COUNCIL PENDING ORDINANCE NO. 2024-43
ORDINANCE NO. 9712
AS AMENDED
CERTIFICATION DATE
CERTIFIED BY
FAVORABLY
UNFAVORABLY

AN ORDINANCE AMENDING CHAPTER 119 OF THE MUNICIPAL CODE OF THE CITY OF GARYTO UPDATE THE GARY STORM WATER MANAGEMENT ORDINANCE

WHEREAS, Chapter 119 of the Gary Municipal Code contains outdated language and is in need of new provisions to adequately promote the interests of the City; and

WHEREAS, it serves the public interest to increase the efficiency and effectiveness of City operations and allows the City to maintain and optimize compliance with applicable statutory and regulatory requirements; and

WHEREAS, amending Chapter 119 with the attached comprehensive revision will assist in implementing that objective, and

WHEREAS, the Gary Storm Water Management District through its Board of Directors has proposed, reviewed and approved the necessary amendments to Chapter 119 pursuant to Resolution No. SW24-01 approved as of June 17, 2024, which is attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GARY, INDIANA as follows:

Section 1. That CHAPTER 119 entitled Stormwater Management, of the Gary Municipal Code is amended to read as set forth on Exhibit "A," which is attached hereto and fully incorporated herein.

Section 2. That this Ordinance shall be in full force and effect immediately upon passage hereof.

PASSED by the Common Council of the City of Gary, Indiana, this 17th day of Sept, 2024.

PRESIDING OFFICER

ATTEST:

CITY CLERK

Presented by me to the Mayor for approval and signature this 19th day of Sept, 2024.

CITY CLERK

APPROVED and **SIGNED** by me this 19th day of September, 2024.

MAYOR, CITY OF GARY, INDIANA

PREPARED BY: Marco A. Molina, Law Department

SPONSORED BY: Mayor Eddie D. Melton
M. Celita Green, Controller
Brenda Scott-Henry, Director, Gary Stormwater Management District

C.P.O. 2024-431 9712
COMMITTEE ASSIGNMENT P/+ Dev Reported-out/Date 9-3-24
1st Reading/Date 9-3 Committee Hearing/Date 9-9-24 2nd Reading/Date 9-3-24 Public Hearing/Date 9-17 3rd Reading/Date 9-17-24 Final Reading/Date 9-17-24
Passed/Date 9-17 Defeated/Date____ Deferred/Date___ Tabled/Date_____ Override/Date_____
Adopted/Date____ Publication/Date_____ Community Hearing/Date_____ Veto_____ Pocket Veto_____ Adopted

GARY STORMWATER MANAGEMENT DISTRICT
BOARD OF DIRECTORS
RESOLUTION NO. SW24-01

A Resolution to Adopt Revisions to the City of Gary Stormwater Management Ordinance

WHEREAS, Gary Stormwater Management District (GSWMD) is the administrative agency charged with the responsibility for management of stormwater within the City of Gary, Indiana, pursuant to the requirements of Phase II of the National Pollution Discharge Elimination System (NPDES) Stormwater Program, as authorized by the 1972 Amendments to the Federal Clean Water Act; and

WHEREAS, the stormwater management and sediment control policy for the City of Gary, Indiana, was originally codified as Chapter 119 of the Municipal Code of the City of Gary, following the adoption of Ordinance No. 7309 by the Common Council of the City of Gary in 2002; and

WHEREAS, GSWMD, pursuant to its regulatory and administrative purposes and responsibilities, has determined that amendments and revisions to the City of Gary Stormwater Management Ordinance are advisable and necessary in order to maintain and optimize compliance with applicable statutory and regulatory requirements; and

WHEREAS, GSWMD, with the assistance of Counsel, has drafted a comprehensive revision to the City of Gary Stormwater Management Ordinance, in the form attached hereto as Exhibit "A", which is intended to replace and supersede, in its entirety, the current City of Gary Stormwater Management Ordinance; and

WHEREAS, GSWMD hereby requests the approval of its Board of Directors to submit the revised City of Gary Stormwater Management Ordinance to the Common Council of the City of Gary and recommend its review, adoption, and codification;

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF THE GARY STORMWATER MANAGEMENT DISTRICT, THAT:

1. The comprehensive revisions to the City of Gary Stormwater Management Ordinance, Chapter 119 of the City of Gary Municipal Code, are APPROVED.

2. The comprehensive revisions to the City of Gary Stormwater Management Ordinance, Chapter 119 of the City of Gary Municipal Code, shall be submitted, in a form substantially similar to that attached hereto as Exhibit "A", to the Common Council of the City of Gary for review, and are recommended for adoption and codification.

APPROVED and ADOPTED this 17TH DAY OF JUNE, 2024.

GARY STORMWATER MANAGEMENT DISTRICT BOARD OF DIRECTORS

BRENDA SCOTT-HENRY, DIRECTOR/MS4 COORDINATOR

DocuSigned by:
Jewell Harris, Jr.
7F24728A99F4482...
ATTY. JEWELL HARRIS, JR., BOARD ATTORNEY

DocuSigned by:
William L. Allen
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WILLIAM ALLEN, PRESIDENT

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OLA V. MORRIS, VICE-PRESIDENT

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MAURICE G. MABON, SECRETARY

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DARNAIL LYLES, COMMISSIONER

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William Cook
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WILLIAM COOK, COMMISSIONER

Chapter 119 STORMWATER MANAGEMENT

EXHIBIT "A"

ARTICLE I. IN GENERAL

Sec. 119-1. Authority and title.

This chapter is adopted in accordance with statutory authority granted to the common council of the city and, further, is required to be enacted by phase II of the national pollution discharge elimination system stormwater program (FR Doc. 99-29181) as authorized by the 1972 amendments to the Clean Water Act, the Indiana Department of Environmental Management MS4 General Permit (MS4GP), and the Indiana Department of Environmental Management, Construction Stormwater General Permit (CSGP). Based on this authority and these requirements, this chapter regulates:

(1) Discharges of prohibited non stormwater flows into the stormwater drainage system.

(2) Stormwater drainage improvements related to development of lands located within the city.

(3) Drainage control systems installed during new construction and grading of lots and other parcels of land.

(4) Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.

(5) The design, construction, and maintenance of stormwater quantity and quality facilities and systems.

(6) Stormwater including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity.

(7) Stormwater discharges from construction support activities directly related to construction sites subject to this ordinance.

This chapter shall be known and may be cited as the City of Gary Stormwater Management Ordinance. (Ord. No. 7931, ch. 1, § 1, 7-3-2006). Once adopted, this Ordinance repeals any conflicting ordinances previously adopted by the City of Gary.

Sec. 119-2. Applicability and exemptions.

(a) This chapter shall regulate all development and redevelopment occurring within the city and any significant discharge into the city's stormwater conveyance facilities. No building permit shall be issued, and no land disturbance started for any construction for any development or redevelopment, until the plans required by this chapter for such construction have been accepted in writing by the Gary Stormwater Management District (GSWMD). Single-family dwelling houses in accepted subdivisions shall be exempt from the requirements of this chapter, provided the activities meet the exemptions in Section 119-77 and Section 119-206, unless these activities have the potential to significantly adversely affect the city's stormwater conveyance facilities or water quality of the receiving bodies of water.

(b) The city municipal projects shall be exempt from fees associated with obtaining a stormwater permit; however, a stormwater permit application must be filed that meets all applicable technical requirements of this chapter and the latest edition of the city "City of Gary Street, Sewer and City Infrastructure Standards and Specifications Manual," hereafter referred to as the city design standards manual.

(c) Any active construction project for which a Notice of Intent was submitted to GSWMD prior to the effective date of this ordinance shall submit an updated Notice of Intent in order to obtain authorization to discharge under this ordinance.

(d) The GSWMD has the authority, to the extent permitted by law, to modify, grant exemptions, and/or waive any and all the requirements of this chapter. A pre-submittal meeting with the GSWMD may be requested by a permit applicant to discuss the applicability of various provisions of the chapter and the city design standards manual regarding unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the GSWMD that may be based on the review of additional and/or more detailed information and plans. The GSWMD has the authority to enact rules it deems advisable to implement the provisions of this chapter. Compliance with these rules is a requirement of this chapter.

(Ord. No. 7931, ch. 1, § 2, 7-3-2006)

Sec. 119-3. Background.

(a) The common council of the city adopted Ordinance No. 7309 on February 19, 2002, which established "an ordinance establishing a stormwater management and sediment control policy for the City of Gary, Indiana", commonly known as the "The City of Gary Stormwater Management Ordinance," in order to govern the control of runoff of stormwater and to protect, conserve, and promote the orderly development of land in the city and protect its water resources. This chapter was primarily targeted at stormwater discharge quantity and erosion and sediment control.

(b) On December 8, 1999, phase II of the National Pollutant Discharge Elimination System (NPDES) permit program, was published in the Federal Register. The NPDES program, as authorized by the 1972 amendments to the Clean Water Act, controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Phase II of the NPDES requires permit coverage for stormwater discharges from regulated small municipal separate storm sewer systems (MS4s) and for small-site construction activity that results in the disturbance of one acre or more of land. This federal regulation went into effect March 10, 2003. In response to phase II of the NPDES, the state department of environmental management enacted the MS4GP and the CSGP on December 18, 2021.

(c) Under these state and federal regulations, the city is required to establish a regulatory mechanism for regulating stormwater quality as well as stormwater quantity within its jurisdiction. Therefore, the city stormwater management Ordinance No. 7309 has been amended, (by substitution) with this chapter.

(Ord. No. 7931, ch. 1, § 3, 7-3-2006)

Sec. 119-4. Findings.

The common council of the city finds that:

(1) Water bodies, roadways, streets, structures, and other property within and downstream of the city are at times subjected to flooding;

(2) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;

(3) Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, increased stream pollution, and increased sediment transport and deposition;

(4) Soil erosion resulting from land disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes, and reservoirs;

(5) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with

stormwater runoff from future development projects within the city will, absent reasonable regulation and control, adversely affect the city's water bodies and water resources;

(6) Pollutant contributions from illicit discharges within the city will, absent reasonable regulation, monitoring, and enforcement, adversely affect the city's water bodies and water resources;

(7) Stormwater runoff frequently contains pollutants that cause or contribute to violation of water quality standards;

(8) Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;

(9) Adopting the standards, criteria, and procedures contained and referenced in this chapter and implementing the same will address many of the harmful effects of stormwater runoff and illicit discharges;

(10) Adopting this chapter is necessary for the preservation of public health, safety, and welfare, for the conservation of our natural resources, and for compliance with state and federal regulations.

(Ord. No. 7931, ch. 1, § 4, 7-3-2006)

Sec. 119-5. Purpose.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve and promote the coordinated development of land and water resources within the city. This chapter establishes methods for managing the quantity and quality of stormwater entering into the stormwater drainage system in order to comply with state and federal requirements. The objectives of this chapter are:

(1) To reduce the hazard to public health and safety and water quality caused by excessive stormwater runoff.

(2) To regulate the contribution of pollutants to the stormwater drainage system from construction site runoff.

(3) To regulate the contribution of pollutants to the stormwater drainage system and public waters from runoff, including but not limited to, from new development and redevelopment.

(4) To prohibit illicit discharges into the stormwater drainage system.

(5) To establish legal authority to carry out all permitting, inspection, monitoring, and enforcement procedures necessary to ensure compliance with this chapter.

(6) To manage and improve the quality of stormwater runoff for a given set of conditions that minimizes the impact of stormwater runoff in the most cost-effective manner to the maximum extent practicable using the best available technology to capture and reduce the concentration of pollutants such as, but not limited to, BOD (biochemical oxygen demand), TSS (total suspended solids), bacteria and other pathogens, toxics, and oil and grease.

(Ord. No. 7931, ch. 1, § 5, 7-3-2006)

Sec. 119-6. Abbreviations and definitions.

(a) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Agricultural land disturbing activity means tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage

tile. For purposes of this rule, the term does not include land disturbing activities for the construction of agriculture related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities, lakes and ponds, wetlands; and other infrastructure.

Base flow means stream discharge derived from groundwater sources as differentiated from surface runoff. The term "base flow" is sometimes considered to include flows from regulated lakes or reservoirs.

Best management practices means design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.

Board means the board of directors of the City of Gary Department of Stormwater Management and any subordinate employee, agent or representative to whom it shall specifically delegate a responsibility authorized by this chapter.

Buffer strip means an existing, variable-width strip of vegetated land intended to protect water quality and habitat.

Capacity (of a Storm Drainage Facility) means the maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

Catch basin means a chamber usually built at the curbline of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

Certified Professionals means individuals who are trained and experienced in the principles of stormwater management, including erosion and sediment control as is demonstrated by completion of state registration, or professional certification that enable the individual to make judgments regarding stormwater management, treatment, and design.

Channel means a portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

Compensatory storage means an artificial volume of storage within a floodplain used to balance the loss of natural flood storage capacity when artificial fill or substructures are placed within the floodplain.

Comprehensive stormwater management means a comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

Contaminated means any solid, semi-solid, liquid, or gaseous matter, or any odor, radioactive material, pollutant (as defined by the federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste (as defined in the federal Solid Waste Disposal Act [42 U.S.C. 6901 et seq.], as in effect on January 1, 1989), any constituent of a hazardous waste, or any combination of the items described in this section, from whatever source, that: (1) is injurious to human health, plant or animal life, or property; (2) interferes unreasonably with the enjoyment of life or property, or otherwise violates: (A) environmental management laws; or (B) rules adopted under environmental management laws (329 IAC 10-2-41, IC 13-11-2-42).

Constructed wetland means a manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

Construction activity means land disturbing activities, and land disturbing activities associated with the construction of infrastructure and structures. This term "construction activity" does not include routine ditch or road maintenance or minor landscaping projects.

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

Construction Support Activities Include but are not limited to the following: concrete or asphalt batch plants, equipment staging areas, material storage areas, excavated material disposal areas, borrow areas. Such activities must not support multiple, unrelated projects, be a commercial/industrial operation, or continue to operate beyond the completion of construction activity for the project it supports.

Contiguous means adjoining or in actual contact with.

Contour means an imaginary line on the surface of the earth connecting points of the same elevation.

Contour line means a line on a map which represents a contour or points of equal elevation.

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

Conveyance means any structural method for transferring stormwater between at least two points. The term "conveyance" includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

Cross section means a graph or plot of ground elevation across a stream valley or a portion of it, usually along a line perpendicular to the stream or direction of flow.

Culvert means a closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal or other impediment.

Dechlorinated swimming pool discharge means chlorinated water that has either sat idle for seven days following chlorination prior to discharge to the MS4 conveyance or, by analysis, does not contain detectable concentrations (less than 0.05 milligram per liter) of chlorinated residual.

Design storm means a selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage or flood control improvements are designed and built.

Detention means managing stormwater runoff by temporary holding and controlled release.

Detention basin means a facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

Detention storage means the temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

Detention time means the theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

Detritus means dead or decaying organic matter, generally contributed to stormwater as fallen leaves and sticks or as dead aquatic organisms.

Developer means any person financially responsible for construction activity, or an owner of property who sells or leases, or offers for sale or lease any lots in a subdivision.

Development means alterations of a property from its virgin undeveloped state that change its stormwater runoff characteristics.

Discharge means usually the rate of water flow. A volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.

Disposal means the discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including groundwaters.

Ditch means a manmade, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

Drain means a buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus groundwater or surface water.

Drainage means the removal of excess surface water or groundwater from land by means of ditches or subsurface drains. Also see *Natural drainage*.

Drainage area means the area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the drainage area.

Dry well means a type of infiltration practice that allows stormwater runoff to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

Duration means the time period of a rainfall event.

Environment means the sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

Erodibility Index (EI). The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively cropped. It is defined to be the maximum of (R×K×LS)/T (from the universal soil loss equation) and (C×I)/T (from the wind erosion equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and steepness, C is a climatic characterization of wind speed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. Erodibility index scores equal to or greater than eight are considered highly erodible land.

Erosion means the wearing away of the land surface by water, wind, ice, gravity, or other geological agents.
The following terms are used to describe different types of water erosion:

(1) *Accelerated erosion* means erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.

(2) *Channel erosion* means an erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.

(3) *Gully erosion* means an erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from one to two feet to as much as 75 to 100 feet.

(4) *Rill erosion* means an erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils (see *Rill*).

(5) *Splash erosion* means the spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.

(6) *Sheet erosion* means the gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

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

Fill material means any material used for primary purpose of replacing a wetland area with dry land or of changing the bottom elevation of a wetland or a water body. This definition shall be considered to be automatically amended to conform with the definition of fill material established from time to time by the United States of America or United States Army Corps of Engineers.

Filter strip means usually a long, relatively narrow area (usually, 20 to 75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs, or adjacent properties.

Floatable means any solid waste that will float on the surface of the water.

Flood or ***floodwater*** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood elevation means the elevation at all locations delineating the maximum level high waters for a flood of a given return period.

Flood hazard area means any floodplain, floodway, floodway fringe or any combination thereof which is subject to inundation by the regulatory flood; or any floodplain as delineated by zone A on a flood insurance rate map or a

flood hazard boundary map.

Flood protection grade means the elevation of the lowest floor of a building, including the basement, which shall be two feet above the elevation of the regulatory flood.

Floodplain means the channel proper and the areas adjoining the channel which have been or hereafter may be covered by the regulatory or 100-year flood; any normally dry land area that is susceptible to being inundated by water from any natural source. The floodplain includes both the floodway and the floodway fringe districts.

Floodway means the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

Floodway fringe means that portion of the floodplain lying outside the floodway, which is inundated by the regulatory flood.

Fluvial Erosion Hazard Corridor means the areas along the streams (including the channel and immediate overbank areas) that are believed to be subject to stream movement or streambank erosion. These corridors have been delineated for most actively migrating and relatively stationary stream in Indiana through an Indiana Silver Jackets initiative.

Footing drain means a drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

Garbage means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

Gasoline outlet means an operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surface, or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

Gary Stormwater Management District means the executive department and special taxing district of the city which has full responsibility for the ownership, operation, and management of the city's stormwater collection, conveyance, treatment, and control facilities and for the implementation of this chapter.

Gasoline outlet means an operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create 5,000 or more square feet of impervious surfaces, or generate an average daily traffic count of 100 vehicles per one 1,000 square feet of land area.

Geographical information system means a computer system capable of assembling, storing, manipulating, and displaying geographically referenced information. This technology can be used for resource management and development planning.

Grade means:

(1) The inclination or slope of a channel, canal, conduit, etc., or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance.

(2) The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit.

(3) To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

Grading means the cutting and filling of the land surface to a desired slope or elevation.

Grass means a member of the botanical family Graminae, characterized by blade-like leaves that originate as a sheath wrapped around the stem.

Groundwater means accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

Habitat means the environment in which the life needs of a plant or animal are supplied.

Highly erodible land (HEL) means land that has an erodibility index of eight or more.

Hot spot development means Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks, etc., industrial/commercial or any hazardous waste storage areas or areas that generate such wastes, industrial sites, restaurants and convenience stores, any activity involving chemical mixing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries, and some high traffic retail uses characterized by frequent vehicle turnover.

Hydrologic unit code means a numeric United States Geologic Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.

Hydrology means the science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

Illicit discharge means any discharge to a conveyance that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs.

Impact areas means areas defined and/or mapped by the city engineer which are unlikely to be easily drained because of one or more factors including, but not limited to, any of the following: soil type, topography, land where there is not adequate outlet, a floodway or floodplain.

Impaired waters means waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's CWA section 303(d) List of Impaired Waters.

Impervious surface means surfaces, such as pavement and rooftops, which retard the movement of stormwater into the soil.

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

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

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

Infiltration means passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of runoff through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

Inlet means an opening into a stormwater drainage system for the entrance of surface stormwater runoff, more completely described as a storm drain inlet.

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.

Land surveyor means a person licensed under the laws of the State of Indiana to practice land surveying.

Larger common plan of development or sale means a plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name. Such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

Lowest adjacent grade means the elevation of the lowest grade adjacent (abutting) to a structure, where the soil meets the foundation around the outside of the structure (including structural members such as basement walkout, patios, decks, porches, support posts or piers, and rim of the window well).

Lowest floor refers to the lowest of the following:

(1) The top of the basement floor;

(2) The top of the garage floor, if the garage is the lowest level of the building;

(3) The top of the first floor of buildings constructed on a slab or of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

(4) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of floodwaters unless:

a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade.

b. Such enclosed space shall be usable only for the parking of vehicles or building access.

Major drainage system means a drainage system carrying runoff from an area of one or more square miles.

Manhole means a storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

Measurable storm event means a precipitation event that results in a total measured precipitation accumulation equal to, or greater than 0.5 inch of rainfall.

Minor drainage system means a minor drainage system having an area of less than one square mile.

Mulch means a natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plant cover, and minimizes temperature fluctuations.

Municipal Separate Storm Sewer System means an MS4 that meets all the following criteria:

(1) Is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity;

(2) Discharges to waters of the U.S.;

(3) Is designed or used for collecting or conveying stormwater;

(4) Is not a combined sewer; and

(5) Is not part of a publicly owned treatment works (POTW).

National Pollutant Discharge Elimination System means a permit developed by the U.S. EPA through the Clean Water Act. In Indiana, the permitting process has been delegated to IDEM. This permit covers aspects of municipal stormwater quality.

Natural Buffer means an existing (prior to land disturbance) area adjacent to or surrounding surface waters within which construction activity is restricted.

Natural drainage means the flow patterns of stormwater runoff over the land in its predevelopment state.

Nutrient means:

(1) A substance necessary for the growth and reproduction of organisms.

(2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

Off-site means everything not on-site.

On-site means located within the controlled or urbanized areas where runoff originates.

Open drain means a natural watercourse or constructed open channel that conveys drainage water.

Open space means any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

Outfall means the point, location, or structure where a pipe or open drain discharges to a receiving body of water.

Outlet means the point of water disposal from a stream, river, lake, tidewater, or artificial drain.

Peak discharge or ***peak flow*** means the maximum instantaneous flow from a given storm condition at a specific location.

Percolation means the movement of water through soil.

Permanent stabilization means the establishment, at a uniform density of 70 percent across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

Pervious surface means surfaces such as sand, grass, or wooded, that allow movement of water into the soil.

Point source means any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged (PL 92-500, section 502[14]).

Porous pavement means a type of infiltration practice to improve the quality and reduce the quantity of stormwater runoff via the use of manmade, pervious pavement which allows runoff to percolate through the pavement and into underlying soils.

Professional engineer means a person licensed under the laws of the State of Indiana to practice professional engineering.

Project site means the entire area on which construction activity is to be performed.

Project site owner means the person required to submit a stormwater permit application and required to comply with the terms of this chapter, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

Rain garden means a vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

Rainfall intensity means the cumulative depth of rainfall occurring over a given duration, normally expressed in inches per hour.

Reach means any length of river, channel or storm sewer.

Receiving stream, receiving channel or ***receiving water*** means the body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

Recharge means replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

Redevelopment means alterations of a property that change a site or building in such a way that there is change in the ratio of pervious to impervious surfaces. The term "redevelopment" does not include such activities as exterior remodeling.

Refueling area means an operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.

Regional pond means A detention/retention basin sized to detain/retain the runoff from the entire watershed, on-site and off-site, tributary to the pond's outlet.

Regulated areas means all area within the city's boundaries.

Regulated drain means a drain subject to the provisions of IC 36-9-27.

Regulatory flood means the discharge or elevation associated with the 100-year flood as calculated by a method and procedure which is acceptable to and accepted by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood is also known as the "base flood."

Regulatory floodway. See ***Floodway.***

Release rate means the amount of stormwater release from a stormwater control facility per unit of time.

Reservoir means a natural or artificially created pond, lake or other space used for storage, regulation or control of water. Reservoirs may be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

Retention means the storage of stormwater to prevent it from leaving the development site. Retention may be temporary or permanent.

Retention basin means a type of storage practice that has no positive outlet, used to retain stormwater runoff for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

Return period means the average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a one percent probability of being equaled or exceeded in any one year.

Riparian habitat means a land area adjacent to a water body that supports animal and plant life associated with that water body.

Riparian zone means of, on, or pertaining to the banks of a stream, river, or pond.

Runoff means that portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance systems.

Runoff coefficient means a decimal fraction relating the amount of rain which appears as runoff and reaches the stormwater drainage system to the total amount of rain falling. A coefficient of 0.5 implies that 50 percent of the rain falling on a given surface appears as stormwater runoff.

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

Sedimentation means the process that deposits soils, debris and other unconsolidated materials either on the ground surfaces or in bodies of water or watercourses.

Sensitive Areas means areas with highly erodible soils, wetlands, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. Sensitive areas also include sites that are considered contaminated, as defined in this document.

Sensitive water means a water body in need of priority protection or remediation based on its providing habitat for threatened or endangered species, usage as a public water supply intake, relevant community value, usage for full body contact recreation, or exceptional use classification as found in 327 IAC 2-1-11(b), outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

Silviculture means the practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.

i. Nonpoint activities include source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. Some of these activities (such as stream crossing for roads) may involve the placement of dredged or fill material which may require a CWA section 404 permit and a 401 Water Quality Certification.

ii. Point source activities include any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United State or the State.

Site means the entire area included in the legal description of the land on which land disturbing activity is to be performed.

Slope means degree of deviation of a surface from the horizontal, measured as a numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (run) and the second is the vertical

distance (rise) (e.g., 2:1). However, the preferred method for designation of slopes is to clearly identify the horizontal (H) and vertical (V) components (length (L) and width (W) components for horizontal angles). Also note that according to international standards (metric), the slopes are presented as the vertical or width component shown on the numerator (e.g., 1V:2H). Slope expressions in this chapter follow the common presentation of slopes (e.g., 2:1) with the metric presentation shown in parentheses (e.g., (1V:2H)). Slopes can also be expressed in percents. Slopes given in percents are always expressed as (100*V/H) (e.g., a 2:1 (1V:2H) slope is a 50 percent slope).

Soil means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

Soil and Water Conservation District means a public organization created under state law as a special-purpose district to develop and carry out a program of soil, water, and related resource conservation, use, and development within its boundaries. A subdivision of state government with a local governing body, established under IC 14-32.

Solid waste means any garbage, refuse, debris, or other discarded material.

Spill means the unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term "spill" does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

Spillway means a waterway in or about a hydraulic structure, for the escape of excess water.

Storm duration means the length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

Storm event means an estimate of the expected amount of precipitation within a given period of time. For example, a ten-year frequency, 24-hour duration storm event is a storm that has a ten percent probability of occurring in any one year. Precipitation is measured over a 24-hour period.

Storm sewer means a closed conduit for conveying collected stormwater, while excluding sewage and industrial wastes. Also called a storm drain.

Stormwater means water resulting from rain, melting or melted snow, hail, or sleet.

(1) *Stormwater drainage system* means all means, natural or manmade, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets and pumping stations.

(2) *Stormwater pollution prevention plan* means a plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

(3) *Stormwater runoff* means the water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

(4) *Stormwater quality management plan* means a comprehensive written document that addresses stormwater runoff quality.

(5) *Stormwater quality measure* means a practice, or a combination of practices, to control or minimize pollutants associated with stormwater runoff.

Stormwater Management System means a collection of structural and non-structural practices and infrastructure designed to manage stormwater on a site. This system may include but is not limited to erosion control measures, storm drainage infrastructure, detention/retention facilities, and stormwater quality BMP's.

Stormwater Pollution Prevention Plan means a plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

Stormwater Runoff means the water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

Stormwater Quality Management Plan means a comprehensive written document that addresses stormwater

runoff quality.

Stormwater Quality Measure means a practice, or a combination of practices, to control or minimize pollutants associated with stormwater runoff.

Stormwater Drainage System means all means, natural or man-made, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets and pumping stations.

Strip development means a multi-lot project where building lots front on an existing road.

Subdivision means any land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

Subdivision, Major means any land that is divided or proposed to be divided into four (4) or more lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

Subdivision, Minor means any land that is divided or proposed to be divided into less than four (4) lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

Subsurface drain means a pervious backfield trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.

Surface runoff means a precipitation that flows onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by that surface but collects and runs off.

Swale means an elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

Temporary stabilization means the covering of soil to ensure its resistance to erosion, sliding, or other movement. The term "temporary stabilization" includes vegetative cover, anchored mulch, or other non-erosive material applied at a uniform density of 70 percent across the disturbed area.

Tile drain means pipe made of perforated plastic, burned clay, concrete, or similar material, laid to a designed grade and depth, to collect and carry excess water from the soil.

Topographic map means a graphical portrayal of the topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

Topography means the representation of a portion of the earth's surface showing natural and manmade features of a given locality such as rivers, streams, ditches, lakes, roads, buildings and most importantly, variations in ground elevations for the terrain of the area.

Trained individual means an individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enables the individual to make judgments regarding stormwater control or treatment and monitoring.

Tributary means contributing stormwater from upstream land areas.

Urban drain means a drain defined as urban drain in Indiana Drainage Code (IC 36-27-9).

Urbanization means the development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

Vegetated swale means a type of vegetative practice used to filter stormwater runoff via a vegetated, shallow-channel conveyance.

Water body means any accumulation of water, surface, or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

Water quality refers to a term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

Water resources means the supply of groundwater and surface water in a given area.

Watercourse means any river, stream, creek, brook, branch, natural or manmade drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

Watershed means the area drained by or contributing water to a specific point that could be along a stream, pond, lake or stormwater facility. Watersheds are often broken down into subareas for the purpose of hydrologic modeling.

Watershed area means all land and water within the confines of a drainage divide. See also *Watershed.*

Wetlands means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The term "wetlands" shall be considered to be automatically amended to conform with the definition of wetlands established from time to time by the United States of America or United States Army Corps of Engineers.

(b) *Abbreviations.* The following abbreviations, when used in this chapter, shall have the meanings ascribed to them in this section:

BMP	Best management practice
USACE	United States Army Corps of Engineers
CSGP	Construction Stormwater General Permit
CWA	Clean Water Act
EPA	Environmental Protection Agency
GIS	Geographical information system
GSWMD	Gary Stormwater Management District
IDNR	Indiana Department of Natural Resources
IDEM	Indiana Department of Environmental Management
MS4	Municipal Separate Storm Sewer System
MS4GP	MS4 General Permit
NRCS	Natural Resources Conservation Service
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
SWCD	Soil and Water Conservation District
SWPPP	Stormwater Pollution Prevention Plan
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service

(Ord. No. 7931, app. A, 7-3-2006; Ord. No. 7931, ch. 1, § 6, 7-3-2006)

Sec. 119-7. Responsibility for administration.

The City of Gary Stormwater Management District (GSWMD) through its board and employees, shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the GSWMD may be delegated, in writing, by GSWMD to qualified persons or entities.

(Ord. No. 7931, ch. 1, § 7, 7-3-2006)

Sec 119-8 Interpretation

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except that words and phrases defined in Section 119-6 shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this Ordinance, but which have acquired

particular meanings in law or in technical usage shall be construed according to such meanings.

Sec 119-9 Severability

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

Sec. 119-10. Conflicting ordinances.

The provisions of this chapter shall be deemed as additional requirements to minimum standards required by other city ordinances, and as supplemental requirements to Indiana's CSGP regarding Stormwater Discharge Associated with Construction Activity, Indiana's MS4GP regarding Stormwater Runoff Associated with Municipal Separate Storm Sewer System Conveyances, Indiana's Rule 6 regarding Stormwater Runoff Associated with Industrial Sites (327 IAC 15-6) or Industrial Stormwater General Permit, U.S. EPA Underground Injection control Program Class V Well Requirements (40 CFR 144), chapter 18, article VII, and other city rules, regulations, and guidelines. In case of conflicting requirements, the most restrictive shall apply.

(Ord. No. 7931, ch. 1, § 8, 7-3-2006)

Sec. 119-11. Disclaimer of liability.

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by manmade or natural causes. This chapter does not imply that land uses permitted will be free from stormwater damage. This chapter shall not create liability on the part of the common council of the city or any other agency or department of the city, or any of their officials, employees, consultants, contractors, or agents for any damage which may result from reliance on this chapter or on any administrative decision lawfully made here under.

The words "approve" and "accept", and their common derivations as used in this Ordinance in relation to plans, reports, calculations, and permits shall mean that GSWMD has reviewed the material produced and submitted by the applicant or his/her agents for general compliance with this Ordinance and the city design standards manual, and that such compliance would qualify the applicant to receive a stormwater management approval or permit. Such an "approval" or "acceptance" is based on the assumption that the project engineer has followed all appropriate engineering methods in the design. Any stormwater quantity (drainage) or water quality problems associated with the project caused by poor construction by the contractor and/or poor engineering design or judgment, either on-site or off-site, are the responsibility of the developer and the project engineer. Consideration, design, construction, and maintenance of safety measures for proposed or existing stormwater facilities shall be the responsibility of the developer, applicant, and/or the property owner. GSWMD and its officials and representatives shall not be responsible for maintenance nor liability for any accidents.

(Ord. No. 7931, ch. 1, § 12, 7-3-2006)

Secs. 119-12—119-36. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 119-37. Compliance with this chapter.

In addition to the requirements of this chapter, compliance with the requirements set forth in the local zoning ordinances is also necessary. Compliance with all applicable ordinances of the city as well as with applicable state and federal statutes and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this chapter shall be the most recent edition available. No building permit shall be issued for the construction, extension, remodeling, alteration or repair of any proposed or existing building in the city, unless all of the applicable provisions of this chapter have been complied with. Violations of the requirements of this chapter are subject to the penalties listed below.

Any action or inaction which violates the provisions of this Ordinance, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in this Section. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

Sec 119-38 Enforcement of this Ordinance

(a) Warning Notice

When the GSWMD finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the GSWMD may serve upon that person a written Warning Notice, specifying the violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the GSWMD to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

(b) Notice of Violation/Citation

If the *GSWMD* determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management design plan, a recorded stormwater management maintenance agreement, or the provisions of this ordinance, it may issue a written Notice of Violation to such applicant or other responsible person and the owner of the property. Where a person is engaged in activity covered by this ordinance without having first secured a permit, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation will be in the form of a citation ticket and/or a written letter that will contain detailed inspection findings, conclusions of law, disposition of warning or fines assessed, stipulated remedial actions as discussed with the responsible party representative, reasonable deadlines for those remedial actions, and the date of re-inspection.

(c) Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the *GSWMD* may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, public education, etc.
(Ord. No. 7931, ch. 8, § 1, 7-3-2006)

(d) Civil Penalties for Violations

(1) Any person found in violation of any provision of this chapter shall be responsible for a civil infraction and subject to a maximum fine of $2,500.00 for a first offense, and a maximum of $2,500.00 for a subsequent offense, plus costs, damages, and expenses. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.

(2) Any person who aids or abets a person in a violation of this chapter shall be subject to the penalties provided in this section.

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

The GSWMD has established an Enforcement Response Schedule that standardizes the approach the GSWMD may take in dealing with stormwater regulations offenses subject to this Ordinance and the associated city design standards manual. The enforcement response schedule is as noted in the following table:

Offence #	Type of Response Anticipated
1st offense	Written Warning and/or Site Visit with Administrative Inspection Penalty, Stop Work Order
2nd offense	Letter of Violation, Site Visit with Administrative Inspection Penalty, Stop Work Order
3rd offense	Agreed Order or Administrative Order with Compliance Schedule, Site Visit with Administrative Inspection Penalty, Stop Work Order
4th offense	Stop Work Order, Litigation and Administrative Penalties

The Administrative Penalties shall be assessed on a per violation, per offense basis.

The GSWMD reserves the right to issue a maximum fine for any violation deemed sufficiently egregious or otherwise determined by the GSWMD to warrant a maximum penalty.

After the 4th offense, the matter will be referred to a Court with the proper jurisdiction. There GSWMD will ask for appropriate penalties to be imposed which, currently stand at a minimum of $250.00 up to a maximum of $2,500 for first time violators. All penalties are subject to the I.C. § 36-1-3-8.

(e) Stop Work Order

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

Any person who neglects or fails to comply with a stop work order shall, upon conviction, be guilty of an infraction, punishable by a fine of not more than $5,000.00 per violation. This fine shall be separate and distinct from appropriate and necessary costs associated with resolving violations. A permit reinstatement fee may be assessed by the GSWMD as well.

For construction projects that are operating under a SWPPP approved by the GSWMD, if a Stop Work Order is issued on the grounds that the erosion and sediment control measures included in the construction plan are not adequate, the project site owner must be notified in writing of the inadequacies in the erosion and sediment control measures and the project site owner has seventy-two (72) hours after receiving written notice to resolve the identified inadequacies before the Stop Work Order can take effect.

The seventy-two (72) hour period to resolve identified inadequacies on a construction project does not apply if the Stop Work Order is issued to a construction project where the project site owner is creating a public health or safety hazard.

(f) Withold Certificate of Occupancy

The GSWMD may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise satisfied the requirements of this ordinance as determined by the GSWMD.

(g) Suspension, Revocation, or Modification of permits

The GSWMD may suspend, revoke, or modify any existing permit that the violator may also have been previously granted. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the GSWMD may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(Ord. No. 7931, ch. 8, § 3, 7-3-2006)

Sec. 119-39. Failure to comply or complete.

In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the GSWMD may, after giving notice and reasonable opportunity for compliance, take the following actions and the owner shall be required to promptly reimburse the GSWMD for all costs of such actions.

(Ord. No. 7931, ch. 8, § 4, 7-3-2006)

(1) Emergency Cease and Desist Orders

When the GSWMD finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the GSWMD may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to immediately comply with all ordinance requirements and take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the GSWMD may take such steps as deemed necessary to prevent or minimize harm to the stormwater drainage system or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services.

The GSWMD may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the GSWMD that the period of endangerment has passed unless further termination proceedings are

initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the GSWMD within 5 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(2) Suspension Due to Illicit Discharges In Emergency Situations

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

(3) Suspension Due to the Detection of Illicit Discharge

Any person who discharges to the stormwater drainage system in violation of this ordinance may have their stormwater drainage system access terminated if such termination would abate or reduce an illicit discharge. The GSWMD will notify a violator of the proposed termination of its stormwater drainage system access. The violator may petition the GSWMD for a reconsideration and hearing. A person commits an offense if the person reinstates stormwater drainage system access to premises terminated pursuant to this Section, without the prior approval of the GSWMD.

(4) Criminal Penalties for Violations

Any responsible person(s) and/or the owner of the property who are deemed to have committed intentional or flagrant violations of this act will result in GSWMD, filing a police report or related documents needed to pursue a criminal legal action with the Lake County Prosecutor or Federal authorities. Upon conviction GSWMD, will request that any fine and/or sentence be imposed and that GSWMD be reimbursed for any damages, as a result of the offenders illegal actions.

(Ord. No. 7931, ch. 8, § 5, 7-3-2006)

Sec. 119-40. Corrective action.

In addition to any other remedies, should any owner fail to comply with the provisions of this ordinance, the GSWMD may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the GSWMD for all costs of such work.

Nothing herein contained shall prevent the GSWMD from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the stormwater drainage system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the GSWMD's NPDES permit, administrative costs, attorney fees, court costs, and other costs and expenses associated with the enforcement of this Ordinance, including sampling and monitoring expenses.

If the amount due for abatement of the violation is not paid within a timely manner as determined by the decision of the GSWMD or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property in the amount of the assessment.

(Ord. No. 7931, ch. 8, § 6, 7-3-2006)

Sec. 119-41. Appeals.

Any person to whom any provision of this chapter has been applied may appeal in writing, not later than 30 days

after the action or decision being appealed from, to the board of directors of GSWMD the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The board of directors of GSWMD shall appoint a hearing officer, when appropriate, to consider the appeal and make a decision whereby the board of directors of GSMWD or the hearing officer affirms, rejects or modifies the action being appealed. In considering any such appeal, the board of directors of GSMWD or the hearing officer may consider the recommendations of GSWMD staff, representatives and consultants and the comments of other persons having knowledge of the matter. In considering any such appeal, the board of directors of GSWMD or the hearing officer may grant a variance from the terms of this chapter to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

(1) The application of the chapter provisions being appealed will present or cause substantial and unreasonable practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the owner or developer to incur additional reasonable expenses in order to comply with the chapter; and

(2) The granting of the relief requested will not substantially prevent the attainment of the goals and purposes of this chapter, nor result in less effective management of stormwater runoff.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 days of the decision of the appropriate board upholding the decision of the GSWMD, then representatives of the GSWMD shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the GSWMD or its designated contractor to enter upon the premises for the purposes set forth above.

(Ord. No. 7931, ch. 8, § 7, 7-3-2006)

Secs. 119-42—119-74. Reserved.

DIVISION 2. PERMIT

Sec. 119-75. Preliminary drainage plan approval.

In order to establish that an adequate drainage outlet exists for a proposed subdivision seeking a primary plat approval from the plan commission, or for certain commercial developments as determined by the GSWMD, a developer must first apply for a preliminary drainage approval from the GSWMD. As part of the noted preliminary drainage approval application, a developer shall submit conceptual drainage plans for review by the GSWMD prior to the plan commission hearing. Note that any preliminary drainage approval by the GSWMD as a result of such a review is based on preliminary data and shall not be construed as a final drainage approval or considered binding on either party. The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

(1) Two complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems and proposed outlets (provide both 11" x 17" drawings and 22" x 34" drawings)

(2) General description of the existing and proposed drainage systems in narrative form.

(3) Watershed boundaries with USGS Contours or best information possible.

(4) Existing watercourse or regulated drains.

(5) Letter of Intent for obtaining any needed consents, off-site easements, or right-of-way.

(6) Map showing on-site 100-year floodplain and floodway (please note if none exists).

(7) Watershed Boundaries with USGS Contours or best information possible.

(8) Two (2) copies of drainage calculations detailing existing and proposed discharges from the site.

(9) Existing watercourse or regulated drains.

(Ord. No. 7931, ch. 7, § 1, 7-3-2006)

Sec. 119-76. Permit procedures.

This section applies to all development, or redevelopment of land that results in land disturbance. Individual lots with land disturbance less than 10,000 square feet that are developed within a larger permitted project site should refer to section 119-77 for plan review requirements and procedures.

(a) General Procedures

The project site owner shall submit an application for a Construction Stormwater General Permit to the GSWMD. The application will include a completed application checklist, construction plan sheets, a stormwater drainage technical report, a stormwater pollution prevention plan, and any other necessary support information. After the GSWMD's receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. GSWMD reserves the right to request a pre-construction meeting with the applicant prior to completing its review.

If the application is complete, it will be reviewed in detail by the GSWMD and/or its plan review consultant(s). The review will be completed within a timeframe that is in accordance with current state requirements. Once all comments have been received and review has been completed, the GSWMD will either approve the project, request modifications or deny the project. The project site owner must notify the GSWMD and IDEM before beginning construction.

Once a permit has been issued and the pending construction notifications submitted to the GSWMD and IDEM before the beginning of construction, construction may commence.

Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this Ordinance and the terms and conditions of the approved permit.

Upon completion of construction activities, a Certification of Completion and Compliance and as-built plans must be submitted to the GSWMD.

Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the GSWMD, requesting a termination inspection. The GSWMD, or its representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the requirements of GSWMD's stormwater Ordinance and its technical standards and that the terms and conditions of the permit.

Once the applicant receives a signed copy of the Termination Inspection Checklist confirming compliance, they must forward a copy to IDEM along with the required IDEM notice of termination (NOT) form.

If construction will not be completed prior to permit expiration, an updated permit application must be submitted to the GSWMD and an updated NOI must be resubmitted to IDEM at least 90 days prior to expiration.

(b) SWPPP Review Time Limits

An MS4-designated entity or other review authority will make a preliminary determination as to whether the construction plan associated with SWPPP is substantially complete in accordance with the timeframes required by IC 13-18-27.

(c) Information Requirements

Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in the "Applicability and Exemptions" sections of Sections 119-2, 119-110 , 119-146, 119-

173, 119-206, and 119-229. If a project or activity is exempt from any or all requirements of this ordinance, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required from individual lots, disturbing less than 1 acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under Section 119-78.

The different elements of a permit submittal include an application checklist, construction plans, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater pollution prevention plan, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer, registered in the State of Indiana, or a trained individual, as defined in Section 119-6 of this document.

Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions.

(1) Application Checklist
As part of the GSWMD Stormwater Management Permit application package, the application checklist must be completed by the applicant and provided along with other required supporting material.

(2) Construction Plans
Construction plan sheets (larger than 11" by 17", but not to exceed 24" by 36" in size) and an accompanying narrative report shall describe and depict the existing and proposed conditions. Construction plans must include items listed in the application checklist.

(3) Stormwater Drainage Technical Report
A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. The technical report needs to include items listed in the application checklist.

(4) Stormwater Pollution Prevention Plan for Construction Sites
A stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this Ordinance. The SWPPP and construction plans must include the items listed in the application checklist.

(5) Post-Construction Stormwater Pollution Prevention Plan
For sites with total land disturbance of 10,000 square feet or more of total land area, a post-construction stormwater pollution prevention plan must be designed to, at least, meet the requirements of this Ordinance and must include the information provided in the city design standards manual. The post-construction stormwater pollution prevention plan must include items listed in the application checklist provided in the city design standards manual.

(Ord. No. 7931, ch. 7, § 2, 7-3-2006)

Sec. 119-77. Review of individual lots within a permitted project.

(a) For individual lots disturbing less than 10,000 square feet, developed within a larger permitted project, a formal review and issuance of an individual lot plot plan permit will be required before a building permit can be issued. All stormwater management measures necessary to comply with this article must be implemented in accordance with the permitted plan for the larger project.

(b) The following information must be submitted to the GSWMD, for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request

for review and issuance of an individual lot plot plan permit that must be obtained prior to the issuance of a building permit:

(1) A certified site layout for the subject lot and all adjacent lots showing building pad location, dimensions, and elevations, and the drainage patterns and swales.

(2) Erosion and sediment control plan that, at a minimum, includes the following measures:

a. Installation and maintenance of a stable construction site access.

b. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

c. Minimization of sediment discharge and tracking from the lot.

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

e. Implementation of concrete washout practices that securely contain and allow for the proper disposal of washout waste.

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

g. Self-monitoring program including plan and procedures.

(3) Name, address, telephone number, and list of qualifications of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site.

(4) Certification of compliance stating that the individual lot plan is consistent with the Stormwater Management Permit, as accepted by the GSWMD, for the larger project (if the individual lot is part of a larger permitted project).

(c) The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.

(Ord. No. 7931, ch. 7, § 4, 7-3-2006)

Sec. 119-78. Changes to plans.

Any changes or deviations in the detailed plans and specifications after approval of the applicable stormwater management permit shall be filed with, and accepted in writing by, the GSWMD prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.

(Ord. No. 7931, ch. 7, § 5, 7-3-2006)

Sec. 119-79. Fee structure.

(a) *Fee amount.* As a condition of the submittal and the review of an application and associated documents by the GSWMD, the applicant shall agree to pay the GSWMD the applicable fee for the review of all applications, drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data, as well as inspection fees, which shall be not more than the amount that is determined by the GSWMD to be sufficient to pay for all of the reasonable costs, direct and indirect, to the GSWMD for the performance of those activities. GSWMD shall adopt the City of Gary's schedule of fees as applicable to stormwater management.

Permit/Fee Type	Extra Submittal Review-Rate per Hour*	Extra SWPPP Inspection-Rate per Hour ($/hour)**
Single residential lot	$140	$80
Development (0-19.99 acre)	$265	$220
Development (20+ acres)	$355	$220

*Review of initial submittals and a maximum of two resubmittals will be performed at no charge to the applicant. Time spent on plan reviews beyond the initial submittals and two resubmittals will be charged at these hourly rates until the submittal is approved.

**Sites that have been issued a Notice of Violation or that have had deficiencies identified during an inspection by GSWMD will incur a re-inspection cost for time spent on each re-inspection until the site is brought into compliance.

(b) *Time of payment.* Applicant shall submit the specified fee at the time that the applicant submits its application to the GSWMD. The GSWMD shall have the right to not approve the drainage improvements or to not approve a permit or the advancement of any project for which the applicable fees have not been paid.

(c) *Method of payment.*

(1) Fees shall be paid by one of the following methods:

a. Certified check.

b. Cashier's check.

c. Money order.

d. Such other methods as may be agreed in writing by the GSWMD.

(2) All checks shall be made payable to the:

Gary Stormwater Management District

3600 West 3rd Avenue

Gary, IN 46404

(d) *Refund of payment.* Fees are refundable only if the GSWMD determines that compliance with this chapter is not applicable to the proposed development.

(Ord. No. 7931, ch. 7, § 6, 7-3-2006)

Sec. 119-80. Required assurances.

As a condition of approval and issuance of the permit, except for a single-family residence, the GSWMD shall require the applicant to provide assurance in form of an irrevocable letter of credit, a bond, or such other instrument or method of security acceptable in writing by the GSWMD when the stormwater management plan has been accepted, all applicable fees paid, and before construction begins. Said assurance will guarantee a good faith execution of the stormwater drainage plan, the stormwater pollution prevention plan, the stormwater quality management plan, and any permit conditions. The assurance shall be for an amount equal to 110 percent of the total costs of all stormwater management measures for the entire project. The above-mentioned costs shall be based on an estimate as prepared by a registered engineer or registered land surveyor. Said costs shall be for the installation and ongoing monitoring and maintenance of erosion control measures and the construction and ongoing monitoring and maintenance of storm drainage infrastructure, detention/retention facilities, and stormwater

quality BMPs, as regulated under this chapter, until the construction is completed, site is stabilized, and as-built plans are accepted by the GSWMD. Assurances shall be for a minimum of $5,000.00. The intent of this assurance is not only to complete the installation of storm drain infrastructure for the project, but also to assure that adequate stormwater pollution prevention measures are properly installed and maintained. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual stormwater assurance.

(Ord. No. 7931, ch. 7, § 7, 7-3-2006)

Sec. 119-81. Terms and conditions of permits.

(a) In granting a stormwater management permit, the GSWMD may impose such terms and conditions as are reasonably necessary to meet the purposes of this chapter and all applicable federal and state laws, rules, and regulations. The project site owner shall ensure compliance with such terms and conditions. Noncompliance with the terms and conditions of permits will be subject to enforcement as described in division 2 of this article.

(b) The project site owner shall inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of the stormwater management permit and the schedule for proposed implementation. The project site owner is responsible for ensuring compliance with all terms of the permit by anyone working on the project site and may not assign that responsibility without the written consent of the GSWMD.

(c) In the event that a project site is determined to impact or discharge to a sensitive area or is located in an impact drainage area, the GSWMD may require more stringent stormwater quantity and quality measures than detailed in this division, in the state stormwater quality manual, or in the city design standards manual.

(d) Determination of sensitive areas. Sensitive areas include highly erodible soils, wetlands, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. Sensitive areas also include sites that are considered contaminated, as defined in Section 119-6 of this document. A listing of highly erodible soils, outstanding water, impaired water, recreation water, surface drinking water sources, known Superfund Sites areas and problem areas can be found in the Gary Water Quality Characterization Report, dated December 1, 2023, and its updates. If wetlands are suspected on a site, wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers and the wetland addressed in accordance with the requirements of article VII of this chapter. Special terms and conditions for development determined to impact or discharge to any sensitive area shall be included in the stormwater management permit.

(e) Determination of impact drainage areas. The following areas shall be designated as impact drainage areas, unless good reason for not including them is found to exist by the board of directors of the GSWMD:

(1) A floodway or floodplain as designated by the most updated FEMA Code dealing with floodplain regulation and/or by the Best Available Data through IDNR.
(2) Land within 25 feet of each bank of any ditch within the GSWMD's system.
(3) Land within 15 feet of the centerline of any stormwater infrastructure or enclosed conduit within the GSWMD's system.
(4) Land within 75 feet of each bank of a county open regulated drain.
(5) Land within 50 feet of a natural drainageway.
(6) Land within 75 feet of the centerline of any tiled regulated drain.
(7) Land within the Fluvial Erosion Hazard (FEH) corridor.
(8) Land within the expected breach inundation zone of an existing or proposed new dam, and areas protected from flooding by a levee.

(f) The board of directors of the GSWMD is authorized, but is not required, to classify certain additional geographical areas as impact drainage areas. In determining impact drainage areas, the board of directors of

the GSWMD shall consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility.

(g) The GSWMD is authorized, but is not required, to classify certain geographical areas as Designated Drainage Areas that are or will be served by regional facilities, such as a regional pond. In such cases, an Infrastructure Development Fee (IDF) ~~rate~~ may be established for the Designated Drainage Area. The basis for determining such a fee for a proposed development or re-development within a Designated Drainage Area will be as detailed in the city design standards manual.

(h) Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an impact drainage area by the board of directors of the GSWMD. Special terms and conditions for development within any impact drainage area shall be included in the stormwater management permit.

(Ord. No. 7931, ch. 7, § 8, 7-3-2006)

Sec. 119-82. Certification of record plans.

(a) This section shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the GSWMD or retained privately. After completion of construction of the project and before the release of required performance assurances referenced in Section 119-80 above, a professionally prepared and certified 'as-built' set of plans (record drawings) shall be submitted to the GSWMD for review. These as-built plans/record drawings must be prepared and certified by the Engineer of Record, i.e., the company/engineer who originally prepared the construction plans. Additionally, a digital copy of the 'as-built' plans (record drawings) as well as finalized digital versions of all analyses, models, manuals, and reports that are consistent with the as-built conditions is required in a format acceptable to the GSWMD. These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:

(1) Pipe size and pipe material
(2) Invert elevations
(3) Top rim elevations
(4) Elevation of the emergency overflow (spillway) for ponds
(5) Grades along the emergency flood routing path(s)
(6) Pipe structure lengths
(7) BMP types, dimensions, and boundaries/easements
(8) "As-planted" plans for BMP's, as applicable
(9) Data and calculations showing detention basin storage volume
(10) Data and calculations showing BMP treatment capacity
(11) Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the Stormwater Management Permit as approved by the *GSWMD*. (See certificate in the city design standards manual.)

(b) In addition to as-built plans and the certification of completion and compliance, following the release of performance assurances, the property owner, developer, or contractor shall be required to file a three-year maintenance bond or other acceptable guarantee with the GSWMD in an amount not to exceed twenty five percent (25%) of the cost of the stormwater management system located outside the public road rights-of-way, and in a form satisfactory to the GSWMD in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans, and this Ordinance and that any off-site drainage problems that may arise, whether upstream or downstream of such project, will be corrected if such drainage problems are determined by GSWMD to have been caused by the development of such project. The bond or other acceptable guarantee shall be in effect for a period of three years after the date of the release of required performance assurances referenced in Section 119-80 above. The beneficiary of all maintenance bonds shall be the GSWMD Council of the GSWMD.

To verify that all stormwater infrastructure is functioning properly, visual recordings (via closed circuit television) of such infrastructure, including all subsurface drains, shall be required twice, once following the completion of

installation of the stormwater management system and submittal of as-builts, and the second time before release of maintenance bonds. These visual recordings will be scheduled by the GSWMD and paid for by the developer. Notices shall be provided to the GSWMD within 72 hours following the completion of installation and again at least 60 days prior to the expiration date of the maintenance bond so that the noted recordings may be scheduled. Reports summarizing the results of the noted visual recordings shall be reviewed and accepted by the GSWMD before the plat is recommended for recording and again before the maintenance bond shall be recommended to be released.

Additional requirements for transfer of any applicable stormwater BMP Maintenance Agreement, O&M Maintenance Manual, and Maintenance Escrow accounts to subsequent owners prior to release of the maintenance bond is discussed in Section 119-80 of this ordinance.

(Ord. No. 7931, ch. 7, § 9, 7-3-2006)

Secs. 119-83—119-109. Reserved.

ARTICLE III. PROHIBITED DISCHARGES AND CONNECTIONS

Sec. 119-110. Applicability and exemptions.

(a) This article shall apply to all discharges, liquid or solid, including illegal dumping, entering the stormwater drainage system under the control of the city, regardless of whether the discharge originates from developed, redeveloped, or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the stormwater drainage system, illegal dumping, and contaminated runoff.

(b) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written acceptance has been granted by GSWMD for the subject discharge to the stormwater drainage system, is also exempted from this article.

(Ord. No. 7931, ch. 2, § 1, 7-3-2006)

Sec. 119-111. Prohibited discharges and connections.

(a) No person shall discharge to a MS4 conveyance, watercourse, or water body, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively minimize, to the maximum extent practicable, pollutants from also being discharged with the stormwater, through the use of, among other things, best management practices (BMPs).

(b) Concrete washout material must be properly contained within an appropriate practice and any waste material properly disposed of.

(c) The GSWMD is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the city's stormwater drainage system to the maximum extent practicable.

(Ord. No. 7931, ch. 2, § 2, 7-3-2006)

Sec. 119-112. Exempted discharges and connections.

Notwithstanding other requirements in this chapter, the following categories of non-stormwater discharges or flows are exempted from the requirements of this article:

(1) Water line flushing;

(2) Landscape irrigation;

(3) Diverted stream flows;

(4) Rising groundwaters;

(5) Uncontaminated groundwater infiltration;

(6) Uncontaminated pumped groundwater;

(7) Discharges from potable water sources;

(8) Foundation drains;

(9) Air conditioning condensation;

(10) Springs;

(11) Water from crawl-space pumps;

(12) Footing drains;

(13) Lawn watering;

(14) Individual residential car washing;

(15) Flows from riparian habitats and wetlands;

(16) Dechlorinated swimming pool discharges;

(17) Street wash water;

(18) Discharges from firefighting activities.

(19) Naturally introduced detritus (e.g. leaves and twigs)

(Ord. No. 7931, ch. 2, § 3, 7-3-2006)

Sec. 119-113. Storage of hazardous or toxic material.

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse. Compliance with any city ordinances or state and federal legislation associated with surface contamination is also required.

(Ord. No. 7931, ch. 2, § 4, 7-3-2006)

Sec. 119-114. Private property maintenance duties.

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

(Ord. No. 7931, ch. 2, § 5, 7-3-2006)

Sec. 119-115. Spill reporting.

(a) Any discharger who accidentally discharges into a water body any substance other than stormwater or an exempted discharge shall immediately inform HAZMAT, the city department of environmental affairs, health department, GSWMD, and any other entity required by state or federal law, of the details of the discharge. A written report concerning the discharge shall be filed with the GSWMD's office and IDEM, by the dischargers, within five days. The written report shall specify:

(1) The composition of the discharge and the cause thereof;

(2) The date, time, and estimated volume of the discharge;

(3) All measures taken to clean up the accidental discharge and all measures proposed to be taken to prevent any recurrence;

(4) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

(b) A properly reported accidental discharge shall be a mitigating factor in a civil infraction proceeding brought under this article against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of, or arising out of, the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section. This requirement does not relieve a discharger from notifying other entities as required by state or federal regulations.

(Ord. No. 7931, ch. 2, § 6, 7-3-2006)

Sec. 119-116. Inspections and monitoring.

(a) *Storm drainage system.* The GSWMD has the authority to periodically inspect the portion of the storm drainage system within the city's jurisdiction in an effort to detect and eliminate illicit connections and discharges into the system. This inspection may include an assessment (preliminary screening) of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It may also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

(b) *Potential polluters.* If, as a result of a storm drainage system inspection or other relevant evidence, there is reason to believe that a discharger has caused or contributed to an illicit discharge, the GSWMD may inspect and/or obtain stormwater samples from stormwater runoff and facilities of the subject discharger to determine compliance with the requirements of this Article. Upon request, the discharger shall allow the GSWMD's properly identified representative to enter upon the premises of the discharger at any hour necessary for the purposes of such inspection or sampling. The GSWMD or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Tampering with any equipment placed on the discharger's property for sampling, monitoring, and/or inspection purposes is punishable by a fine of up to $2,500.00 per violation. Identified illicit connections or discharges shall be subject to enforcement action as described in article II of this chapter.

(c) *New development and redevelopment.* Following the final completion of construction and the receipt of record drawings by the GSWMD's office, the GSWMD has the authority to inspect new development and redevelopment sites to verify that all on-site stormwater conveyances, installed BMP systems, and connections to the stormwater drainage system are in compliance with this article.

(Ord. No. 7931, ch. 2, § 7, 7-3-2006)

Secs. 119-117—119-145. Reserved.

Sec. 119-146. Applicability and exemptions.

The storage and controlled release rate of excess stormwater runoff shall be required for all new business, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the city. The GSWMD, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor projects.

(Ord. No. 7931, ch. 3, § 1, 7-3-2006)

Sec. 119-147. Policy on stormwater quantity management.

(a) *Detention policy.* It is recognized that most streams and drainage channels serving the city do not have sufficient capacity to receive and convey increased stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release of excess stormwater runoff shall be required for all developments and redevelopments located within the city's jurisdictional area.

(b) *General release rates.* In general, the post-development release rates for developments up to and including the 100-year return period storm may not exceed 0.2 cfs per acre of development. For sites where the predeveloped area has more than one outlet, the release rate should be computed based on predeveloped discharge to each outlet point. The computed release rate for each outlet point shall not be exceeded at the respective outlet point even if the post-developed conditions would involve a different arrangement of outlet points. For sites with existing significant depressional storage, the general release rates may have to be reduced to reflect a significantly smaller runoff to the outlet point in existing conditions.

(c) *Release rates for sites using below grade exfiltration methods.* For sites using below grade exfiltration methods, the post-development release rates for developments up to and including the 100-year return period storm shall not exceed the ten-year predeveloped peak runoff rate as determined assuming the predeveloped site conditions are virgin soil. Site-specific release rates must be calculated according to a methodology described in the city design standards manual. In no case shall the calculated site-specific release rates be larger than the general release rates provided above.

(d) *Management of off-site runoff.*

(1) Runoff from all off-site upstream tributary areas may be bypassed around a detention/retention facility without attenuation. Such runoff may also be bypassed through the detention/retention facility without attenuation, provided that a separate outlet system or channel is incorporated for the safe passage of such flows, i.e., not through the primary outlet of a detention facility. Unless the pond is being designed as a regional detention facility, the primary outlet structure shall be sized and the invert elevation of the emergency overflow weir determined according to the on-site runoff only. Once the size and location of primary outlet structure and the invert elevation of the emergency overflow weir are determined by considering on-site runoff, the 100-year pond elevation is determined by routing the entire inflow, on-site and off-site, through the pond.

(2) Note that the efficiency of the detention/retention facility in controlling the on-site runoff may be severely affected if the off-site area is considerably larger than the on-site area. As a general guidance, on-line detention may not be effective in controlling on-site runoff where the ratio of off-site area to on-site area is larger than 5:1. Additional detention (above and beyond that required for the on-site area) may be required by the GSWMD when the ratio of off-site area to on-site area is larger than 5:1.

(e) *Downstream restrictions.*

(1) In the event the downstream receiving channel or storm sewer system is inadequate to accommodate the post-developed release rate provided above without adverse consequences, then the allowable release rate shall be reduced to that rate permitted by the capacity of the receiving downstream

channel or storm sewer system. Additional detention, as determined by the GSWMD, shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers or watercourses. When such downstream restrictions are suspected, the GSWMD may require additional analysis to determine the receiving system's limiting downstream capacity.

(2) If the proposed development makes up only a portion of the undeveloped watershed upstream of the limiting restriction, the allowable release rate for the development shall be in direct proportion to the ratio of its drainage area to the drainage area of the entire watershed upstream of the restriction.

(f) *Grading and building pad elevations.*

(1) The 100-year flow paths throughout a development, whether shown on FEMA maps or not, must be shown as hatched area on the plans and 30 feet along the centerline of the flow path contained within permanent drainage easements. A statement shall be added to the plat that would refer the viewer to the construction plans to see the entire extent of overflow path as hatched areas. No fences or landscaping can be constructed within the easement areas that may impede the free flow of stormwater. These areas are to be maintained by the property owners or be designated as common areas that are to be maintained by the homeowners association. The lowest adjacent grade for all residential, commercial, or industrial buildings shall be set a minimum of one foot above the noted overflow path/ponding elevation.

(2) It shall be the property owners' responsibility to maintain the natural features on their lots and to take preventive measures against any and all erosion and/or deterioration of natural or manmade features on their lots.

(g) *Acceptable outlet and adjoining property impacts policies.*

(1) Design and construction of the stormwater facility shall provide for the discharge of the stormwater runoff from off-site land areas as well as the stormwater from the area being developed (on-site land areas) to an acceptable outlet (as determined by the GSWMD) having capacity to receive upstream (off-site) and on-site drainage. The flow path from the development outfall to a regulated drain or natural watercourse (as determined by the GSWMD) shall be demonstrated on an exhibit that includes topographic information. Any existing field tile encountered during the construction shall also be incorporated into the proposed stormwater drainage system or tied to an acceptable outlet.

(2) Where the outfall from the stormwater drainage system of any development flows through real estate owned by others prior to reaching a publicly regulated drain or watercourse, no approval shall be granted for such drainage system until all owners of real estate and/or tenants crossed by the outfall consent in writing to the use of their real estate through a recorded easement. In addition, no activities conducted as part of the development shall be allowed to obstruct the free flow of floodwaters from an upstream property.

(3) If an adequate outlet is not located on site, then off-site drainage improvements may be required. Those improvements may include, but are not limited to, extending storm sewers, clearing, dredging and/or removal of obstructions to open drains or natural watercourses, and the removal or replacement of undersized culvert pipes; whatever is required by the GSWMD.

(h) *No net loss floodplain storage policy.*

(1) Floodplains exist adjacent to all natural and manmade streams, regardless of contributing drainage area or whether they have been previously identified or mapped. Due to potential impacts of floodplain loss on peak flows in streams and on the environment, disturbance to floodplains should be avoided. When the avoidance of floodplain disturbance is not practical, the natural functions of floodplain should be preserved to the extent possible. Streambank stabilization projects are exempt from the requirements of this subsection.

(2) In an attempt to strike a balance between the legitimate need for economic development within the city and the need to preserve the natural functions of floodplains to the extent possible, compensatory

excavation 1.5 times the floodplain storage lost shall be required for all activities within the floodplain of a stream located in the city where the drainage area of the stream is equal or larger than one-half square mile. This requirement shall be considered to be above and beyond the minimum requirements provided in the applicable flood hazard areas ordinance currently in effect in the city. The GSWMD may alter the compensation ratio, based on extenuating circumstances, for a specific project. Any floodplain modification must also be approved by the Indiana Department of Natural Resources (IDNR).

(3) Note that, by definition, compensatory storage is the replacement of the existing floodplain and, in rare exceptions, the floodway storage lost due to fill. Compensatory storage is required when a portion of the floodplain is filled, occupied by a structure, or when as a result of a project a change in the channel hydraulics occurs that reduces the existing available floodplain storage. The compensatory storage should be located as near as reasonably possible to the placement of the fill and an unimpeded connection to an adjoining floodplain area must be maintained.

(4) Computations must show 1.5 times the provision of compensatory floodplain storage for ten-year, 50-year, and 100-year storm events. That is, the post-development ten-year floodplain storage along a stream shall be 1.5 times the ten-year predevelopment floodplain storage along the stream within the property limits, the post-development 50-year floodplain storage along a stream shall be 1.5 times the 50-year predevelopment floodplain storage along the stream within the property limits, and the post-development 100-year floodplain storage along a stream shall be 1.5 times the 100-year predevelopment floodplain storage along the stream within the property limits.

(5) Calculations for floodplain volume shall be submitted in tabular form showing calculations by cross section. The volume of floodplain storage under the without-project conditions and the with-project conditions should be determined using the average-end-area method with plotted cross sections at a horizontal to vertical ratio of between 5:1 and 10:1, with 10- through 100-year flood elevations noted on each cross section. The scale chosen should be large enough to show the intent of proposed grading. Cross sections should reflect both the existing and proposed conditions on the same plot. The location and extent of the compensatory storage area as well as the location and orientation of cross sections should be shown on the grading plan.

(Ord. No. 7931, ch. 3, § 2, 7-3-2006)

Sec. 119-148. Calculations and design standards and specifications.

The calculation methods as well as the type, sizing, and placement of all stormwater facilities shall meet the design criteria, standards, and specifications outlined in the city design standards manual. The methods and procedures in the manual are consistent with the policy stated above.

(Ord. No. 7931, ch. 3, § 3, 7-3-2006)

Sec. 119-149. Drainage easement requirements.

There shall be no trees or shrubs planted, nor any structures or fences constructed, in any drainage easement, unless approved in writing by the GSWMD. All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way may be incorporated into the city's system at the sole discretion of the GSWMD. The developer shall petition to incorporate the storm system into the city's system. The stormwater management permit shall not be accepted until such petition is submitted in a form acceptable to the GSWMD. The following specific areas may be included in a petition:

(1) *Subdivisions.*

a. All new channels, drain tiles equal to or greater than 12 inches in diameter, inlet and outlet structures of detention and retention ponds, and appurtenances thereto as required by this chapter, that are installed in subdivisions requiring a stormwater management permit from the GSWMD may be petitioned to become incorporated into the city's system upon completion,

proper inspection, and acceptance by the GSWMD. New drain tiles refer to all subsurface stormwater piping, tubing, tiles, manholes, inlets, catch basins, risers, etc.

b. New drain tiles or sewers shall be placed in a 30-foot easement (15 feet from centerline on each side) and shall be designated on the record plat as 30-foot drainage easement. Wider easements may be required by the GSWMD when the depth of pipe is greater than six feet, depending on the pipe size. The GSWMD, at its sole discretion, may allow a smaller easement for short distances in order to avoid extreme hardship to the applicant.

c. A minimum of 25 feet from the top of the bank on each side of a new channel shall be designated on the record plat as a drainage easement.

d. Rear-yard swales and emergency overflow paths associated with detention ponds shall not be included in a petition for incorporation. However, a minimum of 30-foot width (15 feet from centerline on each side) needs to be designated as a drainage easement.

e. A minimum of 30 feet beyond the actual footprint (top of the bank) of stormwater detention facilities shall be designated as a drainage easement. A minimum 30-foot width easement shall also be required as access easement, unless the pond is immediately next to a public right-of- way.

f. The statutory 75-foot (each side) drainage easement for county-regulated drains already within the city's system may be reduced if the drain is reclassified by the county surveyor as an urban drain.

g. An annual maintenance assessment shall be set up on each new publicly regulated drain established in a new subdivision. The amount of the assessment will be determined by the GSWMD and so certified.

h. If the GSWMD accepts the petition for incorporation into its system, the following statement shall become part of the restrictive covenants of every platted subdivision and shown on recorded plat: "Channels, tile drains 12-inch or larger, inlets and outlets of detention and retention ponds, and appurtenances thereto within designated drain easements are extensions of the city's stormwater drainage system and are the responsibility of the GSWMD. Drainage swales and tile drains less than 12 inches in inside diameter shall be the responsibility of the owner or homeowner association."

i. The following statement shall be put on each subdivision plat: "A petition addressed to the GSWMD has been filed in duplicate with the city, requesting that the subdivision's storm drainage system and its easements be accepted into the city's regulated drainage system. The storm drainage system and its easements that are accepted into the city's regulated drainage system are delineated on the plat as drainage easements. Drainage easements are stormwater easements and drainage rights-of-way that are hereby dedicated to the public and to the city for the sole and exclusive purpose of controlling and managing surface water and/or for the installation, operation, and maintenance of storm sewers, tile drains, and other stormwater conveyance and treatment facilities. All other storm drainage easements have not been accepted into the city's system. All drainage improvements performed relative to the conveyance of stormwater runoff and the perpetual maintenance thereof, within the latter easements, shall be the responsibility of the owner or homeowner association. The GSWMD assumes no responsibility relative to said improvements or the maintenance thereof. This subdivision contains _____ linear feet of open ditches and _ linear feet of subsurface drains that will be included in the city's regulated drainage system." The noted drainage facilities' lengths, broken down by the length of open and subsurface drainageways, shall also be shown in tabular form in a prominent position on the plat.

j. Any crossing of and/or encroachment upon a drainage easement requires application to and approval by the GSWMD, and the county surveyor's office if it is regulated by the county.

(2) *Non subdivisions.* Where the GSWMD is responsible for maintenance of the drainage system, drainage easements of 25 feet from the top of bank on each side of the channel or each side of the tile centerline

must be dedicated to the city. In addition, a minimum of 25-foot width of vegetative filter strip must be provided, and maintained by the applicant, along top-of-bank on each side within these easements.

(3) *State, county, school properties.* All new channels, swales, drain tiles, inlet and outlet structures of detention and retention ponds, and appurtenances thereto as required by this chapter, that are installed on the state, county, or school property will be maintained, repaired, and constructed by the entity and will not become the GSWMD's maintenance responsibility unless contracted for with GSWMD for reasonable compensation. The design must meet all the appropriate permitting requirements and the standards of this chapter for permitting, sizing and installation. Any off-site portion of the drainage system must be within easements and have clearly defined maintenance agreements.

(Ord. No. 7931, ch. 3, § 4, 7-3-2006)

Sec. 119-150. Placement of utilities.

No utility company may disturb existing storm drainage facilities without the consent of the GSWMD director, whose decision may be appealed to the board of directors of the GSWMD. All existing drainage facilities shall have senior rights, and damage to said facilities shall result in penalties as prescribed in article II of this chapter.
(Ord. No. 7931, ch. 3, § 5, 7-3-2006)

Sec. 119-151. Structures near county regulated drains.

For regulated drains not located in platted subdivisions, unless otherwise accepted by the county surveyor, no permanent structure (including fences) shall be erected within 75 feet measured at right angles from:

(1) The existing top edge of each bank of a county-regulated open drain, as determined by the county surveyor; or

(2) The centerline of a tiled county-regulated drain. The Indiana Drainage Code (IC 36-9-27) may be consulted for further details.

(Ord. No. 7931, ch. 3, § 6, 7-3-2006)

Sec. 119-152. Inspection, maintenance, recordkeeping, and reporting.

(a) After the approval of the stormwater management permit by the GSWMD and the commencement of construction activities, the GSWMD has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this chapter, the city design standards manual, and the terms and conditions of the accepted permit.

(b) The GSWMD also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quantity and quality facilities within its jurisdiction. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater facilities shall be maintained in good condition, in accordance with the terms and conditions of the accepted stormwater management permit, and shall not be subsequently altered, revised, or replaced except in accordance with the accepted stormwater permit, or in accordance with accepted amendments or revisions to the permit. If deficiencies are found during an inspection, the owner of the facility will be notified by GSWMD and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in a written notice, the GSWMD may undertake the work and collect from the owner the cost of performing the work and, if necessary, using lien rights and all other legal methods for recovery of such cost.

(c) Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is accepted. Stormwater detention/retention

basins may be donated to the GSWMD or other unit of government designated by the board of directors of the GSWMD by written agreement for ownership and permanent maintenance, providing the GSWMD or other governmental unit is willing to accept responsibility.

(Ord. No. 7931, ch. 3, § 7, 7-3-2006)

Secs. 119-153—119-172. Reserved.

ARTICLE V. STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITE

Sec. 119-173. Applicability and exemptions.

(a) The GSWMD will require a detailed Stormwater Pollution Prevention Plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of the construction plans and specifications. This Article applies to any project located within the city that includes clearing, grading, excavation, and other land disturbing activities. This includes both new development and redevelopment. This article also applies, at the discretion of the GSWMD, to disturbances of less than one acre of land that are a part of a larger common development if the larger common development will ultimately disturb one or more acres of land. Section 119-175 provides guidelines for calculating land disturbance.

(b) The requirements under this article do not apply to the following activities:

(1) Agricultural land disturbing activities; or

(2) Forest harvesting activities.

(c) The requirements under this article do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

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

(2) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the state department of environmental management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(d) For an individual lot where land disturbance is expected to be one acre or more, the individual lot owner must complete their own notice of intent (NOI) letter, obtain and complete a stormwater permit application from the GSWMD, and ensure that a sufficient construction and stormwater pollution prevention plan is completed and submitted in accordance with this chapter; regardless of whether the individual lot is part of a larger permitted project site.

(e) An individual lot with land disturbance less than one acre, located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the stormwater permit accepted for the larger project site. The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition, these individual lots are required to submit individual lot plot plan permit applications prior to receiving a building permit. Details of the permitting process are contained in article II, division 2 of this chapter.

(f) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to GSWMD in accordance with article II, division 2 of this chapter. It will be the responsibility of the project site owner to ensure compliance with this chapter during the construction activity and implementation of the construction plan, and in following and implementing all best management practices, and to notify the GSWMD with a sufficient notice of termination letter (NOT) upon completion of the project and stabilization of the site. However, all persons engaging in

construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this article, this chapter and applicable IDEM regulations.

(Ord. No. 7931, ch. 4, § 1, 7-3-2006)

Sec. 119-174. Policy on stormwater pollution prevention.

Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a water body (sediment control), and proper on-site materials handling. The developer must submit to the GSWMD a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing. The following principles apply to all land disturbing activities, with the exception of single-family dwellings that meet the exemptions within Section 119-77 and Section 119-206, and should be considered in the preparation of a SWPPP within the city:

(1) Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fills in areas with steep slopes should be avoided wherever possible, and natural contours should be followed as closely as possible.

(2) Existing natural vegetation should be retained and protected wherever possible. Natural buffers immediately adjacent (within 35 feet of top of bank) to watercourses and lakes (including all waters of the state) must be left undisturbed unless infeasible. Where existing natural buffers adjacent to waters of the state are 50 ft. wide or greater, the natural buffer is to be maintained at a minimum width of 50 ft. If the existing natural buffer adjacent to a water of the state is less than 50 ft. wide, then it is to be maintained in its entirety.

(3) Unvegetated or vegetated areas with less than 70 percent cover that are scheduled or likely to be left inactive for 7 days or more must be temporarily or permanently stabilized. Selected stabilization measures must be appropriate for the season and the site to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owners or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.

(a) Stabilization of the areas that are scheduled or likely to be left inactive for 7 days or more must be initiated by the end of the 7th day of inactivity, with stabilization completed by the end of the 14th day of inactivity. Initiation of stabilization, includes but is not limited to, the seeding and/or planting of the exposed area and applying mulch or other temporary surface stabilization methods where appropriate. Areas that are not accessible due to an unexpected and disruptive event that prevents construction activities are not considered idle.

(4) All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.

(5) The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.

(6) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.

(7) Appropriate measures shall be implemented to prevent wastes or unused building materials, including, garbage, debris, packaging material, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Concrete washouts should not be located immediately adjacent to drainage areas or water features, where feasible. Wastes and unused building materials shall

be managed and disposed of in accordance with all applicable state statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures shall be implemented to minimize the potential for pollutants to contaminate surface or groundwater or degrade soil quality.

(8) Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable city, state, and federal statutes and regulations.

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

(10) Natural features, including wetlands, shall be protected from pollutants associated with stormwater runoff.

The required IDEM general and implementation requirements that apply to all land disturbing activities are contained in the city design standards manual.

(Ord. No. 7931, ch. 4, § 2, 7-3-2006)

Sec. 119-175. Calculations and design standards and specifications.

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

(1) Off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.

(2) Strip developments will be considered as one project site and must comply with this article.

(3) To determine if multi-lot project sites are regulated by this rule, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot.

(4) The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the state stormwater quality manual and the city design standards manual. The methods and procedures included in these two references are in keeping with the above-stated policy and meet the requirements of IDEM's CSGP.

(Ord. No. 7931, ch. 4, § 3, 7-3-2006)

Sec. 119-176. Inspection, maintenance, recordkeeping, and reporting.

(a) Following approval of the stormwater management permit by the GSWMD and commencement of construction activities, the GSWMD has the authority to conduct inspections of the site to ensure full compliance with the provisions of this article, the state stormwater quality manual, the city design standards manual, and the terms and conditions of the accepted permit.

(b) A self-monitoring program must be implemented by the project site owner to ensure the stormwater pollution prevention plan works effectively. A trained individual, acceptable to GSWMD, shall perform a written evaluation of the project site by the end of the next business day following each measurable storm event. If there are no measurable storm events within a given week, the site should be monitored at least once in that week. Weekly inspections by the trained individual shall continue until the entire site has been stabilized and

an NOT has been issued. The trained individual should look at the maintenance of existing stormwater pollution prevention measures, including erosion and sediment control measures, drainage structures, and construction materials storage/containment facilities, to ensure they are functioning properly. The trained individual should also identify additional measures, beyond those originally identified in the stormwater pollution prevention plan, necessary to remain in compliance with all applicable city, state, and federal statutes and regulations.

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

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

(e) The GSWMD has the right to request complete records of maintenance and monitoring activities involving stormwater pollution prevention measures. All evaluation reports for the project site must be made available to GSWMD, in an organized fashion, within 48 hours upon request.

(f) Permitting information must be posted on-site or in a publicly available location in accordance with CSGP 3.3(a)156.

(Ord. No. 7931, ch. 4, § 4, 7-3-2006)

Secs. 119-177—119-205. Reserved.

ARTICLE VI. POST-CONSTRUCTION STORMWATER QUALITY MANAGEMENT

Sec. 119-206. Applicability and exemptions.

(a) In addition to the requirements of article V, the SWPPP, which is to be submitted to the GSWMD as part of the stormwater management permit application, applicants must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within the city that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of 10,000 square feet or more of total land area, or disturbance of any size within a sensitive area, as defined in Section 119-6, is subject to the requirements of this article. This includes both new development and redevelopment, and disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land, within the MS4 area. The requirements also apply to any development or redevelopment that the GSWMD determines will cause more than a de minimis adverse effect on public waters.

(b) The requirements under this chapter do not apply to the following activities:

(1) Agricultural land disturbing activities;

(2) Forest harvesting activities;

(3) Construction activities associated with a single-family residential dwelling disturbing less than one-half acre, when the dwelling is not part of a larger common plan of development or sale;

(4) A single-family residential project;

(5) 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 of sale; or

(6) Individual building lots within a larger permitted project.

(c) The requirements under this article do not apply to the following activities, provided other applicable regulatory permits contain provisions requiring immediate implementation of soil erosion control measures:

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

(2) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the state department of environmental management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(d) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the GSWMD in accordance with article II, division 2 of this chapter. It will be the responsibility of the project site owner to ensure proper construction, installation, and maintenance of all stormwater BMPs in compliance with this chapter and with the accepted stormwater management permit, and to notify the GSWMD with a sufficient NOT letter upon completion of the project and stabilization of the site. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this chapter.

(Ord. No. 7931, ch. 5, § 1, 7-3-2006)

Sec. 119-207. Policy on stormwater quality management.

(a) It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants, including, but not limited to, fertilizers, herbicides, greases, oil, salts and metals. There are four major sources of pollutants for a stabilized construction site:

(1) Deposition of atmospheric material, including wind-eroded material and dust.

(2) General urban pollution (thermal pollution, litter).

(3) Pollutants associated with specific land uses.

(4) Suspended solids.

It is also recognized that another major source of pollution in many Indiana streams, including those within the corporate boundaries of the GSWMD, is the streambank erosion associated with urbanizing watersheds. Stream channels develop their shape in response to the volume and rate of runoff that they receive from their contributing watersheds. Research has shown that in hydrologically stable watersheds, the stream flow responsible for most of the shaping of the channel (called the bankfull flow) occurs between every one to two years. When land is developed, the volume and rate of runoff from that land increases for these comparatively small flooding events that are not normally addressed by the detention practices and the stream channel will adapt by changing its shape. As the stream channel works to reach a new stable shape, excess erosion occurs. As new development and re-development continues within the corporate boundaries of the GSWMD, measures must be taken to minimize the impact of such development or re-development on streambank erosion. Through the use of appropriate Best Management Practices (BMP's), the volume and rate of runoff for channel forming flows will be reduced in an attempt to minimize increased streambank erosion in the receiving streams and channels.

(b) It should be noted that some pollutants accumulate on impervious surfaces. This accumulated material is then subject to being washed into watercourses during storm events. It is for this reason that fish kills often occur during a rain event with a substantial prior rainless period. This is also the reason that the most hazardous driving conditions are realized after the initial onset of a storm event, when deposited oil has not yet washed into adjacent conveyance systems. Post-construction pollutants of concern include:

(1) Toxic chemicals from illegal dumping and poor storage and handling of materials. Industrial sites pose the most highly variable source of this pollution due to the dependency of the specific process to the resulting pollution amounts and constituents. These chemicals can pose acute (short-term) or chronic (long-term) risk to aquatic life, wildlife and the general public.

(2) Pathogens from illicit sanitary connections to storm sewer systems, combined sewers, leaking septic systems, and wildlife and domestic animal waste. Pathogens may pose a direct health risk to humans and animals.

(3) Nutrients can be released from leaking septic systems, canine parks or applied in the form of fertilizers. Golf courses, manicured landscapes and agricultural sources are the primary land uses associated with excess fertilization. Excessive nutrients in the local ecosystem are the source of algal blooms in ponds and lakes. These excessive nutrients also lead to acceleration of the eutrophication process, reducing the usable lifespan of these water bodies. Nitrogen and phosphorous are the primary nutrients of concern.

(4) Oxygen demand can be impacted by chemicals transported on sediment, by nutrients, and other pollutants, such as, toxic chemicals. Reduced levels of oxygen impair or destroy aquatic life.

(5) Oils and hydrocarbons accumulate in streets from vehicles. They can also be associated with fueling stations and illicit dumping activitles. Oils and hydrocarbons pose health risk to both aquatic and human health.

(6) Litter can result in a threat to aquatic life. The aesthetic impact can also reduce the quality of recreational use.

(7) Metals can be associated with vehicular activity (including certain brake dusts), buildings, construction material storage, and industrial activities. Metals are often toxic to aquatic life and threaten human health.

(8) Chlorides (salts) are historically associated with deicing activities. Chlorides are toxic to native aquatic life (verses saltwater aquatic life). Communities should consider a combination or cinders or sand to replace or supplement their deicing activities with chlorides. In addition, chloride should always be stored in enclosed structures.

(9) Thermal effects can be introduced by the removal of shade provided by riparian trees, as well as impervious channel linings, such as concrete, which release stored heat to water passing over them. Other sources of elevated temperature include effluent from power plant and industrial activities. Thermal pollution can threaten aquatic habitat, including fish species and beneficial water insects. Of particular concern are salmonoid streams, due to the effect of thermal pollution on spawning for this particular species.

(c) As new development and redevelopment continues in the city, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching creeks, streams, rivers, lakes, and other public water bodies. Through the use of best management practices (BMP), stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed, to the maximum extent practicable. The city has adopted a policy that the control of stormwater quality will be based on the management of total suspended solids (TSS), with additional quantification of BOD, P, N, and heavy metal impacts.

(d) The project site owner must submit to the GSWMD an SWPPP that would show placement of appropriate BMPs from a pre-approved list of BMPs specified in the city design standards manual. The noted BMPs must be designed, constructed, and maintained according to guidelines provided or referenced in the city design standards manual. In addition to 80 percent TSS removal, BMPs should be selected based on their ability to address, to the extent possible, the specific pollutants of concern for the development, as identified above, that may affect the site. Each development should quantify the proposed loading effects of the development for BOD, TSS, P, N, and metals. GSWMD reserves the right to require additional measures and testing if any of the proposed pollutant loadings are expected to increase significantly due to the proposed development, if there are known water quality problems in the receiving water, or for discharges to pristine wetlands or other sensitive receiving waters.

The SWPPP submittal shall include an Operation and Maintenance Manual for all post-construction BMP(s) included in the project and a notarized Maintenance Agreement, consistent with the sample agreement provided in the city design standards manual, providing for the long-term maintenance of those BMPs, both of which shall be recorded with the deed for the property on which the project is located. The noted BMP(s) must be designed, constructed, and maintained according to guidelines provided or referenced in the city design standards manual. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance and ease of maintenance of such practices will be according to guidelines provided in the city design standards manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMP's are provided in the city design standards manual.

(e) Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof as to whether the performance minimum 80 percent TSS removal and addressing the impacts on other pollutants of concern and ease of maintenance of such practices will be according to guidelines provided in the city design standards manual is with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMPs are provided in the city design standards manual.

(f) Gasoline outlets and refueling areas must install appropriate practices to prevent lead, copper, zinc, and hydrocarbons from being in stormwater runoff from these areas. These requirements will apply to all new facilities and existing facilities.

(g) All new Class V injection wells must be registered with the EPA in accordance with the CSGP 4.6(c)(4).

(h) Infiltration practices as a primary water quality treatment measure are prohibited in wellhead protection areas, unless the measure is designed to treat pollutants of concern that originate from the drainage area in which the measure will be installed.

(Ord. No. 7931, ch. 5, § 2, 7-3-2006)

Sec. 119-208. Calculations and design standards and specifications.

(a) Calculation of land disturbance should follow the guidelines discussed in section 119-175.

(b) The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs shall meet the design criteria, standards, and specifications outlined in the state stormwater quality manual or the city design standards manual. The methods and procedures included in these two references are in keeping with the stated policy in subsection (a) of this section and meet the requirements of IDEM's MS4GP. All above-ground fuel and chemical tanks must have a secondary containment method with the capacity of at least the volume of the tank.

(Ord. No. 7931, ch. 5, § 3, 7-3-2006)

Sec. 119-209. Easement requirements.

All stormwater quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of monitoring inspection, and general maintenance activities, adequate easement width, as detailed in the city design standards manual, beyond the actual footprint of the stormwater quality management facility as well as a 20-foot wide access easement from a public right-of-way to each BMP shall be provided. For developments occurring within the city and at the discretion of the GSWMD, the developer may petition to establish the noted system as a portion of the city's drainage system but the drainage plan shall not be accepted until such petition is submitted in a form acceptable to the GSWMD. For the purposes of monitoring, inspection, and general maintenance activities, the petition should include a drainage easement with a minimum width determined through the application process.

(Ord. No. 7931, ch. 5, § 4, 7-3-2006)

Sec. 119-210. Inspection, maintenance, recordkeeping, and reporting.

(a) After the acceptance of the stormwater management permit by the GSWMD and the commencement of construction activities, the GSWMD has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this article, the city design standards manual, and the terms and conditions of the accepted permit.

(b) Stormwater quality facilities shall be maintained in good condition, in accordance with the operation and maintenance procedures and schedules listed in the state stormwater quality manual and the city design standards manual, and the terms and conditions of the accepted stormwater permit, and shall not be subsequently altered, revised, or replaced except in accordance with the approved stormwater permit, or in accordance with accepted amendments or revisions in the permit. Details regarding the required of stormwater BMP Maintenance Agreement, O&M Maintenance Manual, and a Maintenance Escrow account and their transfer to other parties or subsequent owners prior to release of the maintenance bond discussed in Section 119-80 of this Ordinance is provided in the city design standards manual. Following construction completion, inspection and maintenance of stormwater quality facilities shall be the long-term responsibility of the owner. Stormwater detention/retention basins may be donated to the city or other unit of government accepted by the GSWMD, for ownership and permanent maintenance providing the GSWMD or other governmental unit is willing to accept such responsibility.

(c) The GSWMD also has the authority to perform long term, post-construction inspection of all public or privately owned stormwater quality facilities. The inspections will follow the operation and maintenance procedures included in the city design standards manual and/or the permit application for each specific BMP. The inspection will cover physical conditions, available water quality storage capacity and the operational condition of key facility elements. Noted deficiencies and recommended corrective action will be included in an inspection report Sites with BMP deficiencies identified in site inspections will incur a re-inspection cost for time spent on each inspection until the site is brought into compliance. The re-inspection cost will be $300 per hour.

(d) The GSWMD has the authority to perform a post-construction BMP annual inspection if the inspection is not performed by the property owner and/or information from the property owner does not meet the GSWMD requirements. Each post-construction annual inspection performed by GSWMD for these reasons will incur a $500 fee per BMP inspected.

(Ord. No. 7931, ch. 5, § 5, 7-3-2006)

Secs. 119-211—119-228. Reserved.

ARTICLE VII. WETLAND DEVELOPMENTS

Sec. 119-229. Applicability and exemptions.

(a) This chapter shall apply to all land disturbing activities regulated by this chapter. No building permit shall be issued and no land disturbance started for any construction in a development, as defined in section 119-6, identified as containing wetlands until the owner thereof has obtained all required state and federal permits or releases related to the dredging or filling of wetlands. As a pre-condition to receiving a building or land disturbance permit for a development identified as containing wetlands where the applicant for the permit does not intend to fill a wetland, such unaffected wetland must be identified in one of the methods enumerated in section 119-231, shown on the proposed development plans, and submitted to the GSWMD

along with plans to protect and avoid any disturbance to such unaffected wetland.

(b) The requirements under this article do not apply to the following:

(1) For the purpose of city's regulations, artificially constructed ponds, drainage ditches, stormwater retention/detention basins, gravel pits, stone quarries, and treatment lagoons that exist at the site and that may appear to display wetland-like properties. However, the applicant would need to independently contact IDEM or the U.S. Army Corps of Engineers for appropriate federal and state requirements;

(2) Wetlands or portions thereof for which federal or state permits for fill were issued prior to the enactment of this article; or

(3) To any area or use excluded from local planning and zoning jurisdiction by federal or state law.

(c) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that all wetlands identified to be present at the project site are sufficiently protected and preserved as set forth in this article.

(Ord. No. 7931, ch. 6, § 1, 7-3-2006)

Sec. 119-230. Policy on wetlands disturbance prevention.

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

(Ord. No. 7931, ch. 6, § 2, 7-3-2006)

Sec. 119-231. Wetlands identification.

In implementing the terms of this chapter, any of the following materials shall be prima facie evidence which may be relied upon by the GSWMD for the identification, delineation, and existence of a wetland:

(1) National wetlands inventory maps produced or maintained by the United States Fish and Wildlife Service.

(2) Maps produced, or maintained and utilized, by the United States Corps of Engineers for identification and/or delineation of wetlands.

(3) Maps produced, or maintained and utilized, by the United States Natural Resources Conservation Service for the identification and/or delineation of wetlands.

(4) Field investigations performed by the United States Army Corps of Engineers or private consultants using the latest U.S. Corps of Engineers methodology.

(Ord. No. 7931, ch. 6, § 3, 7-3-2006)