems identified at the project site, and details of corrective actions recommended and completed.
    D. All evaluation reports for the project site must be made available to the inspecting authority within forty-eight (48) hours of a request.

19. Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures, shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
20. Final stabilization of a project site is achieved when:
    A. All land disturbing activities have been completed and a uniform (for example,

evenly distributed, without large bare areas) perennial vegetative cover with a density of 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

B. Construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use and disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in clause (A).

SECTION 8. GENERAL REQUIREMENTS FOR INDIVIDUAL BUILDING LOTS WITHIN A PERMITTED PROJECT.

A. All storm water quality measures, including erosion and sediment control, necessary to comply with this ordinance must be implemented in accordance with the plan and sufficient to satisfy the following conditions.

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

1. The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.
2. Installation and maintenance of a stable construction site access for ingress and egress.
3. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
4. Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved.
5. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.
6. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
7. For individual residential lots, final stabilization meeting the criteria in section 7(20) of this ordinance will be achieved when the individual lot operator completes final stabilization or has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

SECTION 9. MONITORING OF DISCHARGES.

The County shall have the authority to monitor discharges from construction sites covered under this ordinance as described in County Ordinance entitled, An Ordinance of the Board of Commissioners of Warrick County, Indiana Regulating the Illicit Discharge and Connection into Warrick County's Storm Water System.

SECTION 10. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

A. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the county's storm drainage system or watercourses through the use of these structural and non-structural BMPs. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

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

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

SECTION 11. POST-CONSTRUCTION CONTROLS FOR NEW DEVELOPMENT OR REDEVELOPMENT.

A. On areas that undergo new development or redevelopment, site construction resulting in disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or non-structural best management practices are required. Specifically, post-construction storm water pollutant loading should not exceed pre-construction pollutant loading. Pre-construction refers to the site immediately before the planned land disturbance and development activities occur. Pre-construction is not intended to be interpreted as that period before any human-induced land disturbance activity has occurred. Post-construction pollutant loadings will be controlled through the six minimum control measures under the County's storm water NPDES permit. Post-construction storm water best management practices (BMPs) shall follow Indiana's Storm Water Quality Manual as a guidance document. The County shall have full technical and administrative approval authority on the application and design of all post-construction BMPs, conditions, definitions, and submittal requirements of construction plans and specifications and other related documents. The minimum measures are implemented to meet the terms defined in 327 IAC 15-5-6.5(a)(8) which are enumerated below.

B. The Post-construction Storm Water Pollution Prevention Plan (SWP3). The SWP3 must include the following information:

(A) 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 discharges.

(B) Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality measures.

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

(D) A sequence describing when each post-construction storm water quality measure will be installed.

(E) Storm water quality measures that will remove or minimize pollutants from storm water run-off.

(F) Storm water quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.

(G) Storm water quality measures that will be implemented to prevent or minimize adverse impacts to stream or riparian habitat.

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

SECTION 12. ENFORCEMENT.

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

1. Verbal warning to the construction site operator to make corrections.
2. Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.
3. Warning of Non-Compliance with directions to the construction site operator that site conditions require immediate action.
4. Civil Penalty. Any person that has violated or continues to violate this ordinance shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to $2,500 per violation per day. Each day a violation continues after the original notification shall be deemed a separate offense under this Ordinance.

5. Stop Work Order.

B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof, including court costs and attorney fees, shall be charged to the violator.

C. The notification will include copies of all invoices paid by Warrick County, and a log of all hours spent by Warrick County personnel (or its designated contractor). If the amount contained in the notification is not paid within thirty (30) days of the receipt of the bill, Warrick County may certify to the Auditor of Warrick County 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 IC 36-1-6-2.

SECTION 13. INJUNCTIVE RELIEF.

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

SECTION 14. COMPENSATORY ACTION.

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

SECTION 15. VIOLATIONS DEEMED A PUBLIC NUISANCE.

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

SECTION 16. 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 authorized enforcement agency to seek cumulative remedies.

SECTION 17. ADOPTION OF ORDINANCE.

This ordinance shall be in full force and effect after publication in accordance with Indiana law.

SECTION 18 PRIOR ORDINANCES.

All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

DATED this 26TH day of JULY, 2006.

Carl Jay Conner, President

Don Williams, Vice-President

Phillip Baxter, Commissioner

ATTEST:

Richard L. Kiximiller
Auditor for Warrick County

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