

EDINBURGH TOWN COUNCIL

ORDINANCE NO. 2013-9

**AN ORDINANCE ESTABLISHING DEPARTMENT OF STORM
WATER MANAGEMENT**

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

WHEREAS, the establishment of a Department of Storm Water Management is 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 Edinburgh Town Council recognizes the obligations of the Town of Edinburgh ("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, prior to the enactment of Ind. Code § 8-1.5-5, the Town Council has established and delegated to the Edinburgh Department of Waste Water Utility, to address its storm water obligations;

WHEREAS, the Town Council has determined that further regulation of this important issue would be best accomplished by adopting Ind. Code § 8-1.5-5 and thus reestablishing the Edinburgh Department of Waste Water Utility as the Edinburgh Department of Storm Water Management;

WHEREAS, Indiana's home rule statute (Ind. Code§ 36-1-3 *et. al.*) grants the governing body of the Town the authority to establish such a department;

WHEREAS, storm water and surface water control and management is an

~~important function for the Town and one that would be best served through the creation~~

of a Department of Storm Water Management in accordance with Ind. Code § 8-1.5-5;

WHEREAS, the establishment of a Department of Storm Water Management will reduce the hazard caused to public health and safety by excessive storm water run-off; regulate the contribution of pollutants to the storm water drainage system from construction site storm water runoff; regulate the contribution of pollutants to the storm water drainage system from storm water runoff from new development and redevelopment; prohibit illicit discharges, or other inflow or infiltration into the storm water drainage system; and will create the necessary legal authority to allow the Town to effectuate the inspection, monitoring, maintenance and enforcement procedures necessary to carry out the above;

WHEREAS, the Town Council determined that it is in the best interests of the Town to implement a rate structure for storm water management and thus commissioned H.J. Umbaugh and Associates to develop and determine parameters for permanent rates, identify proper metrics and measurements for permanent rates, and perform analysis and offer conclusions on the establishment of a just and reasonable final rate structure. Said rate study is attached hereto as Exhibit "A";

WHEREAS, upon review and consideration, and after holding a public hearing on the subject, the Town Council has determined it is in the best interests of the Town to adopt the following amendments to the Town of Edinburgh Town Code, as amended (the "Municipal Code");

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EDINBURGH, INDIANA, THAT:

I. SECTION 1. AMENDING MUNICIPAL CODE.

- a. The Edinburgh Town Council amends the Municipal Code, to create Title 5, Chapter 53 (Public Works), Section - General Provisions to read as follows:

Sec.53.01 Authority to Establish Storm Water Management System.

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

b. The Edinburgh Town Council amends the Municipal Code, to add Section -

Storm Water Management to Title 5, Chapter 53 to read as follows:

STORM WATER MANAGEMENT.

Sec. 53.10 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 run-off; mitigate the damaging effects of storm water run-off; 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 Department of Storm Water Management to insure the Town's compliance with its NPDES storm water discharge 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.

Sec. 53.11 Board of Storm Water Management.

(a) *Adoption of State Law.* The provisions of Ind. Code § 8-1.5-5 are adopted and incorporated in their entirety and the following entities established:

- (1) A Department of Storm Water Management 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 (3) directors appointed by the Town Council President, not more than two (2) of whom may be of the same political party. Directors shall serve terms of four (4) years; however, the initial terms shall be staggered such that one (1) director shall serve an initial term of two (2) years, one director shall serve an initial term of three (3) years, and one (1) director shall serve an initial term of four (4) years. 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 inter-local 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 Ind. Code §§ 8-1.5-3-4 and 8-1.5-5-6.

Sec. 53.12 Abbreviations and Definitions. For the purposes of this Article, the following abbreviations and definitions shall apply unless context clearly indicates or requires a different meaning:

(a) *Abbreviations:*

- (1) DSM- Town of Edinburgh Department of Storm Water Management.
- (2) ERU- Equivalent Residential Unit.
- (3) NPDES -National Pollutant Discharge Elimination System.
- (4) MS4- Municipal Separate Storm Water Sewer System.

(b) *Definitions:*

- (1) *AGRICULTURAL PROPERTY.* A parcel or lot exceeding five (5) acres of land encompassing two (2) or more structures used to support agricultural activities.
- (2) *APARTMENT/CONDOMINIUM PROPERTY.* A lot or parcel of real estate on which is situated a building containing five (5) or greater single family dwelling

units, or on which two (2) or more buildings each containing multiple single-

~~family dwelling units are situated.~~

- (3) *AUTHORIZED ENFORCEMENT AGENCIES.* The Department of Storm Water Management, Town of Edinburgh Building Commissioner, Town of Edinburgh Police and Fire Departments, or their subcontractors shall be the agencies authorized to enforce the provisions of this Article.
- (4) *BOARD.* The Board of Directors of the Department of Storm Water Management.
- (5) *TOWN.* The municipal corporation of Edinburgh, Indiana.
- (6) *CONTIGUOUS.* Abutting or adjoining as in having a Town boundary or edge.
- (7) *CONVEYANCE.* Any structural method for transferring storm water between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.
- (8) *DEPARTMENT.* The Department of Storm Water Management of the Town of Edinburgh, Indiana.
- (9) *DIRECTOR.* The head of the Department of Storm Water Management of Edinburgh, Indiana.
- (10) *DISCHARGE.* The flow of any substance into the storm water system.
- (11) *DISTRICT.* The Storm Water Management District of Edinburgh, Indiana.
- (12) *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.
- (13) *MONTHLY.* Occurring once in a month.
- (14) *MUNICIPAL SEPARATE STORM SEWER SYSTEM.* A MS4 must meet the following criteria:
- (a) Is a conveyance or system of conveyances owned by the state, county, Town, town, or other public entity;
- (b) Discharges to waters of the United States;
- (c) Is designed or used for collecting or conveying storm water;
- (d) Is not a combined sewer; and

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

(15) NON-RESIDENTIAL PROPERTY. All properties not encompassed by the

definition of "residential" shall be defined as non-residential. Nonresidential property includes:

- (a) Agricultural property;
- (b) Apartment and condominium property;
- (c) Mobile home parks;
- (d) Commercial property;
- (e) Industrial property;
- (f) Institutional property; I (g) Governmental property;
- (h) Churches;
- (i) Schools;
- (j) Federal, state and local government property; and
- (k) Any other property not mentioned in this or the list of residential properties below.

(16) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.

Regulations for storm water discharges as described in the Federal

Register, 40 C.F.R. §§122, 123, and 124.

(17) NPDES PERMIT. Permit issued pursuant to Section 402 of the Clean Water Act.

(18) 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.

(19) 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.

(20) *RUN-OFF*. That portion of precipitation that flows from a drainage area on ~~the land surface, in open channels, or in storm water conveyance systems.~~

(21) *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.

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

(23) *STORM SEWER*. A sewer designed or intended to convey only storm water, surface run-off, street wash waters, and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry storm water only, which begins at the grating or opening where water enters the sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer. Also called a storm drain.

(24) *STORM WATER*. Water resulting from rain, melting or melted snow, hail, or sleet.

(25) *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.

(26) *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.

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

(28) *STORM WATER SERVICE CUSTOMER OR USER*. The owner of a lot or parcel of residential or non-residential property shall be considered the Town utility's customer for the purpose of assessing storm water service charges.

(29) *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.

Sec. 53.13 Severability.

(a) The invalidity of any section, sentence, clause, division, part or provision of this Article shall not affect the validity of any other section, sentence, clause, division, part or provision of this Article 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.

c. The Edinburgh Town Council amends the Municipal Code, to add Section - Storm Water Drainage and Sediment Control Standards to Title 5, Chapter 53 to read as follows:

Storm Water Drainage and Sediment Control Standards.

Sec. 53.20 Implementation.

The DSM will implement and enforce the storm water drainage and sediment control standards for construction and development adopted by Edinburgh Town Council, as codified in Edinburgh Municipal Code (1993), as amended, Chapter 10, Article 21. Sec. 9-157 through 9-186 reserved for future use.

Section 53.21 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 Article. 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 storm water discharge permit(s).

Sec.53.22 Storm Water Rate and Fee Establishment Procedures.

with the attached schedule labeled Exhibit "B".

Each parcel of property assigned a separate tax identification number shall be individually assessed a fee.

(b) A rate study shall be commissioned to establish a permanent rate structure.

(c) For the purpose of this chapter, a month shall be considered to be a period of 25 days to 35 days depending on billing cycles. Any billings for storm water service outside this time shall be on a per diem basis.

(d) This 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. This 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) This 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.

Sec. 53.23 Rate Structure and Calculation.

A final method of determining and calculating storm water service charges shall be established following the completion of an independent study.

Sec. 53.24 Billings; Terms of Payment.

(a) *Billings.* All storm water bills shall be initially rendered on a monthly basis.

The billing period may be changed, or made through a semiannual property tax statement, at the discretion of the Board.

(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 Article 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 30 days after the bill is rendered, shall be subject to a collection or deferred payment charge of 10% on outstanding balance.

~~(a) An interim monthly storm water service rate shall be established in accordance~~

(c) *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 Ind. Code § 8-1.5-5-29, Ind. Code § 8-1.5-5-30, and Ind. Code § 8-1.5-5-31.

Sec.53.25 Appeals of Rate Determination.

A procedure to appeal the final rate determination will be adopted after the rate study is completed and the interim rates replaced with final rates adopted by the Town Council based upon the study.

Sec. 53.26 Discount and Credits Policies and Procedure.

A system of discounts and credits for land and buildings may be established and adopted.

Sec. 53.27 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 will be authorized by the Board and, as required by law, the Town Council. Such disbursements will 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.

II. SECTION 2. REPEALER

- a. All ordinances or parts of ordinances in conflict with provisions of this ordinance are hereby repealed.
- b. This Ordinance does not affect any other sections of the Municipal Code, or other ordinances except as herein provided and all other sections of the Municipal Code, and other ordinances shall remain the same.

III. SECTION 3. SEVERABILITY

- a. The sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are separable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not

affect any of the remaining words, phrases, clauses, sentences, paragraphs and

sections of this Ordinance

IV.

SECTION 4. PUBLIC NOTICE

- a. In accordance with Indiana Code 36-5-2-10(b) and Indiana Code 5-3-1-2(h), this Ordinance shall be published in newspapers of general circulation in Johnson, Shelby, and Bartholomew Counties one (1) time within thirty (30) days after it is adopted by Council.


V.


SECTION 5. EFFECTIVE DATE

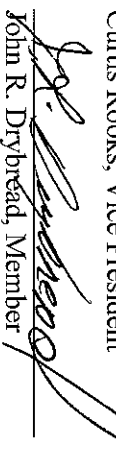
- a. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

ADOPTED this 12th day of November, 2013.

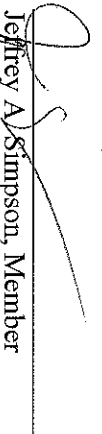
EDINBURGH TOWN COUNCIL


 Ron Hoffman, Council President


 Curtis Rooks, Vice President


 John R. Drybread, Member

_____ Kami Ervin, Member


 Jeffrey A. Simpson, Member

ATTEST: 
 Scott Finley, Clerk-Treasurer