

**CHAPTER 59.1**  
**CONTROL OF POST CONSTRUCTION STORMWATER RUNOFF**

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59.1.01 PURPOSE

The purpose of this Chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction by: minimizing increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion; minimizing increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality; minimizing the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable; and reducing stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety. The City of Richmond has produced a Stormwater Development Manual as a guide to meet the purpose stated above.

#### 59.1.02 AUTHORITY

This Chapter is adopted under the authority granted by Indiana Code 36-1-4-11, 36-7-4, and all acts supplemental and amendatory thereto. This authority provides for the administration, enforcement, and amendment of this Chapter for control of Post Construction Stormwater Runoff in the City of Richmond.

#### 59.1.03 APPLICABILITY

This Chapter applies to all land-disturbing activities over one acre on land within the corporate boundaries and jurisdiction of the City of Richmond, including commercial, industrial, residential, and highway development, except for (1) cultivating activities, (2) conservation practices on agricultural land, (3) single family residential developments consisting of four or fewer lots, (4) a single-family residential strip development where the developer offers for sale or lease without land improvements and the project is not part of a larger common plan of development or sale, and (5) individual lots within a permitted project.

#### 59.1.04 RESPONSIBILITY FOR ADMINISTRATION

The City of Richmond shall administer, implement, and enforce the provisions of this Chapter by and through the City Engineer's office. Any powers granted or duties imposed upon the City of Richmond may be delegated in writing by the City to persons or entities acting in the beneficial interest of or in the employ of the City.

#### 59.1.05 COMPATIBILITY WITH OTHER PERMIT AND CHAPTER REQUIREMENTS

This Chapter is not intended to interfere with, abrogate, or annul any other Chapter, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other Chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

#### 59.1.06 SEVERABILITY

The invalidity of any section, clause, sentence, or provision of this Chapter shall not affect the validity of any other part of this Chapter which can be given effect without the invalid part or parts.

### 59.1.07 DEFINITIONS

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

(a) "APPLICANT" -- A property owner or agent of a property owner who has filed an application for a stormwater management permit.

(b) "BUILDING" -- Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

(c) "BUFFER STRIP" -- Areas of open vegetated land adjacent to drainage ways, stormwater facilities, lakes, ponds, streams, wetlands, or other surface waters.

(d) "CITY" - - The City of Richmond, or designated party.

(e) "CHANNEL" -- A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

(f) "HOTSPOT" -- An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(g) "IMPERVIOUS SURFACE" -- Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

(h) "INFILTRATION" -- The process of percolating stormwater into the subsoil.

(i) "JURISDICTIONAL WETLAND" -- An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

(j) "LAND DISTURBING ACTIVITY" -- Any manmade change of the land surface including removing vegetative cover, excavating, filling, transporting, and grading. In the context of this Chapter, it includes only nonagricultural land-disturbing activities.

(k) "LANDOWNER" -- The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

(l) "MAINTENANCE AGREEMENT" -- A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(m) "NONPOINT SOURCE POLLUTION" -- Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

(n) "NPDES PERMIT" -- National Pollutant Discharge Elimination System Permit. A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(o) "PERSON" -- Any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assigns legally capable of owning property in the state.

(p) "POLLUTANT" -- A pollutant is something that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations so that some may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing or building a structure; sediments and noxious or offensive matter of any kind.

(q) "RECHARGE" -- The replenishment of underground water reserves.

(r) "REDEVELOPMENT" -- Any construction, alteration or improvement exceeding 5,000 square feet in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.

(s) "RIPARIAN ZONE" -- The area along water bodies that serve as interfaces between terrestrial and aquatic ecosystems

(t) "RUNOFF" -- The portion of the precipitation from such sources as rainfall, snowmelt, or irrigation water that flows over the ground surface.

(u) "SITE" -- The entire area included in the legal description of the land on which land-disturbing activity has been proposed in the permit application.

(v) "STOP WORK ORDER" -- An order issued which requires that all construction activity on a site be stopped.

(w) "STORMWATER MANAGEMENT" -- The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

(x) "STORMWATER MANAGEMENT FACILITY" -- A stormwater management structure or non structural practice.

(y) "STORMWATER RUNOFF" -- Flow on the surface of the ground, resulting from precipitation.

(z) "STORMWATER TREATMENT PRACTICES (STPS)" -- Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

(aa) "STORMWATER POLLUTION PREVENTION PLAN" -- A plan developed to minimize the impact of stormwater pollutants.

(bb) "SWALE" -- A grassy depression in the ground designed to collect stormwater runoff from streets, driveways, rooftops and parking lots.

#### 59.1.08 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR CONTROL OF POST CONSTRUCTION STORMWATER RUNOFF

All post construction stormwater runoff control measures including, but not limited to, those required to comply with this Chapter shall meet the design criteria, standards, and specifications for post construction stormwater runoff control measures similar to or the same as those outlined in the "City of Richmond – Stormwater Development Manual", "Field Office Technical Guide of the USDA Natural Resources Conservation Services" and the "Indiana Stormwater Quality Manual," published by IDNR, upon availability.

#### 59.1.09 GENERAL REQUIREMENTS FOR CONTROL OF POST CONSTRUCTION STORMWATER RUNOFF

(a) All sites shall develop a Stormwater Pollution Prevention Plan. The plan must include: a description of potential pollutant sources from the proposed land use, that may reasonably be expected to add a significant amount of pollutants to stormwater discharge; location, dimensions, detailed specifications, and construction details of all post construction stormwater quality measures; a description of measures that will be installed to control pollutants in stormwater discharges that will occur after

construction activities have been completed; a sequence describing when each post construction stormwater quality measure will be installed; and a narrative description of the maintenance guidelines for all post construction stormwater quality measures to facilitate their proper long term function.

(b) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize swales and natural depressions as site conditions allow, utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff generated from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(c) All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the Indiana Department of Natural Resources (IDNR).

(d) All sites shall preserve buffer strips and riparian zones, create filter strips, minimize land disturbance, minimize surface imperviousness, minimize directly connected impervious areas, maximize open space, direct growth away from sensitive areas and toward areas that can support it without compromising water quality, have storage, have infiltration, in any combination, where appropriate to reduce the impact of pollutants in stormwater run-off on receiving waters.

(e) Infiltration practices will not be allowed in wellhead protection areas.

(f) Discharges from an MS4 area will not be allowed directly into sinkholes or fractured bedrock without treatment that results in the discharge meeting Indiana ground water quality standards as referenced in 327 IAC 2-11.

(g) Any stormwater practice that is a Class V injection well must ensure that the discharge from such practices meets Indiana ground water quality standards as referenced in 327 IAC 2-11.

(h) As site conditions allow, the rate at which water flows through the MS4 conveyances shall be regulated to reduce outfall scouring and stream bank erosion. Where necessary, channel protection shall be provided to protect stream channels from degradation.

(i) As site conditions allow, a vegetated filter strip of appropriate width shall be maintained along unvegetated swales and ditches.

(j) New retail gasoline outlets, new municipal, state, federal, or institutional refueling areas, or outlets and refueling areas that replace their existing tank systems shall be required to design and install appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in stormwater run-off.

(k) Stormwater discharges to critical areas with sensitive resources (i.e., wellhead protection areas, cold water fisheries, shellfish beds, swimming beaches, recreational waters, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(l) Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan in accordance with 327 IAC 15-6, and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.

(l) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots”, may require the use of specific structural stormwater treatment practices and pollution prevention practices.

(m) All stormwater management practices shall have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation.

#### 59.1.10 MAINTENANCE OF STORMWATER RUNOFF CONTROL MEASURES

##### (a) Maintenance Easement

Prior to the issuance of any permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site shall execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Chapter. The easement agreement shall be recorded by the Applicant in the Wayne

County Recorder's Office. The applicant shall provide a copy of the recorded easement to the City Engineer's office.

(b) Maintenance Covenants

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that shall be approved by the City and recorded in the Wayne County Recorder's Office prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

(c) Requirements for Maintenance Covenants

All stormwater management facilities shall undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this Chapter and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found shall be addressed in a timely manner, as determined by the City, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.

(d) Failure to Maintain Practices

If a responsible party, after receiving notice from the City in which the responsible party is given ten (10) days to meet the requirements of the maintenance covenant, fails or refuses to meet the requirements of the maintenance covenant, the City may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.

In the event that the stormwater management facility becomes an immediate danger to the public health, safety, economic impact or general welfare of the City, the City has the right to immediately effect maintenance and repair of the facility for the sole purpose of protecting the public health, safety, economic impact or general welfare of the City.

The City may assess the owner(s) of the stormwater management facility for the cost of repair work and any penalties; and the cost of such work and any penalties shall be a lien on the property or prorated against the

beneficial uses of the property. An appeal may be taken to the Board of Works for the cost of the lien.

#### 59.1.11 PERMIT APPLICATION, STORMWATER POLLUTION PREVENTION PLAN, AND PERMIT ISSUANCE

No person shall begin a land-disturbing activity or redevelopment subject to this Chapter without first receiving a permit. An application should be made after the initial coordination meeting with the City. By submitting an application, the applicant is implying that the City has been given permission to enter the site to obtain information required for review of the stormwater pollution prevention plan. This permit is in addition to a General Stormwater Permit (Rule 5) required under 327 IAC 15-5, as required.

##### (a) Content of Stormwater Pollution Prevention Plan

At a minimum, the Stormwater Pollution Prevention Plan shall include a project narrative, a vicinity map, construction plans and calculations. A detailed listing of the plan requirements can be found in the Stormwater Development Manual.

##### (b) Review of the Stormwater Pollution Prevention Plan

The City shall review the application and the Stormwater Pollution Prevention Plan in conjunction with the subdivision plat and local improvement permit application to determine whether the requirements of this Chapter have been met. If the conditions are not met, the City shall inform the applicant in writing and either may require additional information or may disapprove the plan. If requested, additional information shall be submitted. The City shall again determine whether the plan meets the requirements of this Chapter. If the plan is disapproved, the City shall inform the applicant in writing, giving reasons for disapproval.

##### (c) Permit Duration

Permits issued under this section shall be valid from the date of issuance through the date the City notifies the permit holder that all stormwater management practices have passed the final inspection required under permit condition.

##### (d) Surety Bond

As a condition of approval and issuance of the permit, the City shall require the applicant to provide a surety bond or an irrevocable letter of

credit, if one is not already included in the development project permit issued by the City, when the stormwater pollution prevention plan has been approved to guarantee a good faith execution of the erosion and sediment control plan and any permit conditions

The surety bond shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this Chapter. The City will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this Chapter.

(e) Requirements

- (1) Notify the City at least 24 hours before commencing any construction of stormwater management measures;
- (2) Notify the City of the completion of stormwater management measures within seven days after their initial site installation;
- (3) Obtain approval from the City prior to implementing any changes to the most recently approved stormwater pollution prevention plan;
- (4) Install all stormwater quality measures as identified in the approved stormwater pollution prevention plan;
- (5) Maintain all road drainage systems, stormwater drainage systems, erosion control measures, and other facilities identified in the stormwater pollution prevention plan until the project has been terminated.
- (6) Where legal, remove sediment resulting from land-disturbing activities from adjacent surfaces and drainageways and/or repair erosion damage to adjacent surfaces and drainageways; and
- (7) Allow the City to enter the site for verifying compliance with the stormwater pollution prevention plan or for the performing of any work necessary to bring the site into compliance with the stormwater pollution prevention plan.

## 59.1.12 INSPECTION

### (a) Construction Inspection

To ensure compliance with the stormwater pollution prevention plan, the City shall inspect sites having ongoing land-disturbing activities as deemed appropriate by the City.

If land disturbing activities are being carried out without a permit, the City shall issue a stop work order pursuant to the provisions of IC 36-1-4-11 and IC 36-1-6-2.

### (b) Post Construction Inspection

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

Persons receiving a notice of violation may be required to halt all operational activities. This “cease and desist order” will be in effect until the City confirms that the operational activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil or monetary penalties in accordance with the enforcement measures authorized in this Ordinance.

### (c) Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property, or when any new connection is made between private property and a public stormwater management facility, the property owner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This also includes the right to enter a property when it has a reasonable basis to believe that a violation of this Chapter is occurring or has occurred, and to enter when

necessary for abatement of a public nuisance or correction of a violation of this Chapter.

#### 59.1.13 PROPER CREDENTIAL OR IDENTIFICATION REQUIRED

The City shall present proper credentials or identification before entering upon the property of the person.

#### 59.1.14 ENFORCEMENT

Prior to the imposition of a fine, the intent of the City in enforcement of this ordinance is, wherever possible, to work with and communicate with the person doing the land disturbing activities.

##### (a) Stop Work Order

(1) The City shall post a stop work order if:

- a) Any non-complying land-disturbing activity regulated under this Chapter is being undertaken.
- b) The post construction stormwater plan is not being implemented in good faith; or
- c) The conditions of the permit are not being met.

(2) Upon appeal to the City's Board of Public Works, a stop work order or the revocation may be retracted or modified.

(3) Ten days after posting a stop work order, the City may issue a notice of intent to the violator stating that 14 days after issuing the notice of intent the City will use the surety bond to perform the work necessary to provide compliance with this Chapter.

(4) If, within five days after the expiration of the 14 day period, in subsection (3) above, a permit holder does not comply with the erosion and sediment control plan or permit conditions, the City shall revoke the permit.

##### (5) Administrative Fines

(a) When the City finds that a person has violated, or continues to violate, any provision of this Chapter, the City may impose an administrative fine against such person in an amount not to exceed \$2,500.00 on a per violation, per day basis, plus any administrative or remediation costs.

(b) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the person.

(6) Compliance with the provisions of this Chapter also may be enforced by injunction.

(b) Cease and Desist Orders

(1) When the City finds that a person has violated, or continues to violate, or that City determines that there is a danger to the public health, safety, welfare or economic impact, the City may issue an order to the person directing it to cease and desist all such violations and directing the person to:

- a) Immediately comply with all requirements; and
- b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- c) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against person.

#### 59.1.15 PROJECT TERMINATION

An orderly and timely termination of a project with land-disturbing activities should be planned between all persons involved with a site.

(a) Prior to final land grading, seeding, and mulching, the person holding the permit should petition the City, in writing, to obtain or allow the installation of any remaining utility lines on the site. Those persons involved in the installation of utility lines shall perform their work promptly to minimize the time period during which some of the land may be left in a relatively unprotected state. After the utility lines have been installed, the person holding the permit shall promptly complete all stormwater management activities.

(b) When a project has been completed, the person holding the permit shall petition, in writing, the City for approval of stormwater management measures which are to remain on the site to evaluate the adequacy of these control measures. The person with local approval shall submit "as built" drawings with their petition. If "as built" drawings are not submitted with the petition, the petition will not be accepted.

(1) If the stormwater management measures are approved, any surety bonds and/or letters of credit shall be released forthrightly. However, maintenance responsibilities as set forth in Section 59.1.10 shall remain with the person owning the land.

(2) If the stormwater management measures are not approved because they are not in line with either the stormwater pollution prevention plan or the General Principles of this Chapter, the City shall notify, in writing, the person holding the permit of unacceptable features. After a minimum period of two weeks during which corrective measures are taken, a petition, again in writing, may be sent asking the City to evaluate the adequacy of the stormwater management measures. If, in good faith, the City again decides that the stormwater management measures are inadequate, the City may delay the release of any surety bonds and/or letters of credit for up to two months. After an agreed upon time period of two months or longer has lapsed without corrective measures being taken, the City may use the surety bonds to finance changes or additions to the stormwater management measures needed to complete the project.

#### 59.1.16 VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement process and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of the Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

#### 59.1.17 JUDICIAL ENFORCEMENT REMEDIES

##### (a) Injunctive Relief

When the City finds that a person has violated, or continues to violate, any provision of this Chapter, an NPDES permit, or order issued hereunder, or any other standard or requirement, the City may petition through any court of general jurisdiction within Wayne County, for the issuance of a temporary or permanent injunction. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the person to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a person.

(b) Civil Penalties

A person who has violated, or continues to violate, any provision of this Chapter, or order issued hereunder, or any other standard or requirement shall also be liable to the City for a total maximum civil penalty and administrative fines of \$2,500.00 per violation, per day. Penalties and fines shall accrue for each day during the period of the violation.

(c) The City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(d) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the person's violation, corrective actions by the person, the compliance history of the person, and any other factor as justice requires.

(e) Filing a suit for civil penalties shall not be a bar against, or a prerequisite, for taking any other action against a person.

59.1.18 REMEDIES NOT EXCLUSIVE

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.  
(Ordinance 68-2005)