

**AN ORDINANCE CONCERNING CONSTRUCTION SITE
STORM WATER RUNOFF CONTROL**

WHEREAS, The Federal Clean Water Act, 33 U.S.C. 1251 et seq., designates and requires Vanderburgh County, Indiana, to implement and enforce a program to reduce or eliminate, to the maximum extent practicable, pollutants in storm water runoff from construction activities that result in disturbance of land equal to or greater than one acre; and

WHEREAS, control of storm water discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more; and

WHEREAS, 327 IAC 15-13 establishes specific requirements for municipal operators of separate storm sewer systems to initiate and manage a program to control storm water runoff associated with construction activities and land disturbing activities in urbanized areas; and

WHEREAS, 327 IAC 15-5 establishes specific requirements for construction plan content and permit application with regard to projects subject to regulation by the municipal operator's construction site control program; and

WHEREAS the Board of County Commissioners of Vanderburgh County, as the county executive, is empowered and resolute to establish an ordinance for the following purposes with respect to the quality and quantity of storm water discharge from construction sites located within the jurisdiction of the county executive:

- (1) To exercise regulations over construction activities to reduce or eliminate, to the maximum extent practicable, polluted storm water runoff associated with construction sites in Vanderburgh County, Indiana, under the jurisdiction of the Board of County Commissioners of Vanderburgh County.
- (2) To establish specific requirements for construction site plans, and other relevant development documents narrating, depicting, and specifying appropriate control measures, management practices, and content that incorporates consideration of potential water quality and runoff quantity impacts in accordance with 327 IAC 15-5, 327 IAC 15-13, and the need for local requirements.
- (3) To establish the following regulatory mechanisms:

- (a) A process that reviews, approves, and permits rule-compliant construction plans before construction activities commence at project sites.
 - (b) A process by which an approved construction plan may be modified appropriately, when necessary, to address conditions adversely affecting water quality that may become apparent at a project site after construction activities have commenced.
 - (c) A system to prioritize inspection of construction sites that ranks sites based upon their potential to adversely affect soil and water resources.
 - (d) Procedures and protocols for the inspection of project sites and for enforcement of management practices, control measures, and code requirements by an established method of evaluation, assistance, guidance, and recommendation for compliance with the requirements of this ordinance, and penalties for noncompliance with the requirements of this ordinance.
- (4) To develop measurable goals for the construction site control program that identify outreach, compliance, and implementation of goal percentages and timetables for achievement of the purposes and requirements of this ordinance.
 - (5) To establish procedures and a tracking process for the receipt, consideration, documentation, and response by appropriate staff to information, comments, and inquiries from the public regarding construction sites and construction activities.
 - (6) To establish a procedure that provides the Vanderburgh County Soil and Water Conservation District's technical staff an opportunity to offer technical comments and make technical recommendations on individual construction plans for project sites.
 - (7) To require a self-monitoring program for project site owners that meets the minimum requirements of federal and state rules applicable to self-inspection and evaluation of control measures and management practices at construction sites.
 - (8) To establish a program of technical training, continuing education, and certification for plan reviewers, inspectors, and other program personnel; and

WHEREAS, the Board of County Commissioners of Vanderburgh County, Indiana, desires to establish and integrate into existing local development plan review and permitting process, new procedures compliant with federal and state NPDES Phase II mandates;

NOW THEREFORE, BE IT ORDAINED by the BOARD of COMMISSIONERS OF VANDERBURGH COUNTY, INDIANA, as follows:

SECTION 1. AMENDMENT OF THE CODE OF ORDINANCES OF VANDERBURGH COUNTY

The Code of Ordinances of Vanderburgh County is hereby amended by the addition of a new Chapter 13.05 which shall read as follows:

Chapter 13.05
CONSTRUCTION SITE STORM WATER RUNOFF CONTROL

Sections:

13.05.01 Legislative findings and policy and purpose.

A. Legislative findings and policy

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

B. Purpose.

The purpose of this Chapter is:

1. To enable the Board of Commissioners of Vanderburgh County, Indiana, to comply with federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for storm water discharges from construction sites.
2. To prevent or eliminate the discharge of contaminated storm water runoff from construction sites into storm water conveyances owned or operated by the county, or into waters of the state, and waters of the U.S.
3. To establish a procedure that requires submittal, review, and approval of construction plans in accordance with 327 IAC 15-5 before the commencement of construction activities at project sites where land disturbance will be to equal or greater than one (1) acre.

4. To establish a procedure that offers the soil and water conservation district an opportunity to make technical comments and recommendations on individual plans for project sites regulated by this chapter.

5. To establish a process that ensures the implementation of appropriate control measures and management practices at construction sites through guidance, assistance, inspection, evaluation, plan modification, enforcement, and penalty when necessary to ensure compliance with regulations under this chapter.

6. To require regular and appropriate training and certification for persons involved in reviewing plans, inspecting project sites, evaluating control measures, making corrective recommendations, directing work, supervising personnel, or otherwise assuming a technical, professional, managerial, or administrative role in the MS4 operator's construction site runoff control program.

7. To establish procedures and a tracking system for the receipt, consideration, documentation, and response by appropriate staff to information, comments, and inquiries from the public regarding construction sites and storm water quantity and quality issues.

8. To establish measurable goals for attainment of applicable code requirements.

13.05.02 DEFINITIONS

A. For the purposes of clarification, the following definitions are provided and become a part of and applicable to the purposes, policies, regulations, requirements, provisions, specifications, and applications of this chapter.

B. In some instances, a definition incorporated herein establishes policy within the definition, and such establishment of policy shall have the same effect as if the policy were established in another section of this chapter.

C. The definitions established in this section shall be the effective definitions for certain terminology used within this chapter, and within documents, activities, and exchanges of dialogue appended to or associated with this chapter.

D. When a definition given in this section or chapter conflicts or varies with a definition given in a document other than this section or chapter, the definition given in this section or chapter will prevail as the operative definition relative to the requirements of and regulation under this chapter.

E. Terminology not specifically defined in this section or chapter will have the meaning commonly understood in the technology or industry relevant to the use of the terminology, or will have the most relevant meaning given in Webster's Collegiate Dictionary.

F. The following definitions are incorporated by this chapter and shall apply throughout unless the context clearly indicates another meaning:

1. "Agricultural land disturbing activity" means tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and

establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tiles. For the purposes of this chapter, the term does not include land disturbing activities for the construction of agricultural-related facilities such as barns, buildings to house livestock, roads associated with infrastructure, other infrastructure, agricultural waste lagoons and facilities that process residential, workshop, or human wastes, and lakes, pond, and wetlands.

2. “BMP” or “best management practice” means an activity or structure that helps improve the quality and decrease the quantity of storm water runoff.
3. “County drainage board” means the Vanderburgh County Drainage Board.
4. “Certified technician” means a qualified professional or trained individual who has received training through coursework and continuing education specifically prescribed, provided, or approved by the Indiana Department of Environmental Management (IDEM). Training should enable the individual to be proficient and qualified to select or supervise the selection of, install or supervise the installation of, manage, inspect, evaluate, and report on ECMs and BMPs related to storm water quantity, quality, and pollution fate.
5. “County Commissioners” means the Board of County Commissioners of Vanderburgh County, Indiana.
6. “Construction activity” means land disturbing activities associated with the construction of infrastructure or structures. The term “construction activity” does not include routine ditch or road maintenance or minor landscaping projects.
7. “Construction plan” means an ordered collection of drawings, narratives, data, and documents assembled for review, approval, authorization, and establishment of guidelines for the initiation, management, and completion of construction activities at a project site regulated by this chapter. A storm water pollution prevention plan (SWP3) is a part of the construction plan.
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 construction related ingress to and egress from a project site planned and installed in accordance with specifications from an approved reference manual, and maintained throughout the period of land disturbing activities for the purpose of capturing and detaining sediment carried by tires, tracks, or other surface contact components of vehicles, earthmoving equipment, or material and personnel transport conveyances.

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 owner, or by an individual lot owner or individual lot operator to perform services on or connected to the project site or individual lot.
13. “Department” or “IDEM” means the Indiana Department of Environmental Management.
14. “Developer” means a project site owner or person financially responsible for construction activity; or an owner of property who sells, leases, or offers for sale or lease, any lots in a subdivision or larger common plan of development or sale.
15. “Director” means the chief executive officer of IDEM.
16. “Drain” means an open channel or a pipe, or combination thereof, implemented to gather, convey, store, treat, and release storm water run-off.
17. “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.
18. “EPA” means the federal Environmental Protection Administration.
19. “Erosion” means the detachment and movement of soil, sediment, or rock fragments by water, wind, or ice.
20. “Erosion and sediment control measure” means an appropriate component or components of an erosion and sediment control plan or system.
21. “Erosion and sediment control system” means the use of appropriate control measures to prevent or minimize the wearing away of soil, sediment, and rock fragments by water, wind, or ice, and to intercept detached or suspended particles to prevent their discharge from or within a project site
22. “Final stabilization” means the establishment of permanent vegetative cover or the application of a permanent, non-erosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current permit.
23. “Grading” means the cutting and filling of the land surface to a desired slope or elevation.
24. “IDEM” means the Indiana Department of Environmental Management, the NPDES permitting authority for the State of Indiana.
25. “Impervious surface” or “impervious land surface” means a surface layer of application, like pavement or rooftops that prevents the infiltration of storm water into the soil.
26. “Individual building lot” means a single parcel of land within a multi-parcel development.
27. “Individual lot operator” means a contractor or subcontractor working on an individual building lot.

28. “Individual lot owner” means a person who has financial control of construction activities for an individual lot.
29. “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.
30. “Larger common plan of development or sale” means a plan undertaken by a developer, project site owner, or group of developers or project site owners, to offer lots for sale or lease where land is contiguous or the land development is known, planned, designated, purchased, or advertised as a common unit or by a common name and is presumed to be offered for sale or lease as a part of a larger common plan. The term includes phased or other construction activity by a single unit for the unit’s own use.
31. “Legally binding agreement” means a written, enforceable legal document used to describe responsibilities between joint municipal executives, MS4 entities, MS4 operators, or other entities providing, receiving, or sharing services with regard to this chapter.
32. “MEP” or “maximum extent practicable means” the greatest degree of fair, economic, practical, successful, and appropriate control and treatment that reasonably can be expected to result from the diligent application of control measures, management practices, requirements, and regulations implemented to cause the adequate effects intended by the control measures, management practices, requirements, and regulations.
33. “Measurable storm event” means a precipitation event that results in a total measured accumulation of precipitation equal to or greater than one half (0.5) inch of rainfall.
34. “MS4” means “Municipal Separate Storm Sewer System” or a system of storm water conveyances either owned or operated by a governmental agency (MS4 entity) that EPA or IDEM has designated as responsible to eliminate or minimize pollutant loadings of the storm water entering waters of the state, and waters of the U.S.
35. “MS4 area” means a land area comprising one or more places that receives coverage under one NPDES storm water permit regulated by 327 IAC 15-13 or 327 IAC 5-4-6(a)(4) and 327 IAC 5-4-6(a)(5).
36. “MS4 conveyance” means a waterway or drain owned or operated by an MS4 entity.
37. “MS4 operator” means the person responsible for development, implementation, or enforcement of the minimum control measures (MCMs) for a designated MS4 area regulated under 327 IAC 15-13.
38. “Mutual drain” means a channel, pipe, or other storm water conveyance that exists on two or more properties owned by two or more entities and constructed or otherwise placed with the consent of the owning entities.
39. “Notice of Plan Approval,” or “NPA,” means a notification from the MS4 operator to the project site owner that the construction plan for a project site has been reviewed and approved by the MS4 operator. The

project site owner must insert the NPA with the NOI sent to the Director of IDEM at least forty-eight (48) hours prior to initiating construction activities at the project site.

40. “NPDES” means the National Pollution Discharge and Elimination System, a program administered by the EPA to reduce or eliminate the pollutant loadings into public waters.

41. “NRCS” means the Natural Resource Conservation Service of the United States Department of Agriculture (USDA).

42. “Peak discharge: means the maximum rate of flow from a point of storm water discharge during or immediately following a storm event, usually in reference to a specific return period storm or “design storm.”

43. “Permanent stabilization” means the establishment, at a uniform minimum of seventy percent (70%) across the disturbed areas, of vegetative cover or permanent non-erosive material that ensures the resistance of the underlying soil to erosion, sliding, or other movement.

44. “Phasing of construction” means sequential development of smaller portions of a large project site, stabilizing each portion before initiating land disturbing activities on the next portion, to minimize exposure of land to erosion.

45. “Project site” means the entire area on which construction activity will be performed.

46. “Project site owner” means the person or entity required to submit an NOI under 327 IAC 15-5 (Rule 5), and includes the following entities: A developer, or a person who has financial and operational control of construction activities, project plans and specifications, and the ability to modify or cause modification of project plans and specifications for a project site.

47. “Rule 5” means 327 IAC 15-5, the Indiana Administrative Rule, as adopted in 2003, requiring NPDES permits for construction activities disturbing one acre or greater of land, and to follow specific planning and management requirements regarding storm water quality and quantity.

48. “Rule 13” means 327 IAC 15-13, the Indiana Administrative Rule implementing the NPDES Phase II unfunded federal mandates requiring municipalities to implement specific minimum control measures (MCMs) regarding storm water runoff from land use activities in urbanized areas.

49. “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.

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

51. “Sedimentation” means the settling and accumulation of unconsolidated sediment carried by storm water runoff.

52. “Soil” means the unconsolidated mineral and organic material on the surface of the earth that serves as the natural medium of vegetative growth.
53. “SWCD” or “Soil and Water Conservation District” means a political subdivision established under IC 14-32.
54. “Storm water pollution prevention plan” or “SWP3” means a plan developed to minimize the impact of storm water pollutants resulting from construction and post-construction activities.
55. “Storm water quality measure” means a practice or combination of practices to control or minimize pollutants associated with storm water runoff.
56. “Strip development” means a multi-lot project where building lots front on an existing road.
57. “Temporary stabilization” means the covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive materials applied at a uniform minimum density of seventy percent (70%) across the disturbed areas of a project site.
58. “Tracking” means the movement and re-depositing of dirt, mud, aggregate, sediment, or other storm water pollutants from a project site by the actions of wheels, tires, skids, tracks, or other surface contact components of cars, trucks, heavy equipment, or material and personnel transport conveyances.
59. “Trained individual” means a person who in accordance with a definition given by IDEM in 327 IAC 15-5 (Rule 5) is sufficiently “trained and experienced in the principles of storm water quality, including erosion and sediment control, as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make judgments regarding storm water control or treatment and monitoring.

13.05.03 Plan required.

- A. Construction plan required.

A construction plan shall be submitted to the Vanderburgh County Engineer, hereby designated as and hereinafter referred to as the “MS4 operator”, for any new construction activity that results in a land disturbance equal to or greater than one (1) acre located within Vanderburgh County, Indiana, and under the County Commissioner’s jurisdiction.

- B. Subject construction site defined as a major project site.

Any new construction activity which shall result in land disturbance equal to or greater than one (1) acre shall be defined as a “major project site.” A major project site shall require an approved construction plan, and shall be initiated, managed, and terminated in accordance with an approved construction plan and with the requirements of and regulations under this chapter.

- C. Subject construction site defined as a minor project site.

Any new construction activity which shall result in land disturbance of less than one (1) acre, and the construction activity is a part of a larger common plan of development or sale that will disturb land equal to or greater than one (1) acre, shall be defined as a “minor project site.” A minor project site shall be initiated, managed, and terminated in accordance with specific provisions of a construction plan approved for the larger common development and with the requirements of and regulations under this chapter.

D. Subject construction site defined as a large individual residential project site.

Any new construction activity which establishes a single-family, residential dwelling that is not a part of a larger common plan of development or sale, and the land disturbance at the project site will not equal or exceed five (5) acres, shall be defined as a “large individual residential project site.” A large individual residential project site shall be initiated, managed, and terminated in accordance with specific requirements of and regulations under this chapter.

E. Construction plan submittal.

The construction plan for a major project site shall be submitted, in triplicate, to the MS4 operator, or to an authorized receiving agent or agency of the MS4 operator, no later than two (2) full weeks prior to the plan approval date with the appropriate public board or review committee to which the plan is routed by the MS4 operator.

F. The MS4 operator will determine the appropriate route of review for a construction plan.

G. Plan approval required before construction activity initiated at a major project site.

A construction plan for a major project site shall be submitted, reviewed, and approved and that a Notice of Intent (NOI) letter of application shall be sent to the Director of the Indiana Department of Environmental Management (IDEM) before construction activity commences at a major project site.

13.05.04 Applicability.

A. The requirements under this chapter apply to all persons who do not obtain an individual NPDES permit under 327 IAC 15-2-6, meet the general permit rule applicability requirements under 327 IAC 15-2-3, and are involved in construction activity, except operations that result in the land disturbance of less than one (1) acre of total land area as determined under Section 4 of this chapter, and are not part of a larger common plan of development or sale.

B. The requirements under this chapter do not apply to persons who are involved in agricultural land disturbing activities, or forest harvesting activities.

C. For the purposes of this chapter, “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 tiles.

D. Agricultural conservation practices (ACPs), means practices that are constructed on agricultural land for the purposes of controlling soil erosion and sedimentation, including grass waterways, sediment basins, terraces, and grade stabilization structures. ACPs must be planned, installed, and managed in accordance with applicable guidance and specifications from the United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Purdue University agricultural extension program, or comparable Indiana governmental sources.

E. For purposes of this rule, the term agricultural land disturbing activity does not include land disturbing activities for the construction of agricultural-related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities that process residential, workshop, or human wastes, and lakes, ponds, wetlands, and other infrastructure.

F. The requirements under this chapter do not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

1. 329 IAC 10, landfills issued a certificate of closure, or municipal solid waste landfills accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management containing equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary; and
2. IC 14-34, permitted coal mining activities.

G. General jurisdictional boundary.

1. The regulations of this chapter apply to all construction sites and construction activities on all lands within the jurisdictional boundaries of the Board of County Commissioners of Vanderburgh County, Indiana, unless exempted from this chapter.
2. The regulations of this chapter may be expanded into another municipal jurisdiction, or MS4 area, upon the execution of a legally binding agreement between the Board of County Commissioners of Vanderburgh County, Indiana, and another municipal executive authority, legislative authority, or designated MS4 entity.

13.05.05 REQUIREMENTS FOR OWNERS.

A. MAJOR PROJECT SITE

For a major project site regulated under this chapter, the project site owner has the following responsibilities:

1. To complete a sufficient Notice of Intent letter (NOI).
2. To ensure that a sufficient construction plan is completed and submitted in accordance with Section Nine (9) or Section Ten (10), whichever is applicable, of this chapter.

3. To ensure compliance with this chapter during the implementation of the approved construction plan for the project site, and during subsequent construction activities at the project site.
4. To ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this chapter and the approved construction plan.
5. To notify the Indiana Department of Environmental Management and the MS4 operator with a sufficient Notice of Termination letter (NOT).

B. INDIVIDUAL LOT WHERE DISTURBANCE IS ONE ACRE OR MORE

For an individual lot where land disturbance is expected to be one (1) acre or more and the lot lies within a major project site regulated under this chapter and permitted in accordance with 327 IAC 15-5, the individual lot owner must:

1. Complete and submit his or her own NOI in accordance with the applicable requirements of this chapter; and
2. Ensure that a sufficient construction plan is completed and submitted in accordance with Section Nine (9) of this chapter.

C. INDIVIDUAL LOT WHERE DISTURBANCE IS LESS THAN ONE ACRE

For an individual lot where the land disturbance is less than one (1) acre, and the lot lies within a major project site regulated under this chapter and permitted in accordance with 327 IAC 15-5, the individual lot operator shall be in accordance with the following:

1. The individual lot operator must comply with:
 - a. The provisions and requirements of the approved construction plan developed by the project site owner; and
 - b. Section Thirteen (13) of this chapter.

D. LARGE INDIVIDUAL RESIDENTIAL PROJECT

For a large individual residential project site, the project site owner must comply with Section Twelve (12), subsections (C)(1) through (C)(5), subsections (C)(10) through (C)(17), subsection (C)(19) and subsection (C)(20) of this chapter.

13.05.06 Determination of land disturbance criteria, regulation.

A. For off-site construction activities that provide services such as road extensions, sewers, water, and other utilities to a permitted site, the off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.

B. Multi-lot project sites are regulated by this chapter in accordance with the following criteria of land disturbance calculations:

1. A determination of 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 criteria:

- a. For a single-family 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.
 - b. 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.
 - 2. To calculate lot disturbance on all other types of project sites, such as industrial and commercial project sites, the following apply:
 - a. Where lots are one (1) acre or greater in size, a minimum of one (1) acre of land disturbance must be calculated as the expected lot disturbance.
 - b. Where lots are less than one (1) acre in size, the total lot must be calculated as being disturbed.
 - 3. For purposes of this chapter, strip developments:
 - a. Are considered as one (1) project site; and
 - b. 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. Single-family, residential, large, separate parcels are regulated by this chapter in accordance with the following requirements:
 - 1. Submittal of a notice of intent, or submittal of a construction plan, is not required for construction activities associated with a single-family, residential dwelling disturbing less than five (5) acres, when the dwelling and the project site are not a part of a larger common plan of development or sale; and providing the project site owner complies with the provisions in Section Twelve (12), subsections (C)(1) through (C)(5), subsections (C)(10) through (C)(17), subsection (C)(19), and subsection (C)(20) of this chapter throughout construction activities and until the areas of activity are finally or permanently stabilized in accordance with this chapter.

13.05.07 Construction plan submittal, review, and approval.

A. Requirement for the submittal of a compliant construction plan. The owner of a major project site must submit, or cause to be submitted, a construction plan for a major project subject to regulation by this chapter.

B. Submittal in triplicate. The construction plan must contain the elements, requirements, provisions, and other content as enumerated for the project site in accordance with this chapter, and must be submitted in triplicate, three (3) separate and identical copies, to the MS4 operator, or to an authorized receiving agent or agency of the MS4 operator, no later than two (2) full weeks prior to the plan approval date set for a construction plan in accordance to the appropriate public board, or plan review and approval entity to which the plan is routed by the MS4 operator.

C. The MS4 operator, or the authorized receiving agent or agency of the MS4 operator, will record the time and date of each construction plan

submittal, and will manage the three (3) copies of each project's construction plan in accordance with the following procedure:

1. One (1) copy will be forwarded to review staff as directed by the MS4 operator.
2. One (1) copy will be held in a separate file for field use by MS4 inspectors and other field representatives of the MS4 operator.
3. One (1) copy will be held in a separate file to facilitate an opportunity for the Vanderburgh County SWCD to make technical comments and recommendations regarding the construction plan.
4. Upon the request of an authorized SWCD representative, the MS4 operator, the authorized receiving agent or agency of the MS4 operator, or the agent or agency holding the construction plan copies in file must make one (1) copy of a construction plan available to SWCD staff at any time during normal county business hours. SWCD may transport the copy of the construction plan designated for SWCD comment and recommendation to any location of SWCD's choosing for appropriate viewing, comment, recommendation, and repository.

D. Route of review.

The MS4 operator will determine the appropriate route of review and approval a construction plan takes in accordance with this chapter and subject to the direction, approval, or action of the County Commissioners.

E. Plan approval before initiation of construction.

Plan approval is required before the initiation of construction activity at a project site for which a construction plan is required. The initiation of construction activity prior to the MS4 operator's notification of plan approval constitutes a violation of this chapter subject to an enforcement action, penalty or fine. If no land disturbing activities occur, then initial mobilization of equipment, machinery, and tools to the site is permitted. At the project site owner's risk for subsequent modification, installation of anticipated ECMs may begin.

F. Two week plan review period.

If the project site owner does not receive notification from the MS4 operator within fourteen (14) days after the construction plan is received by the MS4 operator or by the authorized receiver, stating that the MS4 operator finds the construction plan is deficient, the project site owner may submit the required NOI letter of information to the Director of IDEM, and, after forty-eight 48 hours, proceed with construction activity.

G. The MS4 operator will provide the project site owner, or the designated representative of the project site operator, with a notice of plan approval (NPA) as soon as is practicable following the MS4 operator's review and approval of the plan. The project site owner must include the NPA as verification of plan approval with the NOI sent to the Director of IDEM.

H. Notice of plan deficiency. If the MS4 operator determines that a construction plan is deficient, the MS4 operator will issue a notice of deficiency (NOD) letter requiring modifications, terms, and conditions as necessary for the plan to meet the requirements of this chapter.

I. Construction activity with a deficient plan constitutes a violation.

The initiation of construction activity at a project site following notification by the MS4 operator that the construction plan for the site does not meet the requirements of the chapter constitutes a violation of this chapter subject to an enforcement action, penalty, or fine.

J. Required re-submittal of a corrected construction plan.

If the project site owner receives an NOD letter of plan deficiency after the two (2) week review period expires and following commencement of construction activities at the site, the construction plan must be modified to meet the requirements of this chapter, and resubmitted within fourteen (14) days of receipt of the NOD.

K. The MS4 operator will determine the sufficiency of a construction plan based upon the requirements, provisions, and criteria enumerated, referenced, or attached to this chapter.

13.05.08 Notice of intent (NOI) letter requirements.

A. For any new construction activity that will result in land disturbance equal to or greater than one (1) acre, the project site owner must submit to the Director of IDEM a complete NOI letter in accordance with this chapter and 327 IAC 15-5.

B. The NOI letter must comprise, and otherwise comply with the following criteria:

1. Name, mailing address, and location of the project site for which the notification is submitted.
2. The project site owner's name, address, telephone number, e-mail address (if available), ownership status as federal, state, public, private, or other entity.
3. Contact person (if different than project site owner), person's name, company name, address, e-mail address (if available), and telephone number.
4. A brief description of the construction project, including a statement of the total acreage of the project site. Total acreage claimed in the NOI letter shall be consistent with the acreage covered in the construction plan.
5. Estimated dates for the initiation and completion of construction activities. Within forty-eight (48) hours of the initiation of construction activity, the project site owner must notify the Director of IDEM, the Vanderburgh County Engineer (MS4 operator), and any other applicable MS4 operator of the actual project start date.
6. The latitude and longitude of the approximate center of the project site to the nearest fifteen (15) seconds, and to the nearest quarter section, township, range, and civil township in which the project site is located.
7. Total impervious surface area, in square feet, of the final project site including structures, roads, parking lots, and other similar improvements.
8. The number of acres to be involved in the construction activities.

9. Proof of publication in a newspaper of general circulation in the affected area that notified the public that a construction activity is to commence, that states, “(Company name, address) is submitting an NOI letter to notify the Indiana Department of Environmental Management of our intent to comply with the requirements under 327 IAC 15-5 to discharge storm water from construction activities for the following project). Runoff from the project site will discharge to (stream(s) receiving the discharge(s)).”

10. As applicable, a list of all MS4 areas designated under 327 IAC 15-13 within which the project site lies.

11. A written certification by the operator that:

a. The storm water quality measures included in the construction plan comply with the requirements under this chapter, and under 327 IAC 15-5, section 6.5, 7, and 7.5, and that the storm water pollution prevention plan complies with all applicable federal, state, and local storm water requirements;

b. The measures required by 327 IAC 15-5-7 will be implemented in accordance with the storm water pollution prevention plan;

c. If the projected land disturbance is one (1) acre or more, every applicable construction plan reviewing entity designated by IDEM has been sent a copy of the construction plan for review;

d. Storm water quality measures beyond those specified in the storm water pollution prevention plan will be implemented during the life of the permit if necessary to comply with 327 IAC 15-5-7; and

e. Implementation of storm water quality measures will be inspected by trained individuals.

12. The name of the receiving water or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.

13. The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g).

14. A notification from each applicable construction plan reviewing entity designated by IDEM indicating that the construction plans are sufficient to comply with 327 IAC 15-5. This requirement may be waived if the project site owner has not received notification from the reviewing agency within the time-frame specified in Section Fifteen (15) of this chapter.

C. After the project site owner has received notification from the MS4 operator that the construction plans meet the requirements of this chapter or the review period has expired, all NOI letter information required in Section Eight (8), subsection B of this chapter must be submitted to the Director of IDEM at least forty-eight (48) hours prior to the initiation of land disturbing activities at the project site. A copy of the completed NOI letter also must be sent to the MS4 operator. If the NOI letter is deficient, the project site owner must address the

deficient items and submit an amended NOI letter to the Director at the address specified in Section Eight (8), subsection D of this chapter.

D. The project site owner must send, or cause to be sent, the NOI letter to:

Attention: Rule 5 Storm Water Coordinator
Indiana Department of Environmental Management
Office of Water Quality, Urban Wet Weather Section
100 North Senate Avenue
Indianapolis, Indiana 46206-6015

13.05.09 Construction plan requirements for a major project site.

A. For project sites that do not meet the criteria for a small, residential development in Section Ten (10) of this chapter, a project site owner must develop and submit a set of construction plans. Storm water quality measures included in the plan must achieve the minimum project site requirements specified in Section Eleven (11) and Section Thirteen (13) of this chapter. The construction plans must include the following components, content, requirements, and provisions as hereinafter provided.

B. The construction plan must include the following eight (8) major components.

1. Project narrative and supporting documents; see subsection D.
2. Vicinity map; see subsection E.
3. Existing project site layout; see subsection F
4. Final project site layout; see subsection G.
5. Grading plan or land disturbing activity plan; see subsection H.
6. Storm water drainage plan; see subsection I.
7. Construction phase storm water pollution prevention plan; see subsection J.
8. Post-construction storm water pollution prevention plan; see subsection K.

C. Each of the eight (8) major components of the construction plan must consist of the following sub-components and their subdivisions of content:

D. Project narrative and supporting documents, including the following information:

1. An index indicating the location, in the construction plan, of all information required by this section.
2. Description of the nature and purpose of the project.
3. Legal description of the project site. The description must be to the nearest quarter section, township, and range, and include the civil township.
4. Soil properties, characteristics, limitations, and hazards associated with the project site, and the measures that will be integrated into the project to overcome or minimize adverse soil conditions.
5. General construction sequence of how the project site will be built, including phases of construction.

6. Hydrologic unit code (14 Digit) available from the United States Geologic Survey (USGS) to indicate within which watershed or watersheds the project site lies.
7. A reduced plat or project site map showing lot numbers, lot boundaries, road layout and names. The reduced plat must be legible and submitted on a sheet or sheets no larger than eleven (11) inches by seventeen (17) inches for all phases or sections of the project.
8. Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site.
- E. Vicinity map depicting the project site's location in relationship to recognizable local landmarks, cities, towns, major roads, and railways. The applicable portion of a USGS topographical quadrangle map, or county or municipal road map with the project site limits inked in will suffice.
- F. An existing project site layout that must include the following information:
 1. Location and name of all wetlands, lakes, streams, waterways, and drains on, or adjacent to, the project site.
 2. Location of all existing structures on the project site.
 3. One hundred (100) year floodplains, floodway fringes, and floodways. Note if none exists.
 4. Soil map of the predominant soil types, as determined by the USDA, NRCS Soil Survey, or equivalent publication, or as determined by a soil scientist. The soil map must include a soil legend.
 5. Identification and delineation of the pre-development vegetative cover such as grass, weeds, brush, and trees on the project site.
 6. Land use of all adjacent properties.
 7. Existing topography at a contour interval appropriate to indicate drainage patterns. The MS4 operator will determine the appropriateness of the contour intervals.
- G. Final project site layout, including the following information:
 1. Lohe MS4 operator will determine the appropriateness of the contour intervals.
- H. A grading plan, including the following information:
 1. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site.
 2. Location of all soil stockpiles and borrow areas.
 3. Information regarding any off-site borrow, stockpile, or disposal areas that are associated with the project site and under the control of the project site owner.
 4. Existing and proposed topographic information per subsections (F)(7) (G)(3) above.
- I. A drainage plan, including the following information:
 1. An estimate of the peak discharge, based on the ten (10) year storm event, of the project site for both pre-construction and post-construction conditions.

2. Location, size, and dimensions of all components of the storm water drainage systems such as inlets, culverts, storm sewers, and conveyance channels.
 3. Locations where storm water potentially will be directly discharged into ground water, such as abandoned wells or sinkholes. Note if none exists.
 4. Location of every specific point where storm water discharge will leave the project site.
 5. Name of all receiving waters. If a discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the name of the ultimate receiving water.
 6. Location, size, and dimensions of features such as permanent retention or detention facilities, including existing or manmade wetlands, used for the purpose of storm water management.
- J. A storm water pollution prevention plan (SWP3) associated with construction activities. The SWP3 must be assembled to meet, at a minimum, the requirements, provisions, and criteria of Section Eleven (11), Section Thirteen (13), and Section Fourteen (14) of this chapter, and must include the following:
1. Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures, EMCs, and BMPs.
 2. Temporary stabilization plans and sequence of implementation.
 3. Permanent stabilization plans and sequence of implementation.
 4. Final stabilization plans.
 5. All stabilization plans shall include the following:
 - a. Specification and application rates for soil amendments and seed mixtures.
 - b. The type and application rate for anchored mulch.
 - c. Other applicable data as may be required by the MS4 operator.
 6. Construction sequence describing the relationship between implementation of storm water quality measures, EMCs, and BMPs, and the stages of construction activities.
 7. The project site owner's self-monitoring program including plan implementation and procedures.
 8. A description of potential pollutant sources associated with construction activities, which may reasonably be expected to add a significant amount of pollutants to storm water discharges.
 9. Material handling and storage associated with construction activities that shall meet the spill prevention and spill response requirements in 327 IAC 2-6-1.
- K. The post-construction storm water pollution prevention plan (SWP3). The post-construction SWP3 must include the following information:
1. A description of potential pollutant sources from the project site's proposed land use, which sources may reasonably be expected to add a

significant amount of pollutants to storm water discharges from the post-construction project site.

2. Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality measures and BMPs adequate to address subsection (K)(1) above.
3. A description of control measures and BMPs that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed. Such measures and practices include infiltration of storm water runoff; flow reduction by use of open vegetated swales and natural depressions; installation of filter strips, buffer strips, parking lot tree islands, and riparian zones; minimization of land disturbance and surface imperviousness; maximization of open space; and storm water retention and detention ponds.
4. A sequence describing when each post-construction storm water quality measure and BMP will be installed.
5. Storm water quality measures and BMPs that will remove or minimize pollution from storm water runoff within or from the project site.
6. Storm water quality measures and BMPs that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.
7. A narrative description of the maintenance guidelines for all post-construction storm water quality measures and BMPs to facilitate their proper long-term function.
8. A verifiable procedure, such as recorded plat notices and covenants, by which the narrative description of water quality measure and BMP maintenance guidelines will be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction storm water quality measures and BMPs.

L. Plan and profile sheets, project site layouts, plats, and vicinity maps, must be drawn to a standard engineering scale as indicated on each sheet, plat, or map, and be oriented north as indicated by a north arrow on each sheet, plat, or map. All dimensions must be accurately scaled, drawn, and labeled with dimensions given in feet and tenths of a foot.

M. Revision of approved construction plans. The requirements for construction plan content enumerated in this section are qualified by the following statements:

1. The MS4 operator, or an authorized representative of the MS4 operator, may require, upon finding reasonable cause, the revision of a construction plan if it is determined that a modification or modifications are necessary to accomplish adequate control the quantity or quality of storm water runoff, in accordance with this chapter or with applicable federal, state, and local rules, from a project site due to site conditions or project specification changes identified, effected, or extant during or after plan review and approval.
2. If the MS4 operator, or an authorized representative of the MS4 operator, requests a revised construction plan under this subsection, the

project site owner must submit the revised plan to the appropriate entity or entities within twenty-one (21) calendar days of a request for plan revision.

13.05.10 Construction plan requirements for a small, residential major project site.

A. For a single-family, residential development consisting of four (4) or fewer lots, or for a single-family, residential strip development where the developer offers for sale or lease without land improvements, and the project is not part of a larger common plan of development and sale, a project site owner must develop and submit a set of construction plans containing storm water quality measures specifically selected to achieve the minimum project site requirements specified in Section Eleven (11) of this chapter. The construction plan must include the following components, contents, requirements, and provisions:

B. The construction plan must include the following four (4) major components:

1. Project narrative and supporting documents; see subsection D.
2. Vicinity map; see subsection E.
3. Project site layout; see subsection F.
4. Storm water pollution prevention plan; see subsection G.

C. Each of the four (4) major components of the construction plan must consist of the following sub-components and their subdivisions of content.

D. Project narrative and supporting documents including the following information:

1. An index indicating the location, in the construction plans, of all required items in this section.
2. Description of the nature and purpose of the project.
3. Legal description of the project site. The description must be to the nearest quarter section, township, and range, and include the civil township.
4. Soil properties, characteristics, limitations, and hazards associated with the project site, and the measures that will be integrated into the project to overcome or minimize adverse soil conditions.
5. Hydrologic unit code (14-digit code) available from the United States Geologic Survey (USGS) to indicate within which watershed or watersheds the project lies.
6. Identification of any other state or federal permits that are required for construction activities associated with the project site owner's project site.

E. Vicinity map depicting the project site's location in relationship to recognizable local landmarks, towns, major roads, and railways. The applicable portion of a USGS topographic quadrangle map or a county or municipal road map with the project site limits inked in will suffice.

F. A project site layout that must include the following information:

1. Location and name of all wetlands, lakes, streams, waterways, and drains on, or adjacent to, the project site.
 2. Location of all existing structures on the project site (if applicable).
 3. One hundred (100) year floodplains, floodway fringes, and floodways. Note if none exists.
 4. Soil map of the predominant soil types, as determined by the USDA, NRCS Soil Survey, or equivalent publication, or as determined by a soil scientist. The soil map must include a soil legend.
 5. Identification and delineation of the pre-development vegetative cover such as grass, weeds, brush, and trees on the project site.
 6. Land use of all adjacent properties.
 7. Existing and proposed topography at contour intervals appropriate to indicate drainage patterns. The MS4 operator will determine the appropriateness of contour intervals.
 8. Location of all proposed site improvements, including roads, utilities, lot delineations and identifications, and proposed structures.
- G. A storm water pollution prevention plan (SWP3) associated with construction activities. The SWP3 must be assembled to meet, at a minimum, the requirements, provisions, and criteria of Section Eleven (11) and Section Fourteen (14) of this chapter, and must include the following information:
1. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site.
 2. Location of all soil stockpiles and borrow areas.
 3. Location, size, and dimensions of all storm water drainage systems such as inlets, culverts, storm sewers, and conveyance channels.
 4. Locations where storm water potentially will be directly discharged into ground water, such as abandoned wells or sinkholes. Note if none exists.
 5. Location of every specific point where storm water discharge will leave the project site.
 6. Name of all receiving waters. If a discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water.
 7. Location, dimensions, detailed specifications, and construction details of all appropriate temporary and permanent storm water quality measures, EMCs, and BMPs.
 8. Plans for appropriate temporary stabilization, permanent stabilization, and final stabilization compliant with this chapter, and a sequence for the implementation of applicable stabilization.
 9. Temporary, permanent, and final stabilization plans must include the following:
 - a. Specifications and application rates for soil amendments and seed mixtures.
 - b. The type and application rate for anchored mulch.
 10. The project site owner's self-monitoring program including plan implementation and procedures.

H. Plan and profile sheets, project site layouts, plats, and vicinity maps, must be drawn to a standard engineering scale as indicated on each sheet, plat or map, and be oriented north as indicated by a north arrow on each sheet, plat, or map. All dimensions must be accurately scaled, drawn, and labeled with dimensions given in feet and tenths of a foot.

I. Revision of approved construction plans. The requirements for construction plan content enumerated in this section are qualified by the following statements:

1. The MS4 operator, or an authorized representative of the MS4 operator may require, upon finding reasonable cause, the revision of a construction plan if it is determined that a modification or modifications are necessary to accomplish adequate control the quantity or quality of storm water runoff, in accordance with this chapter or with applicable federal, state, and local rules, from a project site due to site conditions or project specification changes identified, effected, or extant during or after plan review and approval.

2. If the MS4 operator, or an authorized representative of the MS4 operator, requests a revised construction plan under this subsection, the project site owner must submit the revised plan to the appropriate entity or entities within twenty-one (21) calendar days of a request for plan revision.

13.05.11 Specific project site planning and application requirements.

A. The project site owner of a major project site requiring a construction plan must initiate, manage, and complete construction activities, or must otherwise cause the initiation, management, and completion of construction activities at the project site in accordance with the requirements and provisions of this section.

B. The project site owner of a major project site must implement and manage, or must otherwise cause the implementation and management of the project site's storm water quality measures, EMCs, and BMPs in accordance with an approved construction plan, and if applicable with a subsequently revised construction plan, that has been assembled to include the requirements and provisions of this section.

C. For every project site regulated under this chapter, the project site owner, individual project site operator, individual lot owner, contractor, subcontractor, homeowner, and resident of a regulated project site must initiate, manage, and complete, or cause the initiation, management, and completion of construction activities at a project site in accordance, at a minimum, with the following requirements and provisions of this section that are applicable to the project site according to this chapter:

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

2. Appropriate measures must be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris,

cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from the project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the project site. Wastes and unused building materials must be managed and disposed of in accordance with all applicable statutes and regulations.

3. An adequate stable construction site access must be installed at each point of construction traffic ingress to and egress from a project site.

4. Public or private roadways must be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of sediment must not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in accordance with applicable statutes and regulations.

5. Storm water runoff leaving a project site must be discharged in a manner that is consistent with applicable federal, state, and local laws and rules.

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

a. Copy of 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 does not have an on-site location to store the plan.

7. The 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, and does not require that the project site owner allow members of the public access to the project site.

8. The storm water pollution prevention plan must serve as a guideline for storm water quality, but will not be interpreted as the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this chapter, all measures necessary to adequately prevent polluted storm water runoff from the project site.

9. The project site owner must inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the individual lot operators of the terms and conditions of this chapter and the conditions and standards of the storm water pollution prevention plan and the schedule for proposed implementation of the plan.

10. Phasing of construction activities must be used, where possible, to minimize disturbance of large areas of land.

11. Appropriate storm water quality and quantity control measures must be planned, installed, managed, and monitored as part of an erosion and sediment control system.
12. All storm water quality measures must be planned, installed, managed, and monitored under the guidance of a trained individual.
13. Collected storm water runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property by an adequate method that does not cause an erosion, sediment, or pollution problem on the adjacent property.
14. Drainage channels and swales must be sized, configured, constructed, and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.
15. Natural features, including wetlands and sinkholes, must be protected from pollutants associated with storm water runoff.
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 temporary or permanent stabilization are acceptable if the project site owner, or the project site owner's designated representative, can demonstrate the implementation of appropriate erosion and sediment control measures are adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent (70%) must be restabilized using appropriate methods to minimize erosion.
17. During the period of construction activities, all storm water quality measures, ECMs, and BMPs necessary to meet the requirements of this chapter must be maintained in working order.
18. The project site owner must implement a self-monitoring program that includes the following requirements from the initiation to the completion of construction activities at the project site:
 - a. A trained individual must perform a written evaluation of the project site:
 - i. by the end of the next business day following a measurable storm event; and
 - ii. at a minimum of one (1) time per week.
 - b. The evaluation must address:
 - i. the maintenance of existing storm water quality measures to ensure they are functioning properly; and
 - ii. identify additional measures necessary to remain in compliance with this chapter and all applicable statutes and rules.
 - c. Written evaluation reports must include:
 - i. the name of the individual performing the evaluation;

- ii. the date of the evaluation;
 - iii. problems identified at the project site; and
 - iv. 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 must be implemented and managed. Spill prevention and clean-up measures must be planned and implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
20. Final stabilization of a project site must be achieved by the following criteria:
- a. All land disturbing activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a minimum density of seventy percent (70%) has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and
 - b. For construction projects on land used for agricultural purposes, the site is returned to its pre-construction agricultural use, or disturbed areas not previously used for agricultural production, such as filter strips and areas that are not being returned to their pre-construction agricultural use, meet the final stabilization requirements in clause (a).

13.05.12 Specific project site planning and application requirements for a large, individual residential project site.

A. The project site owner is not required to submit of an NOI and construction plan for construction activities associated with a single family residential dwelling disturbing less than five (5) acres, when the dwelling is not part of a larger common plan of development or sale.

B. For every project site comprising construction activities associated with a single family residential dwelling disturbing less than five (5) acres, when the dwelling is not part of a larger common plan of development or sale, the project site owner must initiate, manage, and complete, or cause the initiation, management, and completion of construction activities at the project site in accordance, at a minimum, with the requirements of provisions (C)(1) through (C)(5), (C)(10) through (C)(17), and (C)(19), and (C)(20) of Section 13.05.11 of this chapter.

13.05.13 Specific planning and application requirements for a minor project site.

A. Neither an individual NOI nor construction plan is required for an individual lot where land disturbance will be less than one (1) acre, and the lot lies within a project site regulated under this chapter, and permitted under 327 IAC

15-5. The individual lot operator, contractors, and subcontractors working on the individual lot must comply with and remain in accordance with the requirements and provisions of this section.

B. From the initiation of construction activities on the individual lot, or minor project site, the individual lot operator, whether owning the property or acting as the agent for the property owner, shall be responsible for the following requirements and provisions:

1. Compliance with provisions and requirements of the approved construction plan developed by the project site owner of the larger common development.
2. Installation and maintenance of an adequate stable construction site access at each point of ingress to and egress from the individual lot by construction traffic.
3. Installation of appropriate perimeter erosion and sediment control measures prior to land disturbance, and maintenance of perimeter erosion and sediment control measures until completion of construction activities on the lot.
4. Minimization of sediment discharge and tracking from the lot throughout the land disturbing activities on the lot until applicable temporary, permanent, or final stabilization has been achieved.
5. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment must not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner compliant with all applicable statutes and rules.
6. The repair of any damaged land surface to a condition the same as or better than existed before the damage occurred, and the establishment of permanent stabilization or temporary stabilization upon a lot adjacent to the individual lot operator's project site whenever the lot operator, or the lot operator's employees, representatives, suppliers, subcontractors, or visitors disturb, or cause to be disturbed, a land surface of a lot adjacent to the individual lot operator's project site. The corrective work must be accomplished by a process that indemnifies the County Commissioners and the MS4 operator against any claim of loss or damage resulting from actions by or on behalf of the individual lot operator.

C. For individual residential lots, the individual lot operator must achieve final stabilization by one (1) of the two (2) following criteria:

1. The individual lot operator must complete all land disturbing activities and establish a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a minimum density of seventy percent (70%) on all unpaved areas of the lot and areas of the lot not covered by permanent structures, or must employ equivalent permanent stabilization measures; or
2. The individual lot operator must install appropriate erosion and sediment control measures for the individual lot prior to the occupation of the home by the homeowner, and must inform the homeowner of the requirements for and benefits of final stabilization.

13.05.14 Standard reference manuals and guidance documents.

A. Together with Vanderburgh County, Indiana, Stormwater Control, Chapter 13.04, the following reference manuals and guidance documents are attached to this chapter for use by the MS4 operator, MS4 personnel, project site owners, individual lot operators, planners, trained individuals, certified technicians, and other persons operating subject to this chapter. The manuals and documents are attached to this chapter to assist in the selection, planning, implementation, management, inspection, evaluation, monitoring, making corrective recommendations, and reporting performance of storm water quality measures, ECMs, BMPs. Options are not limited to these manuals and documents, and the MS4 operator may approve the selection of control measures and management practices from other source documents that achieve requirements and provisions of this chapter. Manuals attached to this chapter include:

1. The Indiana Handbook for Erosion Control in Developing Areas, and its subsequent revisions, updates, addendums, and replacement editions.
2. The Georgia Stormwater Management Manual, Vol. 2: Technical Handbook, available at: <http://georgiastormwater.com>
3. The City of Knoxville Stormwater Engineering BMP Manual, available at: http://www.ci.knoxville.tn.us/engineering/bmp_manual/default.asp
4. The Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual, available at: <http://www.co.broward.fl.us/dni00835.htm>

Caution should be taken when utilizing standards and specifications from the manuals listed above. Due to differences in climate, soil types, and other factors, standards and specifications may not be applicable in all field situations; and engineers and plan preparers should select management practices and assemble their plans accordingly.

B. The County Commissioners may direct the publication of the “Vanderburgh County Storm Water Workbook” as an attachment to this chapter, and subsequently approve and adopt amendments, modifications, and additions to the workbook, or attach additional reference materials to this chapter, or delete reference materials from attachment, in order to assist and guide compliance with this chapter.

C. The MS4 operator will decide the appropriateness of selection of an ECM, BMP, or other storm water quality or quantity control measure submitted for review based upon the most applicable engineering and technical criteria from among the standard reference manuals and guidance documents attached to this chapter.

13.05.15 Powers of inspection and enforcement.

A. The MS4 operator will develop appropriate procedures for project site inspection, including protocols for use by project site inspectors and other authorized representatives of the MS4 operator who will visit project sites for the

purpose of evaluating control measures and management practices, examining conditions or information relative to this chapter, and making recommendations to ensure the proper installation and maintenance of sufficient appropriate control measures and management practices at project sites regulated by this chapter.

B. The inspection procedures developed by the MS4 operator will prioritize, to the extent allowable by state law, project sites for inspection and enforcement based on the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

C. The MS4 operator, or an authorized representative of the MS4 operator may inspect any project site involved in construction activities regulated by this chapter at reasonable times for the purpose of ascertaining the sufficient implementation and management of appropriate storm water quality measures, ECMs, and BMPs at the project site, and for the purpose of enforcing compliance with this chapter.

D. The MS4 operator, or an authorized representative of the MS4 operator may make recommendations to the project site owner, individual lot operator, or to the contractor, subcontractor, or other designated representative of the project site owner or individual lot operator to correct or install appropriate control measures or management practices corresponding to or beyond those specified in the storm water pollution prevention plan (SWP3) necessary to achieve compliance with this chapter.

E. If after a specific or corrective recommendation from the MS4 operator or from an authorized representative of the MS4 operator to the project site operator, or the designated representative of the project site operator, the storm water quality measures, ECMs, and BMPs at a project site remain insufficiently or improperly installed or maintained, the MS4 operator will pursue enforcement in accordance with the penalty procedures in Section Sixteen (16) of this chapter.

F. All persons engaging in construction activities on a project site must comply with the storm water pollution prevention plan (SWP3) for the project site, and with the requirements, provisions, and regulations of this chapter.

G. The MS4 operator, and the authorized representatives of the MS4 operator will investigate violations, alleged violations, and potential violations of this chapter to determine which person or persons may be responsible for violations. The MS4 operator will, if appropriate, consider public records of ownership, building permits issued by local units of government, and other relevant information, which may include site inspections records, SWP3s, NOIs, and other documents related to the facts and circumstances of a violation.

H. Any person causing or contributing to a violation of any requirement, provision, or regulation of this chapter shall be subject to enforcement and penalty under the terms of this chapter, and additionally under IC 13-14-10, IC 13-15-7, and IC 13-30.

13.05.16 Violations and penalties.

A. Violations. The following acts, conditions, and circumstances are violations of this chapter and subject to enforcement, penalties, and fines under this chapter:

1. An act, a series of acts, or a group of acts that contradicts the requirements, provisions, or regulations of this chapter.
2. A condition, or a group of conditions that exists in contradiction to the requirements, provisions, or regulations of this chapter.
3. Each act and each condition that contradicts or is in contradiction to a requirement, provision, or regulation of this chapter constitutes a separate and single violation.
4. Each day that a violation exists constitutes a separate violation, and is subject to penalty or prosecution as a separate violation.

B. Penalty procedures. The MS4 operator will employ the following procedures, and will instruct the project site inspectors and other authorized representatives of the MS4 operator to employ the following procedures with regard to assigning penalties to enforce the requirements, provisions, and regulations of this chapter.

1. “First notice of violation” means the initial determination of a violation or group of violations at a project site. Upon ascertaining and documenting the occurrence of a first violation at a project site, the MS4 operator, project site inspector, or authorized representative of the MS4 operator will make a corrective recommendation to the appropriate individual or individuals responsible for correcting the violation, together with a notice that the correction must be accomplished within ten (10) working days after the issuance of the notice to prevent the citation of a second violation with regard to the same condition or conditions that caused the first violation. The ten (10) working days referenced above may be reduced when significant water quality degradation has occurred or there is a high potential for such degradation to occur if left uncorrected.

In the event a person violates this ordinance by a second violation at the project site of the same type of violation or a different type of violation following another violation on the project site, the person responsible for the violation shall correct it within 10 days notice of such violation, or a shorter period of time designated in the notice of violation if significant water quality degradation has occurred or there is a high potential for such degradation to occur if left uncorrected. If the person responsible does not so correct the violation within the time provided in the notice, the violator shall be subject to a civil penalty of up to Seven Hundred Fifty Dollars per violation and the cost of correction incurred by the County to have the violation corrected by County forces or by a contractor hired by the County to undertake the necessary corrective action to bring the property into compliance.

2. “Second notice of violation” means the determination that-after the expiration of the time period for correction established in B 1 above as outlined in the notification of a violation, the condition or conditions

constituting a violation in the first notice of violation remain uncorrected or otherwise not compliant with the requirements, provisions, or regulations of this chapter. Upon ascertaining and documenting the occurrence of a continuing violation at a project site, the MS4 operator will issue a non-compliance citation to the appropriate individual or individuals responsible for correcting the violating condition or conditions, together with a notice that the correction must be accomplished within five (5) calendar days from the date of the non-compliance citation or a lesser time period if there is significant water quality degradation or a high potential for such degradation to occur if left uncorrected, and the potential for personnel or a contractor employed by the County Commissioners or the MS4 operator to complete work to correct the violating condition or conditions at the project site at the cost of the violator. The civil penalty for the citation of a continuing violation will be no less than One Hundred Dollars (\$100.00) and no more than Two Hundred Fifty Dollars (\$250.00). If the penalty is not paid within thirty (30) days, the citation will be enforced in Court by any remedy allowed by Law, and an action may be maintained to recover the costs of corrective measures employed by the MS4 operator in addition to the fine or penalty referred to above.

3. “Third notice of violation” means the determination that at any time after a specified or reasonable period for the correction of a second notice of violation has elapsed, the condition or conditions constituting the violation remain uncorrected or otherwise not compliant with the requirements, provisions, or regulations of this chapter. Upon ascertaining and documenting the occurrence of a continuing violation after a third notice of violation at a project site, the MS4 operator will issue a second non-compliance citation to the appropriate individual or individuals responsible for correcting the violating condition or conditions, together with a notice that the project site is subject immediately to a “stop work order” issued by the Vanderburgh County Building Commissioner or other agency with the authority to stop work at the project site, and the potential for the immediate employment of personnel or a contractor by the County Commissioners or the MS4 operator to complete work to correct the violating condition or conditions at the project site. The civil penalty for a continuing violation following a third notice of violation citation will be no less than Five Hundred Dollars (\$500.00) and no more than Seven Hundred Fifty Dollars (\$750.00). If the civil penalty for the second non-compliance citation is paid within thirty (30) days, the penalty will be in the amount of Five Hundred Dollars (\$500.00). If the penalty is not paid within thirty (30) days, the citation will be enforced in Court by any remedy allowed by Law, and an action may be maintained to recover the costs of corrective measures employed by the MS4 operator.

4. The County Commissioners and the MS4 operator reserve the right to assign a deadline for corrective action, impose a stop work order, or work to complete corrective measures on an schedule or by a deadline

accelerated or shortened comparatively to the schedule or deadline assigned in this section for correcting a violating condition if an accelerated schedule or deadline is required to protect life or property from an eminent and severe threat of loss or damage.

5. The County Commissioners and the MS4 operator may perform, or cause to be performed, such work as is necessary to accomplish corrective measures at a project site by their own work forces or by a contractor hired to perform the work.

6. A stop work order issued pursuant to this section and chapter shall not be rescinded until all recommended corrective measures have been completed, and the County Commissioners and the MS4 operator have been paid for all costs incurred.

7. Any project site owner, individual lot operator, contractor, subcontractor, property owner, or other person or persons responsible for construction activities at a project site who violate the terms, requirements, provisions, or regulations of this chapter are liable for the costs of removal of sediment and other storm water pollutants deposited in any right-of-way, drain, storm sewer, drainage easement, or county-maintained or controlled property and any and all other corrective action required to restore the property to a condition equal to or better than the condition prior to a violation. Such costs may be pursued in Court and/or filed as a lien against the property pursuant to I.C. 36-1-6-2, or under any other State Law.

13.05.17 MS4 personnel qualifications, certifications, and education.

A. The MS4 operator and all personnel responsible for plan review, inspection, and enforcement of construction activities must be, at a minimum, trained individuals as defined by this chapter, and must receive, at a minimum, annual training addressing topics including, at a minimum, appropriate control measures, inspection protocol, and enforcement procedures.

B. The County Commissioners and the MS4 operator will establish an element of the construction site runoff control program that ensures each technician who reviews plans, inspects project sites, exercises enforcement procedures, or presents or instructs an element of the program does complete adequate, appropriate coursework annually, and progresses toward certification as a trained individual, and eventually as a certified technician in technologies relevant to storm water management and MS4 program assignments.

13.05.18 Public input.

A. The MS4 operator must develop procedures for the receipt and consideration of public inquiries, concerns, and information submitted, whether written or oral, regarding the quality of storm water runoff from construction sites.

B. The MS4 operator must implement a tracking process by which public information, whether submitted orally or in writing, is documented and

then given to appropriate staff for follow-up, including an adequate investigation when needed to determine appropriate resolution of the concern.

C. The MS4 operator may utilize other county agencies' applicable resources, and will use standardized documentation to refer submitted public information to other appropriate agencies to accomplish appropriate follow-up.

13.05.19 Measurable program goals.

A. The MS4 operator will develop measurable goals for the MS4 construction site runoff control program that identify specific outreach, compliance, and implementation percentages and timetables.

B. The measurable goals will address the implementation of this chapter and the MS4 program, especially with regard to developer/contractor education outreach, site inspection procedure implementation, construction site operator compliance improvement, and the processing of public inquiries, concerns, and information.

C. The MS4 operator will set measurable goals to address, at a minimum, the implementation and steadily increasing achievement of the following four (4) categories:

1. Awareness and understanding of the requirements established by this chapter;
2. Inspection protocol, frequency, assistance, and enforcement toward achievement of project site control through appropriate use of control measures;
3. Construction site operator compliance with regulation under the chapter; and
4. Public input and response regarding construction activities.

13.05.20 Project termination.

A. Regular termination of a project. The project site owner must plan an orderly and timely termination of construction activities, including the implementation of storm water quality measures that are to remain on the project site.

B. The project site owner must submit a notice of termination (NOT) letter to the Director of IDEM, and transmit a copy of the NOT to the MS4 operator or the designated representative of the MS4 operator in accordance with this section.

C. Except as provided in this section, at subsection (E)(early release termination), the project site owner shall submit an NOT letter only when the following conditions have been met:

1. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.
2. All temporary erosion and sediment control measures have been removed.

D. The NOT letter must contain statement, verified by the MS4 operator, that each of the conditions in this section, at subsection (C), have been met.

E. Early release termination. The project site owner may submit an NOT letter to obtain early release from compliance with this chapter, and from permit regulation under IAC 327 15-5, if the following conditions are met:

1. The project site owner has notified existing owners of title of the remaining undeveloped lots that the individual lot owners and the individual lot operators will be responsible for the implementation, management, and timely removal of storm water quality measures appropriate and sufficient to meet the requirements, provisions, and regulations of this chapter, and for final stabilization of the individual lot in accordance with this chapter.
2. The project site owner has recorded a copy of each of the notifications to the property owners in the record appropriate for chain of title documents in the office of the Vanderburgh County Recorder.
3. The project site owner has provided the MS4 operator with verification of the recording of the notification documents and verification of their delivery to the affected property owners of record.
4. The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous undeveloped areas not to exceed one (1) acre in aggregate.
5. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter sent to IDEM, with a copy sent to the MS4 operator.
6. The map must be accompanied by a list of names and addresses of individual lot owners of title of all undeveloped lots, and, if applicable, the individual lot operators.
7. All public and common improvements, including infrastructure and storm water drainage facilities in accordance with the approved construction plans and applicable plans approved by the County Commissioners and county drainage board, have been completed and permanently stabilized and have been transferred to the appropriate local entity, homeowners association, or applicable property owner or land management entity.
8. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.
9. All permanent storm water quality measures have been implemented and are operational.

F. IDEM requires a notice to subsequent lot owners and lot operators in accordance with the state rule. Following the acceptance of the NOT letter and written approval from IDEM for early release under 327 IAC 15-5-8(b), a project site owner shall notify all current individual lot owners and all subsequent individual lot owners of the remaining undeveloped acreage and acreage with construction activity that they are responsible for complying with 327 IAC 15-5-7.5. The notice must contain a statement verified by the MS4 operator that each of

the conditions enumerated above in subsection (E) have been met; and the project site owner must inform the individual owners of remaining undeveloped lots of the following two (2) requirements:

1. To install and maintain appropriate measures to prevent sediment from leaving the individual building lots; and
2. To maintain all erosion and sediment control measures that are to remain on-site as part of the construction plan.

G. Final inspection prior to early release NOT. The MS4 operator, or designate representative of the MS4 operator, must inspect the project site to evaluate the adequacy of the remaining storm water quality measures and compliance with the NOT letter requirements, and make a relevant report to IDEM. If the inspecting entity finds that the project site owner has sufficiently filed an NOT letter, the MS4 operator shall forward (verified NOT) notification to IDEM. Upon receipt of the verified NOT letter by IDEM, and receipt of written approval from IDEM, the project site owner shall no longer be responsible for compliance with 327 IAC 15-5.

H. Post-permit responsibility for maintenance. After a verified NOT letter has been submitted for a project site, and approved by IDEM, maintenance of the remaining storm water quality measures will be the responsibility of the individual lot owner or occupier of the property in accordance with this chapter and other applicable local codes.

13.05.21 Compliance with all pertinent ordinances.

A. The project site owner must comply with all appropriate ordinances and regulations related to storm water discharges within the jurisdictional areas regulated under this chapter.

B. This chapter is required by 327 IAC 15-13-15(b) and 327 IAC 15-13-16(b), and shall be considered to have the same authority as 327 IAC 15-5 within the jurisdictional areas of Vanderburgh County, Indiana, regulated by this chapter.

13.05.22 Commissioners retain statutory and discretionary powers.

The County Commissioners, whether acting as the board of county commissioners or as the county drainage board, retain the right to certain statutory and discretionary powers including, but not necessarily limited to considering the appeal of a project site owner, making findings and determinations, issuing orders, or instructing and directing the MS4 operator with regard to and in accordance with this chapter and other applicable federal, state, and local laws and rules.

13.05.23 Interdepartmental and co-regulatory agreements.

A. The County Commissioners may enter into agreements with or direct the use of another entity, county or municipal agency, or agent for the purpose of accomplishing the requirements of and regulations under this chapter so long as the MS4 operator maintains the administrative control, within the

jurisdictional area of the County Commissioners, of the plan review and approval process and construction site control program established by this chapter.

B. The County Commissioners may enter into a legally binding agreement with another MS4 entity by which agreement the county's MS4 operator performs services for, receives services from, or exchanges services with the other MS4 entity to the benefit of the parties to the agreement.

SECTION 2. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage by the Commissioners of Vanderburgh County, Indiana, and publication once each week for two consecutive weeks as provided in I.C. 5-3-1.

First passed by the Board of Commissioners of Vanderburgh County this 15th day of November, 2005.

Final passage by the Board of Commissioners of Vanderburgh County this 22nd day of November, 2005.

BOARD OF COMMISSIONERS OF
VANDERBURGH COUNTY, INDIANA

Cheryl Musgrave, President

Bill Nix, Vice President

Tom Shetler, Jr., Member

ATTEST:

WILLIAM J. FLUTY, JR.
Vanderburgh County Auditor

APPROVED AS TO LEGAL FORM:

Ted C. Ziemer, Jr., of
Ziemer, Stayman, Weitzel & Shoulders, LLP
County Attorney

(Published in the Evansville Courier & Press on Dec. 13 & 20, 2005.)

Signature page with signatures follows.

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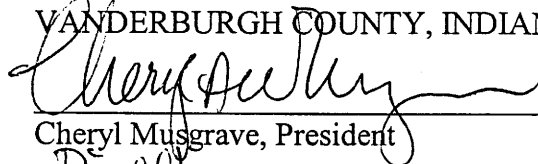
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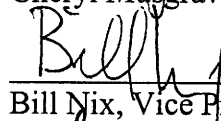
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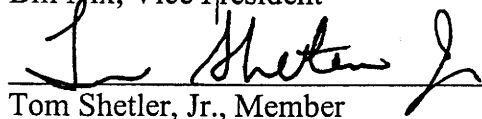
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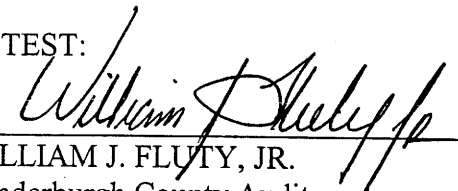
BOARD OF COMMISSIONERS OF
VANDERBURGH COUNTY, INDIANA


Cheryl Musgrave, President

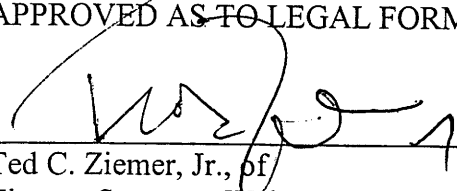

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County Attorney

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