

**ORDINANCE NO. 2023-22**

**AN ORDINANCE AMENDING CHAPTER 53 OF THE TOWN  
OF EDINBURGH'S CODE REGARDING STORM WATER MANAGEMENT AND  
AMENDING THE TOWN OF EDINBURGH STORM WATER STANDARDS**

WHEREAS, the General Assembly of the State of Indiana has determined that management of stormwater and surface water is a concern for the State of Indiana and its political subdivisions;

WHEREAS pursuant to Indiana Code Section 8-1.5-5, the Town of Edinburgh ("Town") established the Edinburgh Department of Wastewater Utility as the Edinburgh Department of Storm Water Management and its Board of Directors ("Board");

WHEREAS, the establishment of a Department of Storm Water Management was in accordance with Phase II of the National Pollutant Discharge Elimination System (40 C.F.R. pt. 9, 122, 123, and 124), authorized by the 1972 amendments to the Clean Water Act (33 U.S.C. § 1251), the Indiana Department of Environmental Management Rule 13, and the Indiana Department of Environmental Management Rule 15 (327 Ind. Admin. Code 15-15);

WHEREAS, the Council recognizes the obligations of the Town to comply with terms and conditions of its General Storm Water Permit for a Municipal Separate Storm Sewer System, including but not limited to: development of minimum control measures for public education and outreach; public participation and involvement; illicit discharge detection and elimination; construction site run-off control; post-construction run-off control; and pollution prevention and good housekeeping;

WHEREAS, the Town of Edinburgh Storm Water Standards ("Standards") were developed in accordance with the former requirements of 327 IAC 15-13, Storm Water Run-Off Associated with Municipal Separate Storm Sewer System Conveyances (Rule 13) and 327 IAC 15-5 for Storm Water Runoff Associated with Construction Activities (Rule 5) and the revisions are necessary in order to comply with the Construction Storm Water General Permit (CSGP) and the Municipal Separate Storm Sewer System (MS4) General Permit issued by the Indiana Department of Environmental Management (IDEM);

WHEREAS, the Standards are intended to establish the minimum standards for design and construction of erosion and sedimentation controls and storm water pollution prevention measures for construction sites where land disturbing activities are equal to or greater than one acre or operations that result in the land disturbance of less than one acre of total land area that are part of a larger common plan of development or sale.

WHEREAS, the Town adopted Ordinances 2004-6, 2004-7, 2005-3, 2013-9, as amended, to address its storm water obligations;

WHEREAS, after extensive review by staff and consultants at Wessler Engineering, the Board has recommended pursuant its Resolution 2023-1, to add, revise, and update the Town's storm water provisions currently located in Chapter 53 of the Edinburgh Municipal Code ("Storm Water Ordinance") and its Standards;

WHEREAS, the Board is responsible for overseeing all aspects of the Storm Water Ordinance and the Standards related to storm water quality management.

WHEREAS, the revisions contained in this Ordinance do not increase or alter storm water rates;

WHEREAS, based upon the recommendations of staff, including the Board, the Plan Director and Town Manager, the Council has determined it would be in the best interests of the Town and the Department of Stormwater Management to add, revise, and update its Storm Water Ordinance and Standards.

NOW, THEREFORE, BE IT ORDAINED BY THE EDINBURGH TOWN COUNCIL, as follows:

I. SECTION 1. AMENDMENTS TO CODE

- a. That the Council hereby amends and replaces Chapter 53; of the Edinburgh Town Code ("Code") as follows:

**GENERAL PROVISIONS**

**§ 53.001 AUTHORITY.**

*(A) The Town may erect, establish, maintain, and operate a system of storm water management.*

*(B) This chapter is adopted in accordance with statutory authority granted under code authorizing jurisdiction over storm system, and further is required by Phase II of the National Pollution Discharge Elimination System program (FR Doc. 99-29181) authorized by the 1972 amendments to the Clean Water Act and the Indiana Department of Environmental Management's Construction Stormwater General Permit (CSGP) and Municipal Separate Storm Sewer System General Permit (MS4GP). Based on this authority and these requirements, this chapter regulates:*

- (1) Discharges of prohibited non-storm water flows into the storm drain system.*
- (2) Storm water drainage improvements related to development of lands located within the Town boundaries.*
- (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 storm water drainage facilities and systems.*
- (6) The design, construction, and maintenance of storm water quality facilities and systems.*

*(C) This chapter shall be known and may be cited as the Town of Edinburgh Storm Water Management Ordinance.*

**§ 53.002 ABBREVIATIONS.**

*For the purposes of this chapter, the following abbreviations shall apply unless the context clearly indicates or requires a different meaning.*

BMP	Best Management Practice
CSGP	Construction Stormwater General Permit
CWA	Clean Water Act
DSM	Town Department of Storm Water Management
ERU	Equivalent Residential Unit
FEMA	Federal Emergency Management Agency
IDEM	Indiana Department of Environmental Management
IDNR	Indiana Department of Natural Resources
MS4	Municipal Separate Storm Sewer System
MS4GP	Municipal Separate Storm Sewer System General Permit

NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollution Discharge Elimination System
POTW	Publicly Owned Treatment Works
SFHA	Special Flood Hazards Area
SWPPP	Storm Water Pollution Prevention Plan
USEPA	U.S. Environmental Protection Agency
USGS	United State Geological Survey

### § 53.003 DEFINITIONS.

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

**AGRICULTURAL ACTIVITY OR AGRICULTURAL LAND-DISTURBING ACTIVITY.**

*Tillage, planting, cultivation, or harvesting operations to produce 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 agricultural related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities, lake and ponds, wetlands, and other infrastructure.*

**AUTHORIZED ENFORCEMENT AGENCIES.** *The Department of Storm Water Management, Town Building Commissioner, Town Police and Fire Departments, or their subcontractors shall be the agencies authorized to enforce the provisions of this chapter.*

**BASE FLOW.** *Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.*

**BEST MANAGEMENT PRACTICES (BMPs).** *Design, construction, and maintenance practices and criteria for storm water facilities that minimize the impact of storm water runoff rates and volumes, prevent erosion, and capture pollutants.*

**BOARD.** *The Board of Directors of the Department of Storm Water Management.*

**CAPACITY (OF A STORM DRAINAGE FACILITY).** *The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.*

**CATCH BASIN.** *A chamber usually built at the curb line 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.*

**CHANNEL.** *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 water.*

**CONSTRUCTED WETLAND.** *A manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to remove pollutants.*

**CONSTRUCTION ACTIVITY.** *Land disturbing activities and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.*

**CONTIGUOUS.** *Adjoining or in actual contact with.*

**CONTOUR.** *An imaginary line on the surface of the earth connecting points of the same elevation.*

**CONTRACTOR OR SUBCONTRACTOR.** *An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.*

**CONVEYANCE.** *Any structural method for transferring liquid between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.*

**CROSS SECTION.** *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.** *A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal, or other impediment.*

**DECHLORINATED SWIMMING POOL DISCHARGE.** *Chlorinated water that has either sat idle for seven days following chlorination prior to discharge to the Municipal Separate Storm Sewer System (MS4) conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.*

**DEPARTMENT.** *The Department of Storm Water Management of the Town of Edinburgh.*

Indiana.

**DESIGN STORM.** *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.** *A facility constructed or modified to restrict the flow of storm water to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.*

**DETRITUS.** *Dead or decaying organic matter; generally contributed to storm water as fallen leaves and sticks or as dead aquatic organisms.*

**DEVELOPER.** *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.*

**DIRECTOR.** *The head of the Department of Storm Water Management of the Town of Edinburgh, Indiana.*

**DISCHARGE.** *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.*

**DISTRICT.** *The Storm Water Management District of Edinburgh, Indiana.*

**DRAINAGE AREA.** *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.** *A type of infiltration practice that allows storm water runoff to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.*

**DURATION.** *The time period of an event.*

**EFFLUENT.** *Constituents which are discharged from point sources into a waterbody.*

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

**EROSION.** *The wearing away of the land surface by water, wind, ice, gravity, or other geological agents.*

**EROSION AND SEDIMENT CONTROL.** *A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the sourced and then as necessary, rapping sediment to prevent it from being discharged from or within a project site.*

**FILTER STRIP.** *Usually a long, relatively narrow area (usually 20-75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter storm water pollutants for the protection of watercourses, reservoirs, or adjacent properties.*

**FLOATABLE.** *Any solid or liquid waste that will float on the surface of the water.*

**FLOOD (or FLOOD WATERS).** *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.*

**FLOODPLAIN.** *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 for any natural source. The floodplain includes both the floodway and the floodway fringe districts.*

**FLOODWAY.** *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.** *That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.*

**FOOTING DRAIN.** *A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.*

**GARBAGE.** *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.** *An operating gasoline or diesel fueling facility whose primary function is the resale of fuels.*

**GRADE.**

(1) The inclination or slope of a channel, canal, conduit, and the like, 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 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.** *The cutting and filling of the land surface to a desired slope or elevation.*

**GROUNDWATER.** *Accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.*

**HABITAT.** *The environment in which the life needs of a plant or animal are supplied.*

**HIGHLY ERODIBLE SOIL.** *Land that has an erodibility index of eight or more. The soil erodibility index 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  $(R \times K \times LS)/T$  (from the Universal Soil Loss Equation) and  $(C \times I)/T$  (from 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 windspeed and surface solid moisture, I is a measure of the susceptibility of the soil to wind erosion, and T is a unit of time. Erodibility index scores equal to or greater than 8 are considered highly erodible soil.*

**ILLCIT DISCHARGE.** *Any discharge to a storm water conveyance that is not composed entirely of storm water except naturally occurring floatables, such as leaves or tree limbs.*

**IMPAIRED WATERS.** *Waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's Clean Water Act (CWA) Section 303(d) List of Impaired Waters.*

**IMPERVIOUS SURFACE.** *Surfaces, such as pavement and rooftops, which prevent the infiltration of storm water into the soil.*

**INDIVIDUAL BUILDING LOT or INDIVIDUAL LOT.** *A single parcel of land within a multi-parcel development.*

**INDIVIDUAL LOT OPERATOR.** *A contractor or subcontractor working on an individual lot.*

**INDIVIDUAL LOT OWNER.** *A person who has financial control of construction activities for an individual lot.*

**INFILTRATION.** *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.** *An opening into a storm drain system for the entrance of surface storm water runoff, more completely described as a storm drain inlet.*

**LAND-DISTURBING ACTIVITY.** *Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.*

**LARGER COMMON PLAN OF DEVELOPMENT OR SALE.** *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 a 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.** *The elevation of the lowest grade adjacent 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 widow well.)*

**LOWEST FLOOR.**

(A) 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 flood waters unless:
  - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of not less than 1 square foot for every two square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than 1 foot above grade.

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

**MANHOLE.** Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

**MONTH.** The period between any two consecutive regular billings by the utility for service rendered to a customer. Billings are scheduled at intervals of approximately 30 days. For purposes of billing, a month is 25 through 35 days. Any bills produced outside the month parameter will be prorated.

**MONTHLY.** Occurring once in a month.

**MUNICIPAL SEPARATE STORM SEWERS (MS4).** An MS4 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 storm water;
- (4) Is not a combined sewer; and
- (5) Is not part of a Publicly Owned Treatment Works (POTW).

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES).** 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 storm water quality.

**NPDES PERMIT.** Permit issued pursuant to Section 402 of the Clean Water Act.

**NUTRIENT(S).**

- (1) A substance necessary of the growth and reproduction of organisms.
- (2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

**OPEN DRAIN.** A natural watercourse or constructed open channel that conveys drainage water.

**OUTFALL.** The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

**OUTLET.** The point of water discharge from a stream, river, lake, tidewater, or artificial drain.

**PEAK DISCHARGE (OR PEAK FLOW).** The maximum instantaneous flow from a given storm condition at a specific location.

**PERCOLATION.** The movement of water through soil.

**PERMITTING OFFICER.** The Town Planning Director or his designee, unless the Town Council formally designates another official or employee of the Town to have the title, authority and responsibilities of this position.

**PERVIOUS.** Allowing movement of water.

**POROUS PAVEMENT.** A type of infiltration practice to improve the quality and reduce the quantity of storm water runoff via the use of manmade, pervious pavement which allows runoff to percolate through the pavement and into underlying soils.

**PROFESSIONAL ENGINEER.** A person licensed under the laws of the State of Indiana to practice professional engineering.

**PROJECT SITE.** The entire area on which construction activity is to be performed.

**PROJECT SITE OWNER.** The person required to submit a Storm Water Management 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 specification, including the ability to make modifications to those plans and specifications.

**PROPERTY OWNER.** The individual, partnership, or corporation holding the deed or record title to the property. A contract purchaser whose contract has been recorded shall be considered the property owner.

**RECEIVING STREAM, RECEIVING CHANNEL, or RECEIVING WATER.** 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.** Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

**REDEVELOPMENT.** Alterations of a property that change a site or building in such a way that there are disturbances of 1 acre or more of land. The term does not include such activities as exterior remodeling.

**REFUELING AREA.** *An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.*

**REGULATORY FLOOD.** *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**.*

**RELEASE RATE.** *The amount of storm water release from a storm water control facility per unit of time.*

**RESERVOIR.** *A natural or artificially created pond, lake or other space used for storage, regulation or control of water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.*

**RESIDENTIAL PROPERTY.** *For the purpose of this chapter, this definition refers to a lot or parcel of real estate on which a building or mobile home is situated which building contains a group of rooms forming a single inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating. This definition also includes a lot containing one individual building containing four or fewer separate or contiguous single-family dwelling units.*

**RETENTION.** *The storage of storm water to prevent it from leaving the development site. May be temporary or permanent.*

**RETENTION BASIN.** *A type of storage practice, that has no positive outlet, used to retain storm water 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.** *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 1% probability of being equaled or exceeded in any one year.*

**RUNOFF.** *That portion of precipitation that flows from a drainage area on the land surface, in open channels, or in storm water conveyance systems.*

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

**SENSITIVE AREA.** *Areas with highly erodible soils, wetlands, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. Includes waterbodies in need of priority protection or remediation based on its:*

- (1) Providing habitat for threatened or endangered species.
- (2) Usage as a public water supply intake.
- (3) Relevant community value.
- (4) Usage for full body contact recreation.
- (5) Limited use and outstanding state resource water classification as found in 327 IAC. 2-1-11 and 327 IAC. 2-1.5-19.

**SEWER.** *May reference storm, sanitary, or combined water conduction facility.*

**SITE.** *The entire area included in the legal description of the land on which land disturbing activity is to be performed.*

**SLOPE.** *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 and Width (W) components for horizontal angles). Also note that according to international standards (metric), the slope is 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 parenthesis - e.g., (1V:2H). Slopes can also be expressed in "percent". Slopes given in percent are always expressed as  $(100 \times V/H)$  - e.g., a 2:1 (1V:2H) slope is a 50% slope.*

**SOIL.** *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.*

**SOLID WASTE.** *Any garbage, refuse, debris, or other discarded material.*

**SPILL.** *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 does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.*

**STANDARDS.** *The Town of Edinburgh Storm Water Standards.*

**STORM EVENT.** *An estimate of the expected amount of precipitation within a given period. For example, a ten-year frequency, 24-hour duration storm event is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hour period.*

**STORM SEWER.** *A closed conduit for conveying collected storm water, while excluding sewage and industrial wastes. Also called a storm drain.*

**STORM WATER.** *Water resulting from rain, melting or melted snow, hail, ice, or sleet.*

**STORM WATER DRAINAGE SYSTEM.** *All means natural or man-made, used for conducting storm water 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.*

**STORM WATER FACILITIES.** *Various storm water and drainage works under the control or ownership of the Town, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move, or regulate storm water.*

**STORM WATER MANAGEMENT DISTRICT.** *All land included in the Town's corporate boundaries, as those boundaries may change from time to time, and any additional land in Johnson, Shelby, and Bartholomew Counties, Indiana which is subject to the jurisdiction of the DSM and/or pursuant to a validly executed interlocal agreement.*

**STORM WATER POLLUTION PREVENTION PLAN (SWPPP).** *A plan developed to minimize the impact of storm water pollutants resulting from construction activities.*

**STORM WATER RUNOFF.** *The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.*

**STORM WATER SERVICE CHARGE.** *A charge imposed on users of the Town's storm water collection, impounding, and transportation system.*

**STORM WATER QUALITY MEASURE.** *A practice, or a combination of practices, to control or minimize pollutants associated with storm water runoff.*

**STORM WATER SYSTEM.** *All constructed facilities, including combined sewers, structures and natural watercourses used for collecting and conducting storm water to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins, and pumping stations.*

**STRIP DEVELOPMENT.** *A multi-lot project where building lots front on an existing road.*

**SUBDIVISION.** *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 large common plan of development or sale.*

**SURFACE RUNOFF.** *Precipitation that flows onto the surfaces of roofs, streets, the ground, and the like, and is not absorbed or retained by that surface but collects and runs off.*

**SWALE.** *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 storm water into primary drainage channels and may provide some groundwater recharge.*

**TOPOGRAPHIC INFORMATION.** *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.*

**TOWN.** *The municipal corporation of Edinburgh, Indiana.*

**URBANIZATION.** *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.*

**WATER QUALITY.** *A term used to describe the chemical, physical, or biological characteristics of water, usually in respect to its suitability for a particular purpose.*

**WATER RESOURCES.** *The supply of groundwater and surface water in a given area.*

**WATERBODY.** *Any accumulation of water, surface or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.*

**WATERCOURSE.** *Any river, stream, creek, brook, branch, natural or man-made drainageway in or into which storm water runoff or floodwaters flow either continuously or intermittently.*

**WATERSHED.** *The region drained by or contributing water to a specific point that could be along a stream, lake or other storm water facilities. **WATERSHEDS** are often broken down into subareas for the purposes of hydrologic modeling.*

**WETLANDS.** *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.*

**§ 53.004 PURPOSE.**

(A) *The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Town through the regulation of storm water and non-storm water discharges to the storm drainage system and to protect, conserve and promote the orderly development of land and water resources within Edinburgh. This chapter establishes methods for managing the quantity and quality of storm water entering the storm drain system to comply with state and federal requirements.*

(B) *The objectives of this chapter are:*

- (1) *To reduce the hazard to public health and safety caused by excessive storm water runoff.*
- (2) *To regulate the contribution of pollutants to the storm drain system from construction site runoff.*
- (3) *To regulate the contribution of pollutants to the storm drain system from runoff from new development and redevelopment and land disturbing activities.*
- (4) *To prohibit illicit discharges into the storm drain system.*
- (5) *To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this chapter.*

**DEPARTMENT OF STORM WATER MANAGEMENT**

**§ 53.100 PURPOSE AND OBJECTIVE.**

(A) *The function of the Department of Storm Water Management is to facilitate the safe and efficient capture and conveyance of storm water runoff; mitigate the damaging effects of storm water runoff; correct storm water collection and conveyance problems; and fund the activities of storm water management including design, planning, regulation, education, coordination, construction, operation, maintenance, inspection and enforcement activities, all for the protection of public health, welfare, and safety. It is the further function of the Department of Storm Water Management to ensure the Town's compliance with its National Pollutant Discharge Elimination System (NPDES) permit(s).*

(B) *The Town has determined it is necessary, for the protection of public health, safety, and welfare and to comply with federal, state, and local laws and regulations, that a system of charges for storm water service in the Town be established which allocates the cost of providing storm water service to each user in a manner proportionate to the cost of providing storm water service to that user, insofar as those costs can be reasonably determined.*

**§ 53.101 BOARD OF STORM WATER MANAGEMENT.**

(A) *Adoption of state law. The provisions of IC 8-1.5-5 are adopted and incorporated in their entirety and the following entities established:*

- (1) *A Department of Storm Water Management (DSM) which shall operate as the Edinburgh Department of Waste Water Utility.*
- (2) *A Board of Directors of the Department of Storm Water Management which shall consist of three directors appointed annually by the Town Council President. The Town Council President may remove a director at any time, when, in the judgment of the Town Council President, the removal is in the best interests of the Department.*
- (3) *A Storm Water Management District, extending to the corporate boundaries of the Town, is established for the purpose of providing for the collection and management of storm water of the district in a manner which protects the public health and welfare, and for the purpose of assessing fees to pay for the cost of storm water facilities and services. As the corporate boundaries of the Town change, whether through annexation or otherwise, so shall the boundaries of the district change. The boundaries of the district may also be expanded through the implementation of an interlocal agreement upon approval by the Town Council.*

(B) Powers of the Board. The Board shall have exclusive jurisdiction over the collection and management of storm water within the storm water district and shall possess all the powers and duties set forth in IC 8-1.5-3-4 and 8-1.5-5-6.

**§ 53.102 SEVERABILITY.**

(A) The invalidity of any section, sentence, clause, division, part or provision of this chapter shall not affect the validity of any other section, sentence, clause, division, part or provision of this chapter which can be given meaning without such invalid part or parts.

(B) All ordinances or parts of ordinances of the Town in conflict herewith are repealed.

**§ 53.103 RESPONSIBILITY FOR ADMINISTRATION.**

(A) The function of the DSM is to facilitate the safe and efficient capture and conveyance of storm water runoff; mitigate the damaging effects of storm water runoff; correct storm water collection and conveyance problems; and fund the activities of storm water management including design, planning, regulation, education, coordination, construction, operation, maintenance, inspection and enforcement activities, all for the protection of the public health, welfare, and safety. It is the further function of the DSM to ensure the Town's compliance with its NPDES permit(s).

(B) The DSM and/or the permitting officer shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by DSM and/or the permitting officer to qualified persons or entities acting in the beneficial interest of or in the employ of DSM and/or the permitting officer.

**§ 53.104 CONFLICTING ORDINANCES.**

The provisions of this chapter shall be deemed as additional requirements to minimum standards required by other Town ordinances, and as supplemental requirements to IDEM's CSGP and MS4GP. In case of conflicting requirements, the most restrictive shall apply.

**STORM WATER UTILITY**

**§ 53.200 RATES, CHARGES, AND BILLING.**

A storm water service charge shall be imposed on each and every lot and parcel of land within the district which directly or indirectly contributes to the storm water system of the district, which charge shall be assessed against the owner, who shall be considered the user for the purposes of this chapter. This charge is deemed reasonable and is the minimum necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future Town storm water system and for compliance with the Town's NPDES permit(s).

**§ 53.201 STORM WATER RATE AND FEE ESTABLISHMENT PROCEDURES.**

(A) Each parcel of property assigned a separate tax identification number shall be individually subject to a storm water service charge, unless a parcel is determined to be exempt from such a charge pursuant to the terms and conditions of this chapter.

(B) For each parcel that directly or indirectly contributes to the storm water system of the district, the storm water service charge shall be based on the presence of and/or measure of impervious surface area on the parcel or property.

(C) Each parcel shall be classified as residential property or non-residential property. The Director is authorized to establish the classification of an individual parcel or property based upon its primary use. If, in the opinion of any user, the classification of an individual parcel or property is incorrect, the individual may appeal using the provisions of § 53.204.

(D) The storm water rate is designed to recover the cost of rendering storm water service to the users of the storm water system and shall be the basis for assessment of the district's storm water service charge. The rate is further designed to maintain adequate reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(E) The rate shall be evaluated annually by qualified professionals as to its sufficiency to satisfy the needs of the DSM and an evaluation report shall be provided to the Board no later than December 31 of each year.

#### **§ 53.202 RATE STRUCTURE AND CALCULATION.**

- (A) For the purposes stated in §§ 53.004 and 53.100, there is hereby assessed a storm water service charge to each user in the district who contributes directly or indirectly to the storm water system of the district, in an amount defined below.
- (B) The DSM hereby establishes that an equivalent residential unit ("ERU") shall be based upon 3,225 square feet of impervious surface area.
- (C) All parcels having impervious surface area within the district shall be assigned an ERU, or multiple thereof, with all properties having impervious area assigned at least one ERU excepting contiguous residential properties as defined in this section.
- (D) The storm water service charge for one ERU is hereby established according to the Town Fee Schedule. The total service charge for a particular property shall be determined by taking the number of ERUs assigned to a particular property and multiplying it by the service charge for one ERU.
- (E) Residential properties. A monthly flat rate charge for storm water service rendered to residential properties shall be charged to each account within the district. All residential properties are assigned one ERU. This flat fee shall apply to all residential properties as defined herein.
- (1) Contiguous residential properties having common ownership and sharing a single structure containing four or less dwelling units may be assigned a common ERU.
- (2) Contiguous residential properties having common ownership, one of which contains a dwelling building, and the remainder of which contain impervious surface area but serve an accessory or incidental use, may be assigned a common ERU.
- (F) Non-residential properties. The impervious surface area of each non-residential property shall be individually calculated. Non-residential properties shall be assessed a monthly rate for storm water service based upon the total number of ERUs that encompasses the measured impervious surface area on the individual property. The calculation to determine the total number of ERUs for a non-residential property shall be completed by dividing the total square footage of measured impervious surface area for a property by 3,225 square feet. The division shall be calculated to the first decimal place. Total ERUs shall not be less than one for any non-residential property containing measurable surface area.
- (G) Only whole ERUs shall be used in determining the assignment of gross ERUs to a property. All rounding necessary to reach the appropriate whole ERU shall be done according to mathematical convention (0 - 0.4 rounded down to the nearest whole ERU; 0.5 - 0.9 rounded up to the nearest whole ERU).

#### **§ 53.203 BILLINGS; TERMS OF PAYMENT.**

- (A) Billings. All storm water service fees shall be calculated monthly. Any bill for services for partial month service shall be assessed on a per diem basis. The Board, in its discretion, may set the billing period as either monthly or quarterly.
- (B) Terms of payment. The storm water service charges shall be due on the payment date set out on the bill. It shall be a violation of this chapter to fail to pay a storm water service bill when due. All bills for storm water services not paid on or before the due date, which due date shall be approximately 15 days after the bill is rendered, shall be subject to a collection or deferred payment charge of 10% on the outstanding balance. Payments returned for nonsufficient funds ("NSF") shall be subject to an NSF fee of \$20.00 plus an amount equal to the actual charge by the depository institution for negotiable instruments returned for insufficient funds. When an NSF fee is imposed, the Town shall notify the maker or drawer, or the person for whose benefit the instrument was given, to inform him or her that the instrument was dishonored or returned unpaid and that the person has ten days after the date the notice is mailed to pay the total amount due, including the NSF fee, in cash, certified check, or other guaranteed payment.



*If the person fails to make payment within the ten-day period, the Town may file a civil action for the amount due, including the NSF fee, court costs, reasonable attorneys' fees, and treble damages. If payment is not received with respect to dishonored checks within 90 days after the check is initially received, the matter will be referred to the corresponding County Prosecutor in accordance with IC 36-1-8-13.*

*(C) Payment priority.*

*(1) Partial payments shall be applied in this order:*

*(a) Any NSF fee on the account;*

*(b) Any late fees on the account;*

*(c) Past due balances; and*

*(d) Current balances.*

*(2)(a) In the event the Town should elect to combine storm water service bills with any other Town utility bills, partial payments shall be applied in this order as between utilities:*

*1. Waste management fees;*

*2. Storm water service fees; and*

*3. Sanitary sewer fees.*

*(b) This provision only applies to utility bills appearing on the same bill.*

*(D) Collection. Delinquent storm water service charges and applied penalties, recording fees, and service charges may be made a lien upon property and may be collected in accordance with the provisions of IC 8-1.5-5-29, IC 8-1.5-5-30, and IC 8-1.5-5-31. Delinquent storm water service charges may also be collected in a civil action along with reasonable attorneys' fees and court costs.*

#### **§ 53.204 APPEALS OF RATE DETERMINATION.**

*If, in the opinion of any user, the ERU multiple assigned to his or her property is inaccurate in light of the amount of impervious surface area found on the property or the property classification assigned to his or her property is inaccurate, the user shall have the right to contest the ERU determination and thus the rate assessed in the following manner:*

*(A) User shall obtain and complete a petition to appeal storm water rate and return it to the DSM with verifiable documentation supporting the user's claim.*

*(B) The DSM shall investigate the user's claim and, upon review thereof, shall render a written determination within 30 days that either the original ERU determination and assessed rate shall be affirmed or the user's rate should be adjusted.*

*(C) If the user's petition is denied, said opinion shall be forwarded to the user by certified mail, return receipt requested. A determination of amount of adjustment shall be forwarded to the user by certified mail, return receipt requested, in cases where an adjustment is given. User shall then have 14 days from the receipt of the opinion or determination to request reconsideration by the Board.*

*(D) If a request for reconsideration by the Board is received, it shall be placed on the Board's agenda for formal consideration within 30 days. The user and the DSM shall have the opportunity to submit additional written documentation in support of each position prior to the meeting. The Board shall conduct a hearing on the disputed issue and issue a determination which shall be binding on the DSM. The hearing shall be electronically recorded and a transcript of the hearing provided upon request at a cost per page as determined by the Town Clerk-Treasurer as amended from time to time.*

*(E) A party or person aggrieved by the final Board determination shall have the right to judicial review of the determination in accordance with state law.*

*(F) If the DSM recommends that the user's rate be reduced, or reduction is ordered by the Board or court of law, user shall be credited accordingly for any overpayment made from the date of the petition.*

*(G) Dispute or appeal of an ERU determination for storm water service rate or credit application shall not be a valid reason for non-payment of the originally assessed storm water service charge by the user.*



### **§ 53.205 DISCOUNT AND CREDITS POLICIES AND PROCEDURES.**

*Storm water service charge credits may be available to eligible non-residential property owners.*

*(A) Non-residential property owners may qualify for one or more of the following types of credits:*

- (1) Storm water quality credits.*
- (2) Storm water quantity credits.*
- (3) Retrofit credits.*
- (4) Education credits.*

*(B) Credit requests shall be reviewed by the DSM and recommended for approval or denial to the Board. The Board shall render the final approval or denial of all credit requests. An approved credit or combination of credits shall not exceed 40% of the total service charge assessment for a parcel of property.*

*(C) Approved credits shall be applied to the monthly storm water service charge as approved by the Board for a period of five years (60 months) following the date of Board approval at which time the credit shall expire unless otherwise terminated. A credit shall be terminated as described below:*

- (1) Property transfer or new ownership.*
- (2) Failure to maintain facilities as required/indicated in Operations and Maintenance Manual.*
- (3) Failure to report on education credit.*
- (4) Property alteration.*

*(D) Expired or terminated credits require the submission of a new credit request.*

*(E) Application for a credit or appeal determination thereon shall not constitute a valid reason for non-payment of assessed storm water service charges by the property owner.*

### **§ 53.206 STORM WATER MANAGEMENT FUND.**

*All rates and fees collected for storm water service, including but not limited to, drainage service charges, direct charges and interest earnings on any unused funds shall be deposited in an account entitled "Storm Water Management Account." Disbursements from this account shall be authorized by the Board. Such disbursements shall be used for the operation, maintenance and improvement of the district's storm water management system and for reimbursement to the Town for past and future storm water management system maintenance and administration.*

*(Ord. 2013-9, passed 11-12-13; Am. Ord. 2014-3, passed 2-10-14)*

### **§ 53.207 EXEMPTIONS.**

*The following areas shall not be considered impervious surface area for the purpose of calculating storm water service charges:*

- (A) Public roadways (including federal, state, county and Town);*
- (B) Public sidewalks and/or trails located within the right-of-way or sidewalk easement;*
- (C) Public airport runways and taxiways;*
- (D) Railway beds, ties and rails; and*
- (E) Open water.*

## **ILLICIT DISCHARGE AND CONNECTION STORM WATER**

### **§ 53.300 APPLICABILITY AND EXEMPTIONS.**

*(A) This section applies to all discharges, including illegal dumping, entering the storm drain system under the control of the DSM and/or the permitting officer, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the storm drain system, illegal dumping, and contaminated runoff.*

*(B) Storm water runoff from agricultural, timber harvesting, and mining activities is exempt from the requirements of this chapter unless determined to contain*

*pollutants not associated with such activities or in excess of standard practices. Farm residences are not included in this exemption.*

*(C) Any non-storm water discharge permitted under an NPDES permit, waivers, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (USEPA), 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 for the subject discharge to the storm drain system, is also exempted from this chapter.*

*(D) Notwithstanding other requirements in this chapter, the following categories of non-storm water discharges or flows are exempt from the requirements of this chapter:*

- (1) Water line and hydrant flushing;*
- (2) Irrigation water;*
- (3) Footing, foundation, and crawl space drains (uncontaminated);*
- (4) Storm sewer cleaning water (uncontaminated);*
- (5) Fire suppression activities;*
- (6) Uncontaminated groundwater;*
- (7) Springs;*
- (8) Residential car washing;*
- (9) Non-commercial car washing by community organizations;*
- (10) External building wash down, without detergents;*
- (11) Dechlorinated/dibrominated residential swimming pool discharges;*
- (12) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005 (20));*
- (13) Pavement wash waters provided spills or leaks or toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used;*
- (14) Uncontaminated condensate from air conditioning units, coolers, and other compressors, and from outside storage of refrigerated gases or liquids;*
- (15) Dye-testing authorized by the Town.*

#### **§ 53.301 ULTIMATE RESPONSIBILITY.**

*The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.*

#### **§ 53.302 DISCHARGE PROHIBITIONS.**

*(A) Prohibition of illegal discharges. No person shall discharge to a Municipal Separate Storm Sewer System (MS4) conveyance, watercourse, or waterbody, directly or indirectly, any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively minimize pollutants from also being discharged with the storm water, though the use of Best Management Practices (BMPs) referred to in the Standards.*

*(B) Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.*
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.*
- (3) A person is in violation of this ordinance if the person connects a sewage conveyance to the MS4 or allows such a connection to continue.*

(C) The DSM and/or the permitting officer is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the Town's storm water drainage system.

#### **§ 53.303 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, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment to prevent any such materials from entering any temporary or permanent storm water conveyance or watercourse.

#### **§ 53.304 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 or the obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. 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.

#### **§ 53.305 SPILL REPORTING.**

(A) Any discharger who discharges into a waterbody any substance other than storm water or an exempted discharge shall immediately inform the DSM and/or the permitting officer, and if that office is not open, the Police Department concerning the discharge.

(B) A written report concerning the discharge shall be filed with the DSM and IDEM, by the person responsible for the discharges, within five days. The written report shall specify:

- (1) The composition of the discharge and the cause;
- (2) The date, time, and estimated volume of the discharge;
- (3) All measures taken to clean up the accidental discharge and all measured proposed to be taken to prevent any recurrence; and
- (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.

(C) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter 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 discharger from notifying other entities as required by state or federal regulations.

#### **§ 53.306 INSPECTIONS AND MONITORING.**

(A) Storm drainage system. The DSM and/or the permitting officer has the authority to periodically inspect the storm drainage system, whether publicly or privately owned, to detect and eliminate illicit connections and discharges into the system. The inspection may include a screening of discharges from outfalls connected to the system to determine if prohibited flows are being conveyed into the storm drainage system. It could 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 the storm drainage system inspection, a discharger is suspected of an illicit discharge, the DSM and/or the permitting officer may inspect and/or obtain storm water samples from storm water runoff facilities of the subject discharger, to determine compliance with the requirements of this chapter. Upon request, the discharger shall allow the DSM and/or the permitting officer's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or

sampling. The DSM and/or the permitting officer or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

**§ 53.307 ENFORCEMENT.**

*Identified illicit connections or discharges shall be subject to enforcement action as described in § 53.800 et seq.*

**STORM WATER QUANTITY MANAGEMENT**

**§ 53.400 APPLICABILITY AND EXEMPTIONS.**

(A) *Applicability. The storage and controlled release rate of excess storm water runoff shall be required for new business, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the Town if soil disturbance greater than or equal to one acre is proposed with a projected land disturbance of 1 acre or more, and operations that result in the land disturbance of less than 1 acre of total land area that are part of a larger common plan of development or sale.*

(B) *Exemptions for detention requirements. Detention will not be required for the following:*

- (1) *Notwithstanding the requirements for an individual lot located within a larger permitted project site in this chapter, land alterations where the primary basis on which a Storm Water Pollution Prevention Plan (SWPPP) is required (per the application process in § 53.500 et seq.) is the construction, enlargement, or location (on a permanent foundation) of a one-family dwelling, two-family dwelling, or accessory structure appurtenant to either a one- or two- family dwelling.*
- (2) *Accepted fill area or one-time addition to existing commercial buildings that do not increase the amount of impervious area on-site by more than a total of 0.5 acres, provided the existing runoff patterns and flow capacity within the property will not be altered by the filling operations.*
- (3) *Land-disturbing activities where there will be no additional impervious surfaces associated with the final completed project, including but not limited to, ditch construction/reconstruction and utility installation/maintenance activities.*
- (4) *Notwithstanding the provisions of § 53.401 those site developments where the storm water management system has been designed such that:*
  - (a) *After combining flows from both the off-site and on-site drainage areas, there will be no increase in the total peak discharge from the developing site during the two-, ten-, and 100-year storm events; and*
  - (b) *The volume of runoff for each project site outlet has not been increased for the two-, ten- and 100-year storm events; and*
  - (c) *The flow width and velocity at the property boundary line of each sub- basin is less than or equal to that flow width and velocity which existed prior to the development for the two-, ten-, and 100-year storm events.*

**§ 53.401 POLICY ON STORM WATER QUANTITY MANAGEMENT.**

(A) *Detention Policy. It is recognized that most streams and drainage channels serving the Town do not have sufficient capacity to receive and convey storm water runoff resulting from continued urbanization. Accordingly, except for situations provided in § 53.300 (C) and (D), the storage and controlled release of excess storm water runoff shall be required for all developments and redevelopments (as defined in § 53.400) located within Edinburgh.*

(B) *Floodplain Storage Policy.*

- (1) *Floodplains exist adjacent to all natural and man-made streams, regardless of contributing drainage area or whether they have been previously identified or mapped. Due to potential impacts of floodplain loss of 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.*

- (2) *Compensatory excavation equivalent to the floodplain storage lost (no net loss) shall be required for all activities within floodplain of streams located in Town where the drainage area of the stream upstream of the project is equal or larger than 1 square mile. This requirement shall be above and beyond the minimum requirements provided in the applicable flood hazard areas ordinance currently in effect in Town. The DSM and/or the permitting officer may alter the compensation ratio, based on extenuating circumstances, for a specific project.*
- (3) *Compensatory storage is the replacement of the existing floodplain storage lost due to fill. Compensatory storage is required when a portion of the floodplain is filled or because of a project a change in the channel hydraulics occurs that reduces the existing available floodplain storage. The compensatory storage should be located adjacent or opposite the placement of the fill and maintain an unimpeded connection to an adjoining floodplain area.*

#### **§ 53.402 STORM WATER QUANTITY REQUIREMENTS.**

*The calculation methods as well as the type, sizing, and placement of all storm water facilities shall meet the design criteria, standards, and specifications outlined in the Standards.*

#### **§ 53.404 DRAINAGE EASEMENT REQUIREMENTS.**

*Applicable easements shall be granted to the Town of Edinburgh as identified in the Standards.*

#### **§ 53.405 PLACEMENT OF UTILITIES.**

*No utility company may disturb existing storm drainage facilities without the consent of the DSM and/or the permitting officer, whose decision may be appealed to the Town Council. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in § 53.807.*

#### **§ 53.406 REVIEW PROCESS AND APPROVAL.**

- (A) *Design plans, technical information, and calculations shall be submitted per the application process in § 53.500 et seq.*
- (B) *It will be the responsibility of the project site owner to ensure proper construction and installation of all storm water quantity measures in compliance with this chapter, the approved Storm Water Management Permit, and CS GP.*

#### **§ 53.407 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.**

- (A) *Inspection by the Town.*
  - (1) *After the approval of the SWPPP by the DSM and the commencement of construction activities, the DSM and/or the permitting officer has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this chapter, the Standards, and CS GP.*
  - (2) *The DSM and/or the permitting officer has the authority to perform or require inspections of all public or privately owned storm water facilities and BMPs.*
- (B) *Owner operation and maintenance.*
  - (1) *An operation and maintenance manual (O&M Manual) shall be prepared and submitted for approval in accordance with § 53.605 of this chapter and must include the information in the Standards.*
  - (2) *Following construction completion, the operation, maintenance, and inspection of storm water quantity measure(s) shall be the long-term responsibility of the owner of the storm water quantity measure(s).*
  - (3) *Storm water quantity facilities shall be maintained in good condition, in accordance with operation and maintenance manual approved under the Storm Water Management Permit, and shall not be subsequently altered, revised, or replaced without the approval of the DSM and/or the permitting officer.*
  - (4) *The owner of storm water quantity facilities shall be responsible for inspections that evaluate physical conditions, available storage capacity, and the*

*operational condition of the storm water quantity measure in accordance with the O&M Manual. The owner must conduct necessary inspections at least once per year. The inspections shall follow the operation and maintenance procedures listed in the Indiana Storm Water Quality Manual and/or the approved O&M Manual. Inspection requirements of the O&M Manual shall not be altered without approval from the DSM and/or the permitting officer.*

- (5) If deficiencies are found during an inspection by the DSM and/or the permitting officer, the owner of the facility will be notified by DSM and/or the permitting officer 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, as specified in the notification letter, the DSM and/or the permitting officer will undertake the work and collect from the owner using lien rights, if necessary.*

*(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 storm water permit is approved. Storm water detention/retention basins may be donated to the Town of Edinburgh or other unit of government designated by the DSM and/or the permitting officer, for ownership and permanent maintenance providing the DSM and/or the permitting officer or other governmental unit is willing to accept responsibility.*

*(D) Inspection reports and documentation records must be maintained by the owner for a period of 5 years and produced upon request by Town personnel within 48 hours of the request.*

## **STORM WATER POLLUTION PREVENTION FOR CONSTRUCTION SITES**

### **§ 53.500 APPLICABILITY AND EXEMPTIONS.**

*(A) Applicability. This section applies to land disturbing activities within the Town with a projected land disturbance of 1 acre or more, and operations that result in the land disturbance of less than 1 acre of total land area that are part of a larger common plan of development or sale. § 53.502 provide guidelines for calculating land disturbance and additional descriptions of construction activities.*

*(B) Exemptions. The requirements under this chapter do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures.*

- (1) Agricultural land-disturbing activities, including tillage, planting, cultivation, or harvesting operations to produce agricultural or nursery and vegetative crops, pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile.*
- (2) Silvicultural activities associated with nonpoint discharges (40 CFR 122.27).*
- (3) Storm water discharges associated with oil and gas exploration, production, processing or treatment operations, or transmission facilities (40 CFR 122.26).*
- (4) Ditch maintenance for activities performed on a regulated drain by a county drainage board as defined in appendix B and IC 36-9-27.*
- (5) The land-disturbing activities listed below, provided other applicable permits contain provisions requiring immediate implementation of erosion and sediment control measures and storm water management measures:*
  - (a) Landfills that have been issued a certification of closure under 329 IAC 10.*
  - (b) Coal mining activities permitted under IC 14-34.*
  - (c) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by IDEM under 329 IAC 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and*

*construction of new cells either within or outside the original solid waste permit boundary.*

*(C) Any construction project which has had its final drainage plan accepted by the DSM and/or the permitting officer prior to the effective date of this chapter shall be exempt from all requirements of this chapter that are in excess of the requirements of ordinances in effect at the time of acceptance. Such an exemption is not applicable to the requirements detailed in § 53.300 et seq.*

*(D) Discharges authorized by this chapter. This chapter authorizes the following discharges to waters of the state:*

*(1) Storm water, including storm water runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity (40 CFR § 122.26(b)(14) or § 122.26(b)(15)(i)).*

*(2) Storm water discharges designated by IDEM as needing to obtain coverage under the CSGP (40 CFR § 122.26(a)(1)(v) or § 122.26(b)(15)(ii)).*

*(3) Storm water discharges from construction support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided the support activity is directly related to the construction site required to have permit coverage for storm water discharges, and:*

*(a) The support activity is not a commercial/industrial operation, nor does it serve multiple unrelated construction projects.*

*(b) The support activity does not continue to operate beyond the completion of the construction activity for the project it supports; and*

*(c) Storm water measures are implemented in accordance with the storm water pollution prevention plan, performance standards, and this general permit.*

*(4) Non-storm water discharges or flows provided they are not identified by IDEM as significant sources of pollutants to waters of the state, including, but not limited to:*

*(a) Emergency fire-fighting water.*

*(b) Fire hydrant flushing water.*

*(c) Landscape irrigation water.*

*(d) Water line flushing.*

*(e) Routine external building washdown water that does not use detergents.*

*(f) Water used to wash vehicles and equipment that does not contain soaps, solvents, or detergents.*

*(g) Uncontaminated, non-turbid discharges of groundwater or spring water.*

*(h) Foundation or crawl space footing drainage where flows are not contaminated with process materials such as solvents or contaminated groundwater.*

*(i) Uncontaminated condensate from air conditioning units, coolers, and other compressors and from outside refrigerated gases or liquids.*

*(j) Construction dewatering water that has been treated by an appropriate storm water quality measure or series of measures provided other contaminants are not present.*

*(D) Discharges not authorized by this chapter. The following discharges from construction activities are not authorized by this chapter:*

*(1) Direct discharges into waters that are designated as an Outstanding National Resource Water defined at IC 13-11-2-149.5 or an Outstanding State Resource Water defined at IC 13-11-2-149.6 and listed at 327 IAC 2-1.3-3(d) when it is determined that a discharge from the land-disturbing activity will significantly lower water quality as defined under 327 IAC 2-1.3-2(50) of such a water downstream of that discharge.*

*(2) Direct discharges to a receiving stream when the discharge results in an increase in the ambient concentration of a pollutant which contributes to the*

*impairment of the receiving stream for that pollutant as identified on the current 303(d) list of impaired waters.*

- (3) Discharges of concrete or mortar wash water from concrete washout activities or release from containment systems.*
- (4) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials.*
- (5) Soaps, detergents, or solvents used in vehicle and equipment washing.*
- (6) Other discharges, including but not limited to fuel, oil, or other pollutants used in vehicle and equipment operation and maintenance.*

*(E) Town of Edinburgh projects are expected to meet all applicable construction and post-construction requirements of this chapter and the Standards.*

*(F) Individual Lots. With the exception of the requirements of § 53.300 et seq. and § 53.502, single-family dwelling houses in accepted subdivisions, new buildings or cumulative building additions, with less than 500 square feet of area, and land-disturbing activities affecting less than 10,000 square feet of area, shall be exempt from the requirements of this chapter. Individual lots with a land disturbance of greater than 10,000 square feet and less than one acre are subject to § 53.704 for plan review requirements and procedures.*

*(G) Waivers and Special Conditions.*

- (1) The DSM and/or the permitting officer has the authority to modify, grant exemptions, and/or waive certain requirements of this chapter and its associated technical standards document. A concept meeting with the DSM and/or the permitting officer may be requested by the applicant or required by the Town to discuss the applicability of various provisions of the chapter and its associated technical standards document with regards to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the DSM and/or the permitting officer that may be based on the review of more detailed information and plans.*
- (2) Discharges are conditionally authorized for land-disturbing activities that are subject to this chapter, but are considered an emergency. Emergency activities include any work which requires immediate implementation to avoid imminent endangerment to human health, public safety, or the environment, or to re-establish essential public services.*
- (3) Procedures for obtaining an emergency condition authorization, require the applicant to:*
  - (a) Submit a preliminary notification of the emergency to IDEM and Town within 24 hours or next business day of initiating land disturbance.*
  - (b) Develop a SWPPP that specifically addresses the operations associated with the emergency. The submittal of the plan is not required.*
  - (c) Submit a complete NOI within 30 calendar days after commencing land-disturbing activities to IDEM and the Town establishing eligibility under the CSGP.*

#### **§ 53.501 POLICY ON STORM WATER POLLUTION PREVENTION FOR CONSTRUCTION SITES.**

*(A) Effective storm water 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 waterbody (sediment control), and proper on-site materials handling.*

*(B) All permittees shall manage storm water discharges as necessary to meet the narrative water quality criteria (327 IAC 2-1-6(a)(1)(A-D) and 327 IAC 2-1.5-8(a) and (b)(1)(A-D) for any discharge authorized by this chapter and CSGP, with compliance required upon beginning such a discharge. For storm water discharges, the use of storm water management measures and planning principles is expected to achieve the control necessary to meet water quality criteria.*

*(C) The SWPPP will serve as a guideline for storm water management but should not be interpreted to be the only basis for implementation of storm water*



measures for a project site. The permittee is responsible for implementing all measures necessary to comply with the provisions of this chapter and the CSGP.

(D) All storm water management measures, including erosion and sediment control measures and post-construction measures, shall be implemented in accordance with this chapter, the Standards, the terms and conditions of the approved storm water management permit, and CSGP.

#### **§ 53.502 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.**

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

- (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 chapter unless the total combined disturbance on all individual lots is less than one acre and is not part of a larger common plan of development or sale.
- (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, as determined by the following:
  - (a) For a single-family residential project site where the lots are one-half acre or more, one-half acre of land disturbance must be used as the expected lot disturbance.
  - (b) For a single-family residential project site where the lots are less than one-half acre in size, the total lot must be calculated as being disturbed.
  - (c) To calculate lot disturbance on all other types of project sites, such as industrial and commercial projects project sites, a minimum of one acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one acre in size, in which case the total lot must be calculated as being disturbed.

(B) The calculation methods as well as the type, sizing, and placement of all storm water pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the Indiana Storm Water Quality Manual or the Standards. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of CSGP.

#### **§ 53.503 REVIEW PROCESS AND APPROVAL.**

(A) Design plans, technical information, and the SWPPP shall be submitted per the application process in § 53.500 et seq. The SWPPP shall include the requirements identified in the Standards.

(B) It will be the responsibility of the project site owner to ensure proper construction and installation of all storm water measures in compliance with this chapter, the Standards, the terms and conditions of the approved Storm Water Management Permit, and CSGP.

#### **§ 53.504 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.**

(A) Following approval of the SWPPP by the DSM and commencement of construction activities, the DSM and/or the permitting officer has the authority to conduct inspections of the site to ensure full compliance with this chapter, the Standards, the terms and conditions of the approved Storm Water Management Permit, and CSGP.

(B) A self-monitoring program shall be implemented by the project site owner to ensure the SWPPP is working effectively in accordance with the CSGP. At a minimum, the self-monitoring program shall meet the requirements in the Standards.

(C) Following the final completion of construction and the receipt of as-built drawings, the DSM and/or the permitting officer has the authority to inspect new

development and redevelopment sites to verify that all on-site storm water conveyances and connections to the storm drainage system are in compliance with this chapter.

(D) Although self-monitoring reports do not need to be submitted to DSM and/or the permitting officer, the DSM and/or the permitting officer has the right to request complete records of maintenance and monitoring activities involving storm water pollution prevention measures. All evaluation reports for the project site must be made available to DSM and/or the permitting officer, in an organized fashion, within 48 hours upon request.

## **STORM WATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION**

### **§ 53.600 APPLICABILITY AND EXEMPTIONS.**

(A) Projects subject to this section are the same per the applicability and exemption criteria for construction sites described in § 53.400 (A) and (B).

Additional exemptions under this section include:

- (1) Land-disturbing activities where there will be no additional impervious surfaces associated with the final completed project, including but not limited to, ditch construction/reconstruction and utility installation/maintenance activities.
- (2) Single-family residential strip development offered for sale or lease without land improvements and the project is not part of a larger common plan of development or sale.
- (3) Residential developments consisting of 4 or fewer lot developments where the proposed impervious surfaces are 10% or less of the project acreage. Impervious is determined by the sum of all infrastructure (roads, paths, parking, etc.) and the average projects hard surfaces associated with all building lots within the project.

### **§ 53.601 POLICY ON STORM WATER QUALITY MANAGEMENT**

(A) Developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and redevelopment continues in Edinburgh, measures must be taken to promote runoff volume reduction, infiltrate storm water into the ground and intercept and filter pollutants from storm water runoff prior to reaching regional creeks, streams, rivers and wetlands. Using BMPs, harmful amounts of sediment, nutrients, and contaminants will be reduced in storm water runoff.

(B) Storm water quality measures are incorporated as a permanent feature into construction projects and are left in place following completion of construction activities to continuously treat storm water runoff from the stabilized site. The following will be implemented as a minimum:

- (1) The control of storm water quality will be based on the management of Total Suspended Solids (TSS). The Town requires a minimum of 80% removal of TSS including floatables without resuspension. TSS is defined as particles smaller than 125 microns in diameter.
- (2) New retail gasoline outlets and refueling areas or those that replace their existing tank systems, regardless of size, are required to install appropriate measures to reduce lead, copper, zinc, and polyaromatic hydrocarbons in storm water runoff.
- (3) Infiltration practices will not be allowed in wellhead protection areas as the primary water quality treatment measure, unless the measure is designed to treat the pollutant(s) of concern that originate in the drainage area of the measure.
- (4) Discharges from new development and redevelopment sites will not be allowed directly into karst features without pre-treatment.
- (5) Outfalls must be designed to reduce outfall scouring and bank erosion.

### **§ 53.602 CALCULATIONS, DESIGN STANDARDS AND SPECIFICATIONS.**

(A) The calculation methods as well as the type, sizing, and placement of all storm water quality management measures, or BMPs shall meet the design criteria, standards, and specifications outlined in the *Indiana Storm Water Quality Manual* or the Standards. 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 and MS4GP.

(B) A pre-approved list of BMP(s) is specified in the Standards. The noted BMPs must be designed, constructed, and maintained according to guidelines provided or referenced in the Standards. 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% TSS removal) and ease of maintenance of such practices will be according to guidelines provided in the Standards, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMPs are provide in the Standards.

### **§ 53.603 EASEMENT REQUIREMENTS.**

All storm water 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 with a paved access easement to the BMP.

### **§ 53.604 REVIEW PROCESS AND APPROVAL.**

(A) Design plans, technical information, and the SWPPP with post-construction storm water quality measures shall be submitted per the application process in § 53.500 et seq. The post-construction section of the SWPPP shall include the requirements identified in the Standards.

(B) It will be the responsibility of the project site owner to ensure proper construction and installation of all storm water BMPs in compliance with this chapter, the Standards, the terms and conditions of the approved Storm Water Management Permit, and CSGP.

### **§ 53.605 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.**

(A) Inspection by the Town.

(1) After the approval of the Storm Water Management Permit by the DSM and the commencement of construction activities, the DSM and/or the permitting officer has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this chapter, the Standards, and the terms and conditions of the CSGP.

(2) The DSM and/or the permitting officer has the authority to perform or require inspections of all public or privately owned storm water quality facilities.

(B) Owner operation and maintenance.

(1) An O&M Manual shall be prepared and submitted for approval in accordance with §53.500 of this chapter and must include the information in the Standards.

(2) Following construction completion, the operation, maintenance, and inspection of storm water quality BMPs shall be the long-term responsibility of the owner of the storm water quality BMP.

(3) Storm water quality facilities shall be maintained in good condition, in accordance with operation and maintenance manual approved under the Storm Water Management Permit, and shall not be subsequently altered, revised or replaced without the approval of the DSM and/or the permitting officer.

(4) The owner of storm water quality facilities shall be responsible for inspections that evaluate physical conditions, available treatment capacity, and the operational condition of the storm water quality BMP(s) in accordance with the O&M Manual. Requirements of the O&M Manual shall not be altered without approval from the DSM and/or the permitting officer.

(5) If deficiencies are found during an inspection by the DSM and/or the permitting officer, the owner of the facility will be notified by DSM and/or the permitting officer 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 the notification letter, the DSM and/or the permitting officer will undertake the work and collect from the owner using lien rights if necessary.

(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 Storm Water Management Permit is approved. Storm water detention/retention basins may be donated to the Town of Edinburgh or other unit of government designated by the DSM and/or the permitting officer, for ownership and permanent maintenance providing the DSM and/or the permitting officer or other governmental unit is willing to accept responsibility.

(D) Inspection reports and documentation records must be maintained by the owner for a period of 5 years and produced upon request by Town personnel within forty-eight (48) hours of the request.

## **PERMIT REQUIREMENTS AND PROCEDURES**

### **§ 53.700 CONCEPTUAL DRAINAGE PLAN REVIEW.**

(A) In order to gain an understanding of the drainage requirements for a specific project, a project owner or developer shall submit conceptual drainage plans and calculations for review by the DSM and/or the permitting officer. A meeting to review the conceptual SWPPP will then be scheduled.

(B) The direction provided by the DSM and/or the permitting officer during such a review is based on preliminary data and shall not be construed as a preliminary determination, final drainage approval, or binding on either party.

(C) 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 (plan sheets must be at least 11 inches by 17 inches).
- (2) General description of the existing and proposed drainage systems in a narrative form.
- (3) Watershed Boundaries with United States Geologic Survey (USGS) contours or best information possible.

### **§ 53.701 APPLICABILITY AND EXEMPTIONS.**

(A) This section applies to all development or redevelopment of land that is subject to this chapter as specified in § 53.400 and § 53.500. All developers and property owners proposing development or redevelopment that require Town approval shall follow the requirements in this section.

(B) Specific projects or activities may be exempt from all or part of the informational requirements listed below.

- (1) Individual lots with land disturbance less than 1 acre that are developed within a larger permitted project site, should refer to § 53.704 for plan review requirements and procedures.
- (2) With the exception of the requirements of § 53.300 et seq., single-family dwelling houses in accepted subdivisions, new buildings or cumulative building additions) with less than 500 square feet of area, and land-disturbing activities affecting less than 10,000 square feet of area shall be exempt from the requirements of this chapter.

### **§ 53.702 APPROVAL PROCEDURES FOR CONSTRUCTION.**

(A) No building permit, improvement location permit, or demolition permit shall be issued and no land disturbance started for any construction in a development, as defined in § 53.400, until the plans required by this chapter for such construction have been approved in writing by the DSM and/or the permitting officer.

(B) All SWPPPs shall follow the requirements and procedures in this section and in the Standards in order to obtain approval from the DSM or permitting officer.

(C) *Submittal for SWPPP approval. The project site owner shall submit a SWPPP to the DSM and/or the permitting officer prior to the initiation of any land-disturbing activities. The application will include the following:*

- (1) *Two full size copies of construction plan sheets and one digital submittal shall depict the existing and proposed conditions. Construction plans shall include the information in the Standards.*
- (2) *Storm Water Drainage Technical Report that includes the information in the Standards.*
- (3) *A hydrologic/hydraulic analysis, consistent with the methodologies and calculation included in the Standards.*
- (4) *Construction Site SWPPP that is designed at a minimum to meet the requirements of this chapter and includes the information in the Standards.*
- (5) *Post-Construction SWPPP that meets at least the minimum requirements of this chapter and includes the information in the Standards.*
- (6) *O&M Manual for storm water quantity and/or quality and low impact development measures meeting the requirements of this chapter and the Standards.*
- (7) *SWPPP Contact.*

(D) *In the event that a project site is determined to impact or discharge to a sensitive area, the DSM and/or the permitting officer may require more stringent storm water quantity and quality measures than detailed in this chapter or in the Standards.*

(E) *Plan Review. After the DSM and/or the permitting officer receives the application, a preliminary determination will be made whether the application is substantially complete within 10 days (for projects at least 1 acre but less than 5 acres) or within 14 days (for projects greater than or equal to 5 acres).*

*Notification will be provided to the applicant within the applicable timeframe of one of the following:*

- (1) *If the DSM and/or the permitting officer provide a favorable preliminary determination, the applicant may submit the NOI to IDEM and the DSM and/or the permitting officer. The applicant may commence construction 48 hours after the submission of the NOI.*
- (2) *If the application is deemed insufficient, additional information will be requested by the DSM and/or the permitting officer. The applicant may not submit the NOI or commence land-disturbing activities. The initiation of construction activity following notification by the DSM and/or the permitting officer that the plan is deficient is a violation and subject to enforcement action. After receiving approval, the applicant may submit the NOI to IDEM and the DSM and/or the permitting officer. The applicant may commence construction 48 hours after the submission of the NOI.*
- (3) *If the DSM and/or the permitting officer provide a favorable preliminary determination and then determine the application is insufficient, the applicant must cease land-disturbing activities and provide the required information to the DSM and/or the permitting officer. Notification of approval will be provided to the applicant and land-disturbing activities may recommence. The continuation of construction activity following notification by the DSM and/or the permitting officer that the plan is deficient is a violation and subject to enforcement action.*
- (4) *If the DSM and/or the permitting officer does not provide notification of the preliminary determination within the applicable timeframe, the applicant may submit the final NOI with owner's signature and proof of publication to IDEM and the DSM and/or the permitting officer. The applicant may commence construction 48 hours after the submission of the NOI.*

#### **§ 53.703 REQUIREMENTS FOR APPROVED CONSTRUCTION SITES.**

(A) *Required performance assurances.*

- (1) *As a condition of the building permit, Improvement Location Permit, or Demolition Permit, the DSM and/or the permitting officer shall require the*

*applicant to provide assurance in the form of an irrevocable letter of credit or a bond when the storm water management plan has been accepted, all applicable fees paid, and before construction begins.*

- (2) Said assurance will guarantee a good faith execution of all plans submitted in the application and any approved conditions.*
- (3) The assurance shall be for an amount equal to 120% of the total costs of all storm water management measures for the entire project. The above-mentioned costs shall be based on an estimate as prepared by a professional engineer or land surveyor registered in the State of Indiana. 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 storm water quality measures, as regulated under this section, until the construction is completed, site is stabilized, and as-built plans are accepted by the Town. Assurances shall be for a minimum of \$2,000. Local governmental jurisdictions may require additional performance and/or maintenance assurances.*
- (4) 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 storm water 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 storm water assurance.*

*(B) Projects under construction. Once land-disturbing activities commence, the project owner shall:*

- (1) Monitor construction activities and inspect all storm water pollution prevention measures in compliance with this chapter and the terms and conditions of the CSGP. Requirements for a self-monitoring program and other activities for active construction sites are included in the Standards.*
- (2) Be responsible for compliance with this chapter and the CSGP during construction activities and implementation of the terms and conditions provided in the Storm Water Management Permit application.*
- (3) Provide the DSM and/or the permitting officer documentation of informing or training the personnel associated with the project concerning the requirements of the SWPPP.*
- (4) Maintain documents and recordkeeping at the project site per the CSGP and the Standards.*

#### **§ 53.704 APPROVAL PROCEDURES FOR INDIVIDUAL LOTS.**

*(A) Applicability. An individual lot 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 condition of the permit approved for the larger project site. The SWPPP for the larger project site must include detailed erosion and sediment control measures for individual lots. Details of the permitting process are contained in § 53.501.*

*(B) Requirements for individual lots with land disturbance less than 1 acre, located within a larger permitted project site. For individual lots developed within a larger permitted project, a formal review and issuance of building permit will be required. All storm water management measures necessary to comply with this chapter must be implemented in accordance with permitted plan for the large project. Requirements for individual lots are included in the Standards.*

#### **§ 53.705 CHANGES TO PLANS.**

*Any changes or deviations in the detailed plans and specifications after approval of the applicable storm water management permit shall be filed with, and accepted by, the DSM and/or the permitting officer prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.*

#### **§ 53.706 FEE STRUCTURE.**

*Current rates and charges are found in the Fee Schedule for the Building and Zoning*

Department. The DSM and Permitting Officer shall have the right to not accept the drainage improvements or the advancement of any project for which the applicable fees have not been paid.

#### **§ 53.707 TERMS AND CONDITIONS OF PERMITS.**

(A) In granting a Storm Water Management Permit, the DSM and/or the permitting officer may impose such terms and conditions as are reasonably necessary to meet the purposes of this chapter. The project site owner is responsible for compliance with this chapter, the Standards, the CSGP (as applicable), and these terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in § 53.800 et seq.

(B) The project site owner shall inform all general contractor, 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 for the Storm Water Management Permit and the schedule for proposed implementation.

(C) The project owner shall monitor construction activities and inspect all storm water pollution prevention measures in compliance with this chapter, the Standards, and the terms and conditions of the CSGP (for construction sites 1 acre and greater).

(D) The project site owner shall provide the Town training documentation of the personnel associated with the project concerning the requirements of the SWPPP per the CSGP.

(E) The project site owner shall develop and maintain the documentation and recordkeeping identified in the Standards at the project site for review by the Town per the CSGP.

(F) Upon completion of construction activities and once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, the project owner shall:

- (1) Provide as-built plans per § 53.708 to the DSM and/or the permitting officer.
- (2) The DSM and/or the permitting officer, or representative, shall inspect the construction site to verify the requirements for a NOT have been met. Once the applicant receives a "verified" copy of the NOT, the applicant must submit a signed copy to IDEM and the DSM and/or the permitting officer.
- (3) The CSGP expires five years from the date of issuance. If construction is not completed prior to the expiration date, the project owner shall either submit a NOT to IDEM and DSM and/or the permitting officer or follow the NOI submittal requirements in the CSGP within 90 days with submittals to IDEM and DSM and/or the permitting officer.

#### **§ 53.708 CERTIFICATION OF AS-BUILT PLANS**

(A) After completion of construction of the project and before final acceptance of the NOT, a professionally prepared and certified as-built set of plans shall be submitted to the DSM and/or the permitting officer for review. Additionally, a digital copy of the as-built plans in a current version of AutoCad is required. These plans shall include all pertinent data relevant to the completed storm drainage system and storm water management facilities, and shall include:

- (1) Pipe size and pipe material;
- (2) Invert elevations;
- (3) Top rim elevations;
- (4) Pipe structure lengths;
- (5) BMP types, dimensions, and boundaries/easements;
- (6) "As-planted" plans for BMPs, as applicable;
- (7) Data and calculations showing detention basin storage volume;
- (8) Data and calculations showing BMP treatment capacity;
- (9) Certified statement on plans stating the completed storm drainage system and



*storm water management facilities substantially comply with construction plans and the storm water management permit as approved by the Building and Zoning Department. (See Certificate of Completion and Compliance in the Standards).*

*(B) The property owner, developer, or contractor shall be required to file a five-year maintenance bond or other acceptable guarantee with the DSM and/or the permitting officer, prior to acceptance, in an amount of 25% of the cost of the storm water drainage system located outside the public road rights-of-way, and in a form satisfactory to the Town's attorney in order to assure that such storm water 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 chapter. The bond or other acceptable guarantee shall be in effect for a period of five years after the date of the final project acceptance by the DSM and/or the permitting office.*

*(C) Deflection tests shall be performed on all flexible pipes after the final backfill has been in place at least 30 days. No pipe shall exceed a vertical deflection of 5%. Deflection testing shall be performed using a mandrel pulled by hand. The mandrel (go/no-go) device shall be cylindrical in shape and constructed with nine or ten evenly spaced arms or prongs. Any sewer not passing the mandrel shall be uncovered, replaced and retested.*

*(D) The following are considered nonflexible pipes that do not require deflection tests:*

*(1) Vitrified clay pipe.*

*(2) Concrete pipe.*

*(3) Ductile iron pipe.*

*(4) Cast iron pipe.*

*(E) Visual recordings of all storm drainage conveyances shall be required before release of maintenance bonds (refer to §53.708 (B)). These visual recordings will be scheduled by the DSM and/or the permitting officer and paid for by the developer. Notices shall be provided to the DSM and/or the permitting officer within 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 DSM and/or the permitting officer before maintenance bond would be recommended to be released.*

## **ENFORCEMENT**

### **§ 53.800 COMPLIANCE WITH THIS CHAPTER.**

*In addition to the requirements of this chapter, compliance with the requirements set forth in the Town Zoning Ordinance is also necessary. Compliance with all applicable ordinances of Town, as well as, with applicable state 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. Violations of the requirements of this chapter are subject to the enforcement actions and penalties listed in this section.*

### **§ 53.801 STOP WORK ORDER.**

*(A) If land disturbance activities are conducted contrary to the provisions of this chapter or accepted final storm water management plans, the DSM and/or the permitting officer may notify the project site owner in writing of the inadequacies.*

*(B) If the inadequacies are not resolved 72 hours after receipt of the written notice, a written stop work order shall be issued and served on any person engaged in the doing or causing of such work to be done. Any such persons shall immediately stop such work until authorized by the DSM and/or the permitting officer to proceed with the work.*

*(C) The DSM and/or the permitting officer may issue an immediate stop work order if there is a public health or safety hazard.*

*(D) The DSM and/or the permitting officer may undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations*



*of this chapter or the CSGP or to avoid or reduce the effects of noncompliance. The costs of any such protective measures shall be the responsibility of the project site owner and the responsibility of any person carrying out or participating in the work.*

*(E) Any person who neglects or fails to comply with a stop work order shall be subject to a fine of not less than \$1,000, and such person shall also pay such costs as may be imposed in the discretion of the court. A permit reinstatement fee may be assessed by the DSM and/or the permitting officer.*

#### **§ 53.802 NOTICE OF VIOLATION.**

*(A) Whenever the Town finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliancy by written notice of violation to the responsible person. Such notice may require without limitation:*

- (1) The performance of monitoring, analyses, and reporting;*
- (2) The elimination of illicit connections or discharges;*
- (3) That violating discharges, practices, or operations shall cease and desist;*
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;*
- (5) Payment of a fine to cover administrative and remediation costs; and*
- (6) The implementation of source control or treatment BMPs.*

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

#### **§ 53.803 FAILURE TO COMPLY OR COMPLETE.**

*(A) In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the DSM and/or the permitting officer may, after giving notice and opportunity for compliance, have the Town or authorized representative complete necessary work. The project site owner shall be required to promptly reimburse the DSM and/or the permitting officer for all costs of such work. If the amount due is not paid within a timely manner as determined by the decision of the Town 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 for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the Town by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of one percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.*

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

#### **§ 53.804 SUSPENSION OF ACCESS TO THE STORM DRAIN SYSTEM.**

*(A) Suspension due to emergency situations. The DSM and/or the permitting officer may, without prior notice, suspend storm drain 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 storm drain system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, Town may take such steps as deemed necessary to prevent or minimize damage to the storm drain system or waters of the United States, or to minimize danger to persons.*

*(B) Suspension due to the detection of illicit discharge. Any person discharging to the storm drain system in violation of this chapter may have their storm drain system access terminated if such termination would abate or reduce an illicit*

discharge. The DSM and/or the permitting officer will notify a violator of the proposed termination of its MS4 access. The violator may petition the DSM and/or the permitting officer for a reconsideration and hearing.

**§ 53.805 CORRECTIVE ACTION.**

Nothing herein contained shall prevent the DSM and/or the permitting officer 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 storm drain system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the Town's NPDES permit, attorney fees, and other costs and expenses.

**§ 53.806 APPEALS.**

(A) 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 DSM 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.

(B) The DSM shall consider the appeal and decide whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the DSM may consider the recommendations of the DSM and/or the permitting officer and the comments of other persons having knowledge of the matter.

(C) In considering any such appeal, the DSM 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 practical difficulties for a development or development site; provided; however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses to comply with the chapter; and
- (2) The granting of the relief requested will not substantially prevent the goals and purposes of this chapter, nor result in less effective management of storm water runoff.

**§ 53.807 PENALTY.**

(A) 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 \$5,000 for a first offense, and a maximum of \$10,000 for a subsequent offense, plus costs, damages, and expenses. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.

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

(C) For purposes of this section, "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.

II. SECTION 2. TOWN OF EDINBURGH STORM WATER STANDARDS

- a. That the Council amends and replaces the Town of Edinburgh Storm Water Standards as described in attached Exhibit "A".

III. SECTION 3. PUBLIC BENEFIT

- a. That the Edinburgh Town Council finds that this Ordinance will be in the best interest of the Town and for the benefit of the public and residents of the Town.

IV. SECTION 4. REPEALER

- a. All ordinances or parts of ordinances in conflict with provisions of this Ordinance are hereby repealed.

V. SECTION 5. SEVERABILITY

- a. Should any section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be unconstitutional or invalid.

VI. SECTION 6. EFFECTIVE DATE

- a. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

ADOPTED the 18<sup>th</sup> day of December 2023.

EDINBURGH TOWN COUNCIL

Absent

M. Ryan Piercefield, Council President

Dawn Graham

Dawn Graham, Vice President

Debbie Buck

Debbie Buck, Member

Miriam Rooks

Miriam Rooks, Member

Jeffrey A. Simpson

Jeffrey A. Simpson, Member

ATTEST:

Scott Finley

Scott Finley, Clerk-Treasurer

