

TITLE XV: LAND USAGE

Chapter

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Building Department, see § 31.01

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§ 150.01 PURPOSE.

The purpose of this chapter is to provide for the protection of life, public safety and real and personal property in the design and construction of buildings and structures in the county.

(^83 Code, § 150.01) (Ord. 1977-41, passed 1-30-78)

§ 150.02 CONFORMANCE REQUIRED.

(A) All construction, enlargement, alteration, repair, relocation and use of buildings, structures and dwellings shall conform with this chapter and such ordinances as may be hereafter adopted for such purposes by the Board of County Commissioners.

(B) It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sublessee or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use,

occupy or maintain any building or structure, other than fences in the county, or cause or permit the same to be done, contrary to or in violation of the provisions of this chapter.

(^83 Code, § 150.02) (Ord. 1977-41, passed 1-30-78) Penalty, see § 10.99

§ 150.03 ADOPTION OF REGULATIONS BY REFERENCE.

(A) The following rules, regulations and codes are hereby adopted by reference as the rules and regulations governing the construction, enlargement, alteration, repair, relocation and use of buildings and structures in the county.

(1) The *Indiana Construction Rules and Regulations*, Volume I, 1973 edition, amended 1974, promulgated by the Administrative Building Council of Indiana.

(2) The *One- and Two-Family Dwelling Code*, 1976 edition, promulgated by the Administrative Building Council of Indiana.

(3) The *National Electrical Code*, 1978 edition, adopted by the National Fire Protection Association.

(4) The *Plumbing Rules and Regulations*, Volume III, 1976 edition, amended 1976, promulgated by the Administrative Building Council of Indiana.

(5) The *Mechanical Rules and Regulations*, Volume IV, 1976 edition, amended 1977, promulgated by the Administrative Building Council of Indiana.

(B) Two copies of the foregoing rules and regulations are on file for reference in the office of the County Building Commission in the County Courthouse.

(`83 Code, § 150.03) (Ord. 1977-41, passed 1-30-78)

§ 150.04 ADMINISTRATIVE COOPERATION.

In the administration of this chapter, and any other ordinances incident hereto, the Department of Buildings shall cooperate with and coordinate its activities with all affected or related city, county and state agencies so as to prevent unnecessary overlapping, duplication and waste in the administrative process.

(`83 Code, § 150.04) (Ord. 1977-41, passed 1-30-78)

§ 150.05 CONSTRUCTION PERMIT REQUIRED.

(A) Prior to the construction of any building, structure, dwelling or any part thereof, no extension, repair or alteration of any existing building, no plumbing, no electrical work, no heating work, no ventilation work, nor air conditioning work having a contract price or estimated cost of more than \$100 shall be started until a statement in writing of the work proposed to be done shall first be submitted by the contractor or individual in charge of the work to and approved by the Building Commissioner, and a permit issued by him or her for the proposed construction, alteration, repair or extension work.

(B) The Building Commissioner, before issuing a permit therefor, may require the applicant to submit and file a set of detailed plans and specifications subject to the approval of the Building Commissioner, a copy of which shall be retained in his or her office. No changes from the approved plans or specifications shall be made until a revised copy thereof has been submitted to and approved by the Building Commissioner.

(C) The Building Commissioner shall refuse to issue a permit in any case where the construction or work proposed is in violation of any statute of the state or any provisions of any ordinance of the county.

(D) No permit shall be required for any outside or inside painting or other cosmetic repair or maintenance where the building is not altered or extended.

(^ 83 Code, § 150.05) (Ord. 1977-41, passed 1-30-78) Penalty, see § 10.99

§ 150.06 PERMIT AND INSPECTION FEES.

The fee for all permits and inspections shall be as follows.

(A) \$5 for construction costs not exceeding \$5,000.

(B) \$9 for construction costs of more than \$5,000 and less than \$10,000.

(C) \$13 for construction costs of more than \$10,000 and less than \$15,000.

(D) \$17 for construction costs of more than \$15,000 and less than \$20,000.

(E) \$20 for construction costs of more than \$20,000 and less than \$25,000.

(F) \$20 plus \$0.50 per \$1,000 for construction costs over \$25,000 and less than \$100,000.

(G) \$57.50 plus \$0.35 per \$1,000 for construction costs of \$100,000, with a maximum permit fee of \$100.

(H) An inspection fee of \$7.50 for each required inspection.

(^ 83 Code, § 150.06) (Ord. 1977-41, passed 1-30-78)

Cross-reference:

Board of Health service fees, see §§ 92.15 et seq.

§ 150.07 APPEALS.

All persons shall have the right to appeal the Building Commissioner's decision, first through a body appointed by the Board of County Commissioners, being the Board of Appeals, and then through the Executive Committee of the Administrative Building Council of Indiana, in accordance with provisions of I.C. 22-11-1-21.5.

(⁸³ Code, § 150.07) (Ord. 1977-41, passed 1-30-78)

§ 150.08 STOP ORDERS.

Whenever any work is being done in violation of the provisions of this chapter, or in variance with the terms of any permit issued for such work, the Building Commissioner may order all work on the job stopped until such violations or variance is eliminated and any work or installation made in violation of this chapter is corrected. Such stop order, if oral, shall be followed by a written stop order within 35 hours excluding Saturday, Sunday or holidays. It shall be unlawful to do or perform any work in violation of such stop order except as may be necessary to prevent injury or damage to persons or property, or to correct such violation or variance. Such stop order may be revoked by the Building Commissioner.

(⁸³ Code, § 150.08) (Ord. 1977-41, passed 1-30-78) Penalty, see § 10.99

**§ 150.09 UNSAFE BUILDINGS;
ENFORCEMENT OF BUILDING STANDARDS.**

(A) *Adoption of state law; application.* The provisions of I.C. 36-7-9-1 et seq. (the Act), concerning the enforcement of building standards, is hereby adopted in their entirety, and as they may be subsequently amended, and are made a part hereof by reference the same as if fully set out herein. As so adopted, the Act shall apply and be enforceable in the unincorporated area of the county.

(B) *Definitions.* For the purpose of this chapter and the Act, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEPARTMENT. The Howard County Plan Commission shall be the executive department authorized by this section to administer the provisions of the Act.

ENFORCEMENT AUTHORITY. The enforcement authority shall be the Executive Director of the Howard County Plan Commission, the designated department.

HEARING AUTHORITY. That person or persons designated as such by the Board of County Commissioners under the authority of I.C. 36-7-9-2. The hearing authority shall perform those functions specified by the Act.

SUBSTANTIAL PROPERTY INTEREST. As set out in I.C. 36-7-9-2, the term is hereby specifically incorporated by reference into this section as if fully set out herein.

UNSAFE BUILDING. The description for the term contained in I.C. 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the county by adding the following definition: Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an ***UNSAFE BUILDING***; provided, that such conditions or defects exist to the extent that life, health, property or safety of the public or its occupants are endangered.

(1) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the county, or of any law of the state or ordinance of the county relating to the conditions, location or structure of buildings.

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(2) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(C) *Designation of executive department.* Pursuant to I.C. 36-7-9-3, and consistent with the definitions contained in division (B), the County Plan Commission is hereby designated as the executive department of the county responsible for the administration of this section.

(BCC Ord. 1996-41, passed 8-19-96) Penalty, see § 10.99

Section

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§ 151.01 STATUTORY AUTHORIZATION.

The Indiana Legislature granted the power to local units of government (I.C. 36-7-4) to control land use within their jurisdictions in order to accomplish the provisions as set forth in this chapter. (BCC Ord. 1994-53, passed 1-23-95)

§ 151.02 STATEMENT OF PURPOSE.

(A) The purpose of this chapter is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief.

(B) Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Board of County Commissioners hereby adopt the following floodplain management regulations in order to accomplish the following:

- (1) To prevent unwise developments from increasing flood or drainage hazards to others;
- (2) To protect new buildings and major improvements to buildings from flood damage;
- (3) To protect human life and health from the hazards of flooding;
- (4) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- (5) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- (6) To make federally subsidized flood insurance available for structures and their contents in the county by fulfilling the requirements of the National Flood Insurance Program.
(BCC Ord. 1994-53, passed 1-23-95)

§ 151.03 DEFINITIONS.

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

BUILDING. See ***STRUCTURE.***

DEVELOPMENT.

- (1) Any human-made change to improved or unimproved real estate including but not limited to:
 - (a) Construction, reconstruction or placement of a building or any addition to a building;

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(b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(c) Installing utilities, erection of walls and fences, construction of roads or similar projects;

(d) Construction of flood control structures such as levees, dikes, dams, channel improvements and the like;

(e) Mining, dredging, filling, grading, excavation or drilling operations;

(f) Construction or reconstruction of bridges or culverts;

(g) Storage of materials; or

(h) Any other activity that might change the direction, height or velocity of flood or surface waters.

(2) The term does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation or the construction of permanent buildings.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the

installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

FBFM. Flood Boundary and Floodway Map.

FEMA. Federal Emergency Management Agency.

FHBM. Flood Hazard Boundary Map.

FIRM. Flood Insurance Rate Map.

FLOOD. 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 any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus two feet at any given location in the SFHA.

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 flood flow of the regulatory flood of any river or stream.

FLOODWAY FRINGE. Those portions of the floodplain lying outside the floodway.

LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations and elevations.

LOWEST FLOOR. The lowest elevation described among the following:

- (1) The lowest floor of a building;
- (2) The basement floor;
- (3) The garage floor, if the garage is connected to the building;
- (4) The first floor of a building elevated on pilings or constructed on a crawl space;
- (5) The floor level of an enclosure below an elevated building where the walls of the following requirements are satisfied:
 - (a) The walls are designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of flood water;
 - (b) At least two openings are designed and maintained for the entry and exit of flood water, and these openings provide a total area of at least one square inch for every one square foot of enclosed floor area subject to flooding. The bottom of an opening can be no more than one foot above grade. Doorways and windows do not qualify as openings under this clause.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term does not include a “recreational vehicle.”

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel or seasonal use.

REGULATORY FLOOD. The flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 151.05. The term is also known as the “Base Flood.”

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdiction of the county that are subject to inundation by the regulatory flood. The SFHAs of the county are generally identified as such on the Flood Insurance Rate Map of the county prepared by the Federal Emergency Management Agency and dated July 16, 1981.

STRUCTURE. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary or safety code requirements or any alteration of a historic structure; provided, that the alteration will not preclude the structures continued designation as a historic structure.

(BCC Ord. 1994-53, passed 1-23-95; Am. BCC Ord. 2002-19, passed 6-3-02)

§ 151.04 DUTIES OF THE ADMINISTRATOR.

(A) The Plan Commission Director shall implement this chapter and hereafter be referred to as the Zoning Administrator.

(B) The Zoning Administrator for the county is appointed to review all development and subdivision proposals to ensure compliance with this chapter, including but not limited to the following duties:

(1) Ensure that all development activities within the SFHAs of the jurisdiction of the county meet the requirements of this chapter.

(2) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.

(3) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to § 151.07, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).

(4) Maintain a record of the “as-built” elevation of the top of the lowest floor (including basement) of new and substantially improved buildings constructed in the SFHA. Inspect before, during and after construction.

(5) Maintain a record of the engineer's certificate and the “as-built” floodproofed elevation of all buildings subject to § 151.08.

(6) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this chapter. Submit reports as required for the National Flood Insurance Program.

(7) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of Department of Natural Resources permits and letters of recommendation, federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this chapter.

(8) Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
(BCC Ord. 1994-53, passed 1-23-95)

§ 151.05 REGULATORY FLOOD ELEVATION.

(A) This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

(B) The regulatory flood elevation and floodway limits for the SFHAs of Wildcat Creek, Kokomo Creek, Little Wildcat Creek and Little Wildcat Creek West shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of the county dated January 16, 1981, and the corresponding FBFM dated July 16, 1981, prepared by the Federal Emergency Management Agency.

(C) The regulatory flood elevation for each SFHA delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the county.

(D) The regulatory flood elevation for each of the remaining SFHAs delineated as an "A Zone" on the Flood Insurance Rate Map of the county shall be according to the best data available as provided by the Department of Natural Resources.

(E) If the SFHA is delineated as "AH Zone" or "AO Zone," the elevation (or depth) will be delineated on the county Flood Insurance Rate Map. If the SFHA is delineated as "ZONE A" on the county Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Department of Natural Resources.

(BCC Ord. 1994-53, passed 1-23-95)

§ 151.06 IMPROVEMENT LOCATION PERMIT.

(A) No person, firm, corporation or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining an improvement location permit from the Zoning Administrator. The Zoning Administrator shall not issue an improvement location permit if the proposed development does not meet all of the requirements of this chapter.

(B) The application for an improvement location permit shall be accompanied by the following:

(1) A description of the proposed development.

(2) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.

(3) A legal description of the property site.

(4) A site development plan showing existing and proposed development locations and existing and proposed land grades.

(5) Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included.

(C) Upon receipt of an application for an improvement location permit, the Zoning Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.

(1) If the site is in an identified floodway, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

(a) Under the provisions of I.C. 14-28-1, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, paving and the like undertaken before the actual start of construction of the building.

(b) No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Zoning Administrator may issue the local improvement location permit; provided, the provisions contained in §§ 151.07 and 151.08 have been met. The improvement location permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) If the site is located in an identified floodway fringe, then the Zoning Administrator may issue the local improvement location permit; provided, the provisions contained in §§ 151.07 and 151.08 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade (FPG).

(3) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

(a) No action shall be taken by the Zoning Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

(b) Once the Zoning Administrator has received the proper permit or letter of recommendation approving the proposed development, an improvement location permit may be issued provided the conditions of the improvement location permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in §§ 151.07 and 151.08 have been met.

(4) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year elevation for the site. Upon receipt, the Zoning Administrator may issue the local improvement location permit; provided, the provisions contained in §§ 151.07 and 151.08 have been met. (BCC Ord. 1994-53, passed 1-23-95) Penalty, see § 10.99

§ 151.07 PREVENTING INCREASED DAMAGES.

(A) No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(B) Within the floodway identified on the Flood Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis as provided in § 151.06(C)(4), the following standards shall apply:

(1) No development shall be allowed which acting alone or in combination with existing or future development will cause any increase in the elevation of the regulatory flood; and

(2) For all projects involving channel modifications or fill (including levees), the county shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(C) Within all SFHAs identified as A Zones (no 100-year flood elevation or floodway or floodway fringe delineation has been provided), the following standard shall apply: the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than 0.1 foot and will not increase flood damages or potential flood damages.

(D) Public health standards in all SFHAs.

(1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a floodproofed storage tank or building constructed according to the requirements of § 151.08.

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted; provided, all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

(BCC Ord. 1994-53, passed 1-23-95) Penalty, see § 10.99

§ 151.08 PROTECTING BUILDINGS.

(A) In addition to the damage prevention requirements of § 151.07, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

(B) This building protection requirement applies to the following situations:

(1) Construction or placement of any new building having a floor area greater than 400 square feet;

(2) Structural alterations made to an existing (previously unaltered) building, the cost of which equals or exceeds 40% of the value of the pre-altered building (excluding the value of the land), or structural alterations made to any previously altered building;

(3) Reconstruction or repairs made to a damaged building that are valued at or more than 40% of the market value of the building (excluding the value of the land) before damage occurred;

(4) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

(5) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(C) This building protection requirement may be met by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in § 151.04.

(1) A residential or non-residential building may be constructed on a permanent land fill in accordance with the following:

(a) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

(b) The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The top of the lowest floor including basements (see definition of lowest floor in § 151.03) shall be at or above the FPG.

(2) A residential or non-residential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls or other types of similar foundation; provided the walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade. Provided further, that any enclosure below the elevated floor is used for storage of vehicles and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice and floating debris.

(c) All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the FPG.

(3) Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

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1. Outside a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

(b) This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) Recreational vehicles placed on a site shall either:

(a) Be on the site for less than 180 consecutive days;

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(c) Meet the requirements for manufactured homes in division (C)(3) of this section.

(5) A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

(a) A registered professional engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(BCC Ord. 1994-53, passed 1-23-95) Penalty, see § 10.99

§ 151.09 OTHER DEVELOPMENT REQUIREMENTS.

(A) The Zoning Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by chapter. If the Zoning Administrator finds the subdivision to be so located, the Zoning Administrator shall forward plans and materials to the Department of Natural Resources for review and comment. The Zoning Administrator shall require appropriate changes and modifications in order to assure that:

(1) It is consistent with the need to minimize flood damages;

(2) All public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards;

(4) On-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(B) Developers shall record the 100-year flood elevation on all subdivision plats containing lands (identified elsewhere by this chapter) within a flood hazard area prior to submitting the plats for approval by the Plan Commission.

(C) All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed with and approved by the appropriate community emergency management authorities.

(BCC Ord. 1994-53, passed 1-23-95)

§ 151.10 VARIANCES.

(A) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this chapter provided the applicant demonstrates that:

(1) There exists a good and sufficient cause for the requested variance;

(2) The strict application of the terms of this chapter will constitute an exceptional hardship to the applicant, and

(3) The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(B) The Board of Zoning Appeals may issue a variance to the terms and provisions of this chapter subject to the following standards and conditions:

(1) No variance or exception for a residential use within a floodway subject to § 151.07(B) or (C) may be granted.

(2) Any variance or exception granted in a floodway subject to § 151.07(B) or (C) will require a permit from the Department of Natural Resources.

(3) Variances or exceptions to the building protection standards of § 151.08 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(4) Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;

(5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and

(6) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

(BCC Ord. 1994-53, passed 1-23-95)

§ 151.11 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the county or the Planning Commission, the Department of Natural Resources or the State of Indiana for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(BCC Ord. 1994-53, passed 1-23-95)

§ 151.12 ABROGATION AND GREATER RESTRICTIONS.

This chapter repeals and replaces other ordinances adopted by the Board of County Commissioners to fulfill the requirements of the National Flood Insurance Program. However, this chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this chapter repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this chapter and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the Board of County Commissioners shall assure that all National Flood Insurance Program regulations and laws (312 I.A.C. 10, I.C. 14-28-1 and I.C. 14-28-3) are met. (BCC Ord. 1994-53, passed 1-23-95; Am. BCC Ord. 2002-19, passed 6-3-02)

§ 151.13 VIOLATIONS.

(A) Failure to obtain an improvement location permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and shall be treated as such in accordance with the provisions of the Zoning Code adopted in Chapter 153. All violations shall be punishable as provided in § 10.99.

(B) A separate offense shall be deemed to occur for each day the violation continues to exist.

(C) The Planning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(D) Nothing herein shall prevent the county or the Planning Commission from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(BCC Ord. 1994-53, passed 1-23-95) Penalty, see § 10.99

AND SUBDIVISION CONTROL REGULATIONS

Section

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Editor's note:

This Chapter, previously adopted by reference in § 152.01 of the 1983 Code, was originally enacted by Ord. 1977-38, passed 12-19-77, and subsequently amended by Res. passed 1-3-78 and Ord. 1983-1, passed 1-3-83. All amendments to this Chapter beginning with BCC Ord. 1993-9, passed 3-22-93, shall be cited in the legislative history of the specific provision so amended.

GENERAL PROVISIONS**§ 152.01 DEFINITIONS.**

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

ADJACENT PROPERTY OWNER. Those owners of property contiguous to the subject property, ignoring all intervening streams, street and railroad rights-of-way.

ALLEY. A right-of-way, other than a street, road, crosswalk or easement, that provides secondary access for the special accommodation of the abutting property.

BLOCK. Property having frontage on one side of a street and located between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street or railroad right-of-way, waterway or other barrier. When intersecting or intercepting streets and railroad rights-of-way, waterways or other barriers do not exist, within 330 feet on either side of the centerline of the area, the unit of 660 feet shall be used. The measurement may begin at a quarter section line and terminate each 660 feet unless intersected by a street.

BOARD. The Board of County Commissioners of Howard County, Indiana.

BOARD OF HEALTH. The Howard County Board of Health.

BUILDING LINE. Means the line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way line.

COMMISSION. The Howard County Plan Commission.

COUNTY. Howard County, Indiana

COUNTY DRAINAGE BOARD. The Howard County Drainage Board.

COUNTY ENGINEER. The Howard County Highway Engineer.

COUNTY SURVEYOR. The Howard County Surveyor.

COVENANT. A written promise or pledge.

CUL-DE-SAC, COURT or DEAD-END STREET. A short street having one end open to traffic and being permanently terminated by a vehicle turn-around.

DEBRIS BASIN. A barrier or dam built across a waterway or at other suitable locations to retain rock, sand, gravel or silt or other material.

DEVELOPER. Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself, herself or for another.

DIRECTOR. The officer or employee of the County Plan Commission who has authority to enforce this chapter.

DRAINAGE SWALE. A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site feature.

DRAINAGE SYSTEM. Any combination of surface and subsurface drainage components fulfilling the drainage requirements of this chapter.

EASEMENT. A grant by the property owner of the use of a strip of land by the public, a corporation or persons for specified purposes.

EROSION. The wearing away of the land surface by the action of wind, water or gravity.

GRADING. Any stripping, cutting, filling, stockpiling or any combination thereof, and shall include the land in its cut or filled condition.

JURISDICTION OF THE COMMISSION. The unincorporated territory of Howard County, Indiana.

LOT. For purposes of these regulations, a lot is a parcel of land of sufficient size to meet the minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved street, or on an approved private street.

MAJOR STREETS AND HIGHWAYS PLAN. The part of the Master Plan, now or hereafter adopted, which sets forth the location, alignment, dimensions, identification and classification of existing and proposed streets, highways and other thoroughfares.

MASTER PLAN. The complete plan, or any of its parts, for the development of the county, prepared by the Commission and adopted in accordance with I.C. 36-7-4-500 et seq., as now or may hereafter be in effect.

MULCHING. The application of plant or other suitable materials on the soil surface to conserve moisture, hold soil in place and aid in establishing plant cover.

OPEN DITCH. A relatively deep drainage channel which may have a continuous water flow the year round. Open ditches are outlets for both surface, subsurface or storm sewer drainage system.

PERSON. Includes a corporation, firm, partnership, association, organization or any other group that acts as a unit or legal entity.

PLAT. A map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.

PLAT REVIEW COMMITTEE. A group of persons with technical knowledge of various county, state, and federal regulations and standards regarding urban development, appointed by the Commission. The Committee is responsible for working with developers in reviewing the technical aspects of subdivision plans and other major development projects. The Committee makes technical findings and recommendations to the Commission.

PRIVATE STREET. A right-of-way which has the characteristics of a street, as defined herein, except that it is not dedicated to the public use. A driveway which is located on a lot and which serves only the use on that lot is not considered as a private street.

REGULATED DRAIN. Any drainage system over which the County Drainage Board has legal control.

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 or gravity as a product of erosion.

SEDIMENT BASIN. See **DEBRIS BASIN.**

SHALL. The term is always mandatory.

SOIL. All unconsolidated mineral and organic material of whatever origin that overlies bedrock which can be readily excavated.

SOIL AND WATER CONSERVATION DISTRICT. The Howard County Soil and Water Conservation District.

SOIL SURVEY. Refers to the Soil Survey of Howard County, Indiana, prepared by the United States Department of Agriculture, Soil Conservation Service, in cooperation with Purdue University Agricultural Experiment Station, which may be updated from time to time based on the National Cooperative Soil Survey.

STORM DRAINAGE SYSTEM. A system of open ditches, pipes or drainage swales used to collect and convey storm water runoff.

STORM SEWERS. A system of pipes, tiles or tubing installed beneath the ground surface which collects and conveys surface water from more than one parcel, lot or the discharge from a subsurface drain.

STREET or ROAD. A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name.

STREET, ARTERIAL. A street providing for through movement of large volumes of traffic. Arterial streets are intended to provide access to abutting property subject to necessary control of entrances and exits for traffic movement and where safety conditions warrant.

STREET (OR ALLEY) IMPROVEMENT. The construction of a street or alley to its full thickness, commencing at the subgrade according to the specifications contained in § 152.62. The placing of a new surface over an existing paved or closed surface street or alley shall not be considered as an improvement but as maintenance.

STREET PAVEMENT WIDTH. The usable traveled surface of the street. For streets with curb and gutter, the width is measured on the lip of gutter to lip of gutter or the face of curb to face of curb, whichever is the greater distance. For streets without curb or gutter, the width is measured from edge of pavement to edge of pavement. See Appendix B, Figures 1 and 2.

STREET, PRIMARY FEEDER. A street planned to facilitate the collection of traffic from local streets, and to provide circulation within neighborhood areas and convenient ways for traffic to reach principal arterial streets.

STREET, RESIDENTIAL. A street used primarily for access to abutting properties, usually residential.

STREET, SECONDARY FEEDERS. A street with lower traffic volumes fulfilling the same function as major collectors.

SUBDIVIDER. See ***DEVELOPER.***

SUBDIVISION.

(1) The division of any parcel of land shown as a unit, part of a unit, or as contiguous units on the last preceding transfer of property into two or more parcels, sites or lots for the purpose, whether immediate or future, of transfer of ownership.

(2) The following divisions of land shall not be considered a subdivision.

(a) The sale or exchange of land between adjoining lot owners, where such sale or exchange does not create additional building sites;

(b) The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division and all location of land as streets or other open spaces for common use by owners, occupants or lease holders; or

(c) Easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.

SUBSURFACE DRAINAGE. A system of pipes, tile, conduit or tubing installed beneath the ground surface used to collect ground water from individual parcels, lots or building footings.

SURFACE DRAINAGE. A system by which the storm water runoff is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways, yards and the like so that storm water runoff is removed without ponding and flows to a drainage swale, open ditch or a storm sewer.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding producing temporary vegetative cover; or
- (3) Sodding, producing areas covered with a turf of perennial sod-forming grass

ZONING CODE. The part of the Master Plan, now or hereafter adopted, which includes an ordinance and zone maps which divides the area under the jurisdiction of the Commission into districts, with regulations and requirements and procedures for the establishment of land use controls. (See Chapter 153.) (BCC Ord. 1977-38, passed 12-19-77)

**§ 152.02 MAJOR STREETS AND HIGHWAY
MAP AND DRAWINGS ADOPTED.**

The Official Major Streets and Highways Plan consists of a map entitled “Major Street & Highway Plan, Howard County, Indiana” and drawings entitled “Thoroughfare Standard Cross-Sections” (see Appendix B, Figures 3, 4 and 5) which shows recommended design plans for the proposed streets and highways. This Official Major Streets and Highways Plan is hereby declared to be a part of this chapter and notations, references, indications and other details shown therein are as much a part of this chapter as if they were fully described in the text of this chapter, and is hereby adopted by reference. (BCC Ord. 1977-38, passed 12-19-77)

**§ 152.03 DESIGNATION OF MAJOR STREETS
AND HIGHWAYS.**

The major streets and highways comprising the Official Major Street and Highways Plan are hereby classified on the basis of width and type, in

accordance with their proposed function, as arterial, primary feeder, secondary feeder and residential.
(BCC Ord. 1977-38, passed 12-19-77)

§ 152.04 OPENING OR WIDENING OF STREETS.

Whenever a street designated in the Official Major Streets and Highway Plan is to be platted as a part of a subdivision, the required right-of-way width for such street shall be platted as specified in the Official Major Streets and Highways Plan; provided, that where a street borders a tract of land to be subdivided, the owner of such land shall be required to plat only one-half of the right-of-way designated for such street, measured at 90 degrees to the center line thereof.

(BCC Ord. 1977-38, passed 12-19-77)

§ 152.05 LOCATION OF STREETS.

(A) Wherever the location of a street is indicated in the Official Major Streets and Highways Plan as following an existing road or street, or a section or half-section or other established property line, the location of the street shall conform to such location; however, a street lying wholly within a subdivision, and not designated as following an existing road or established property line, may be varied in its alignment when such variance promotes the plan of a neighborhood development unit in accordance with good site planning principles, and if such alignment provides for the continuity of traffic movement.

(B) In the absence of any street being designated in each section of land on or approximately on the north-south and east-west section lines of such sections, it is the intent of the Official Major Streets and Highways Plan and this chapter that Primary Feeder Streets be established on such section lines.

(C) In the absence of any street being designated in each section of land on or approximately on the north-south and east-west half-section lines of such sections, it is the intent of the Official Major Streets

and Highways Plan and this chapter that Secondary Feeder Streets be established on such half-section lines.

(D) Wherever the location of a street is indicated in the Official Major Streets and Highways Plan as following an irregular alignment, or a reversed alignment, or is not referenced to an established line, it shall follow the alignment shown in the Official Major Streets and Highways Plan. Such alignment shall be subject to a detailed survey which may be provided by the Commission or other public agencies, or by the owners of land to be subdivided if required by the Commission. The survey for such street shall be subject to the approval of the Commission prior to the dedication of the street.

(BCC Ord. 1977-38, passed 12-19-77)

§ 152.06 CONSIDERATION BY PUBLIC AGENCIES.

(A) The Board shall be guided by and give consideration to the general policy and pattern of street development set out in the Official Major Streets and Highways Plan in the authorization, construction, widening, alteration, relocation or abandonment of the public streets, highways and related structures.

(B) No public way shall be abandoned or vacated until the Commission shall have first given notice and held public hearing on vacation or abandonment of such public way. The Commission shall forward its recommendation to the Board. The Board shall not override the recommendation of the Commission except by unanimous vote.

(BCC Ord. 1977-38, passed 12-19-77)

§ 152.07 ISSUANCE OF PERMITS.

Any permits authorized by the Board, including but not limited to improvement location permits,

permitting the erection, alteration or relocation of structures and other improvements within the jurisdiction of the Commission, shall be issued only if, in addition to satisfying the requirements of other ordinances, the proposed street right-of-way as set forth by this chapter will be protected from encroachment. In this instance, the proposed street right-of-way lines will be considered as the front line of lots and tracts bordering such street. (BCC Ord. 1977-38, passed 12-19-77)

§ 152.08 CONTINUING AUTHORITY OF THE COMMISSION.

Subsequent to the passage of this chapter, the Commission may determine lines for new, extended, widened or narrowed thoroughfares in any location of the area within the jurisdiction of the Commission, and certify to the Board the amended or additional plan under the same procedure as established for the certification and approval of the Official Major Streets and Highways Plan. (BCC Ord. 1977-38, passed 12-19-77)

§ 152.09 VARIANCES.

Where the subdivider can show that a provision of this chapter would cause an unnecessary hardship if strictly adhered to and where, in the opinion of the Commission, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of such provision, the Commission may authorize a variance. Any variance thus authorized is required to be entered in writing in the minutes of the Commission and the reasoning on which the departure was justified shall be set forth. Variances shall not be granted merely because it would be financially advantageous to the applicant or because he or she would suffer financial loss if it were denied. (BCC Ord. 1977-38, passed 12-19-77)

SUBDIVISION CONTROL

§ 152.20 ESTABLISHMENT OF CONTROL.

(A) No plat or replat of a subdivision of land located within the jurisdiction of Commission shall be recorded until it shall have been approved by the Commission, and such approval shall have been entered in writing on the plat by the President and Secretary of the Commission.

(B) Except as otherwise provided in this chapter, no subdivision of land shall be created, established or platted within the territorial jurisdiction of the Commission until there has been compliance with all provisions of this chapter and all other elements of the Master Plan.

(C) Any subdivision of a parcel of land for purposes other than agricultural use shall be reviewed by the Commission and a determination shall be made that such division is in accordance with the Master Plan. (BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.21 PRELIMINARY CONSIDERATION.

(A) In order to make the most of the opportunities related to the subdivision and to conserve time, effort and expense, the owner should consult with the Director, the County Surveyor, the technical representative of the Soil and Water Conservation District, the County Engineer, the Board of Health and other public officials prior to the preparation of the preliminary plat of the subdivision. The Master Plan should be reviewed to determine how the proposed plan will fit into the Master Plan; requirements of the Official Major Streets and Highways Plan; school and recreational sites; shopping centers; community facilities; sanitation; water supply and drainage; and relationship to other developments, existing and proposed in the vicinity,

should be determined in advance of the preparation of the subdivision. Consultation should also be held with those familiar with the economic factors affecting the subdivision. A thorough estimate of the situation will result in sound decisions with respect to the form, character and extent of the proposed subdivision.

(B) The Commission shall review all proposed subdivisions to determine whether the subdivision lies in a flood-prone area as defined in Chapter 151. If the Commission finds the subdivision to be so located, the petitioner shall forward all pertinent plans and materials to the Department of Natural Resources for review and comment. The Commission may require appropriate changes and modifications in order to assure that it is consistent with the need to minimize flood damages, all public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage, adequate drainage is provided so as to reduce exposure to flood hazards, and that on-site waste disposal systems, if provided, will be so located as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(BCC Ord. 1977-38, passed 12-19-77)

Cross-reference:

Flood damage prevention, see Chapter 151

§ 152.22 PRELIMINARY PLAT REQUIRED.

After the preliminary consideration stage, the subdivider shall submit a written application requesting for Preliminary Approval of a Subdivision Plat to the Commission. Such application shall be accompanied by the information, requirements and plans set forth in §§ 152.23 and 152.24, all in accordance with the requirements set forth in this chapter.

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

**§ 152.23 PRELIMINARY PLAT
PREPARATION.**

(A) The subdivider shall provide a plan for the subdivision which shall show the manner in which the proposed subdivision is coordinated with the Master Plan and its provisions, specifically with relation to the requirements of the Official Major Streets and Highways Plan, and those items reviewed during the preliminary consideration; provided, however, that no land shall be subdivided for residential use unless adequate access to the land over improved streets or thoroughfares exists or will be provided by the subdivider, or if such land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formation, topography, or any other feature harmful to the health and safety of possible residents and the community as a whole.

(B) The subdivider shall provide the following:

(1) *Location map.* A location map, which may be prepared by indicating the data by notations on available maps, showing:

(a) Subdivision name and location.

(b) Any thoroughfares related to the subdivision.

(c) Existing elementary and high schools, parks and playgrounds, shopping centers or stores serving the area proposed to be subdivided, and other community facilities.

(d) Zoning of the site and adjoining property

(e) Nearest approved drainage outlet.

(f) Title, scale, north point and date.

(2) *Preliminary plat.* A preliminary plat showing:

(a) Proposed name of subdivision.

(b) Names and addresses of the owner, subdivider and the planner, land planning consultant, professional engineer or registered surveyor who prepared the plan.

(c) Streets and rights-of-way on and adjoining the site of the proposed subdivision showing the names (which shall not duplicate other names of streets in the community, except as designated by the Commission) and including roadway widths, approximate gradients, types and widths of pavement, curbs, sidewalks, cross-walks and tree planting.

(d) Easement locations, widths and purposes.

(e) Existing sewers, water lines, culverts and other underground structures, and power transmission poles and lines, within and adjacent to the tract.

(f) Layout of lots showing dimensions and numbers.

(g) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public, or community purposes.

(h) Contours at vertical intervals of two feet if the general slope of the site is less than 10% and at vertical intervals of five feet if the general slope is greater than 10%.

(i) Tract boundary lines showing dimensions, bearings, angles and references to section, township and range lines or corners.

(j) Building lines.

(k) Legend and notes.

(l) Other features or conditions which would affect the subdivision favorably or adversely.

(m) Scale, north point and date. The preliminary plat of the subdivision shall be drawn to a scale of 50 feet to 1 inch or 100 feet to 1 inch; provided, however, that if the resulting drawing would be over 36 inches in shortest dimension, a scale as recommended by the Commission may be used.

(n) Plans and specifications for the improvements required in this chapter.

(o) Detailed grading plans shall be submitted simultaneously with the preliminary plat to illustrate solutions to topography or drainage problems

1. These plans shall show topographically and by profile the elevation of the land prior to any phase of subdividing, and any proposed changes in elevations and flow of surface water resulting from proposed subdivision development. Such plans shall be of the same scale and size as the preliminary plat and shall be prepared in such a manner as will permit the topographic detail to be used as an overlay to the preliminary plat.

2. Upon the face of the subdivision plat, certification is required by a Registered Professional Engineer or Land Surveyor, and the owner of the land or his or her duly authorized attorney confirming that to the best of their knowledge and belief, the drainage of surface waters will not be significantly changed by the construction of such subdivision or any part thereof, or that if such surface water drainage will be changed, adequate provision has been made for such surface waters.

(3) *Description of protective covenants.* A description of the Protective Covenants or private restriction to be incorporated in the plat of the subdivision shall be submitted.

(4) *Soil report.* A soils report for the site shall be prepared by technical personnel of the Soil and Water Conservation District, or by an engineer registered in the state. This report shall indicate the

degree of limitations of the soils in the proposed subdivision with respect to the proposed building development, road, construction, drainage, sewage disposal system, erosion control, and such other information that might assist the Commission in its review of the preliminary plat.

(5) *Area Drainage Map.* An area drainage map showing the following shall be submitted:

(a) Total drainage area.

(b) Size and location of an outlet as defined in § 152.65 to which the water from the proposed subdivision will be taken.

(c) Size and location of any regulated drain which will be affected by the proposed subdivision.

(d) Cross-sections of open ditch outlets and invert elevations of tile outlets shall be shown.

(e) Proposed location of all surface and subsurface drainage systems, as required in § 152.65.

(f) Scale and north arrow.

(6) *Erosion control plan.* An erosion control plan which will adequately control soil erosion and the resulting sedimentation from occurring during and after the development of a subdivision shall be submitted. This erosion control plan shall include the following:

(a) Plans and specifications of all necessary soil erosion and sedimentation control measures in accordance with standards and specifications of the Soil and Water Conservation District.

(b) A timing schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.

(C) The application shall be accompanied by a certified check or money order in the amount of \$50 plus \$5 for each lot in the proposed subdivision to cover the cost of checking and verifying the proposed plat, and such amount shall be deposited in the General Fund of the county.
(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.24 PRELIMINARY PLAT APPROVAL.

(A) *Tentative approval.* After an application for approval of a preliminary plat of a subdivision, together with ten copies of all maps and data, has been filed, the Director shall review the application and give it tentative approval, or return the application to the subdivider with suggestions for changes within a period of 30 days from the date of application. No application will be considered unless it has been filed with the Commission at least 15 days before the date of their regular scheduled monthly meeting. The Director shall have up to five days after filing of an application for determining the application is complete and ready to be accepted. Incomplete applications may not be acted on.

(B) *Public hearing.* After the Director has given tentative approval, he shall set the date for a public hearing and notify the applicant in writing. The applicant shall notify by general publication or otherwise all adjacent property owners and any person or governmental unit having a probable interest in the plat proposed in the application. The cost of publication of the notice of hearing shall be met by the applicant.

(C) *Approval.* Following the public hearing and within 30 days after which the application receives tentative approval, the Commission shall approve the plat proposed in the application subject to its receipt of an acceptable final plat, or disapprove the plat, setting forth its reasons in its own records and providing the applicant with a copy.

(D) *Approval period.* An approval shall be effective for a period of 36 months, unless upon request of the applicant to include all or only a part of

the approved plat, the Commission grants an extension. If the final plat is not received by the Commission within the period specified, all previous actions by the Commission with respect to the plat shall be deemed to be null and void.

(BCC Ord. 1977-38, passed 12-19-77; Am. Ord. 2008-BCC-36, passed 11-20-08)

§ 152.25 FINAL PLAT REQUIRED.

(A) Following the approval of the preliminary plat, the Commission will notify the applicant in writing that it is ready to receive the final plat.

(B) The final plat shall meet the specifications and requirements as set forth in §§ 152.26 and 152.27, all in accordance with the requirements set forth in this chapter.

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.26 FINAL PLAT SPECIFICATIONS.

(A) The final plat may include all or only part of the preliminary plat which has received approval.

(B) The original drawing of the final plat of the subdivision shall be drawn to a scale of 50 feet to 1 inch; provided, that the resulting drawing shall be 18 inches x 24 inches with two inches on the left hand side reserved for binding. If necessary, in order to meet these dimensions, a scale of 100 feet to 1 inch may be used. Five black or blue line prints shall be submitted with the original final plat or, in order to conform to modern drafting and reproduction methods, five black line prints and a reproducible print shall be submitted.

(C) The following basic information shall be shown:

(1) Accurate boundary lines, with dimensions and angles which provide a survey of the tract, closing with an error of not more than 1 foot in 10,000 feet.

(2) Accurate distances and directions to the nearest established street corners or official monuments. Reference corners shall be accurately described on the plat.

(3) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.

(4) Accurate metes and bounds description of the boundary.

(5) Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder.

(6) Street names.

(7) Complete curve notes for all curves included in the plan.

(8) Street lines with accurate dimensions in feet and hundredths of feet, with angles to street, alley and lot lines.

(9) Lot numbers and dimensions.

(10) Accurate locations of easements for utilities and any limitations on such semi-public or community use.

(11) Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.

(12) Building lines and dimensions.

(13) Location, type, material and size of all monuments and lot markers.

(14) Restrictions of all types which will run with the land and become covenants in the deeds for lots.

(15) Name of the subdivision.

- (16) Name and address of the owner and subdivider.
- (17) North point, scale and date.
- (18) Certification by a registered land surveyor.
- (19) Certification of dedication of streets and other public property.
- (20) Certificate for approval by the Commission.
- (21) Certificate for approval by the Board.

(22) All subdivision plats containing lands identified in Chapter 151 as flood-prone areas shall have the elevations of the 100-year flood listed thereon.
(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.27 FINAL PLAT APPROVAL.

(A) When the final plat is submitted to the Commission, it shall be accompanied by notice from the Board stating that there has been filed with and approved by that body one of the following:

- (1) A certificate that all improvements and installations except individual septic tanks and wells for the subdivision required for its approval have been made or installed in accordance with specifications; or
- (2) A bond which shall:
 - (a) Run to the Board;
 - (b) Be in an amount determined by the Board to be sufficient to complete the improvements and installations in compliance with this chapter;

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- (c) Be with surety satisfactory to the Board; and
- (d) Specify the time for the completion of the improvements and installations.

(B) Upon the completion of the improvements and installations, except individual septic tanks and wells, required of a subdivider for the approval of a final plat, and prior to the acceptance thereof for public maintenance by the Board or, if applicable, to any other governmental unit, the subdivider shall provide a three year maintenance bond which shall:

- (1) Run to the Board and, if applicable, to any other governmental unit having a legal responsibility for the maintenance of such improvements and Installations.
- (2) Be in an amount equal to 10% of the cost of such improvements and installations as estimated by the Board.
- (3) Provide surety satisfactory to the Board.
- (4) Warrant the workmanship and all materials used in the construction, installation and completion of such improvements and installations to be of good quality and have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of this chapter and the satisfactory plans and specifications thereof.
- (5) Provide that for a period of three years after such installations and improvements have been completed or are accepted for public maintenance by any appropriate governmental unit or agency thereof, the subdivider will at his or her own expense make all repairs to such improvements and installations, or the foundations thereof, which may become necessary by reason of improper workmanship or materials with such maintenance; however, not to include any damage to such improvements and installations resulting from forces or circumstances beyond the control of the subdivider or occasioned by the

inadequacy of the standards, specifications or requirements of this chapter.

(C) Within a reasonable time after application for approval of the final plat, the Commission shall approve or disapprove it. If the Commission approves, it shall affix the Commission's seal upon the plat, together with the certifying signature of its President and Secretary. If it disapproves, it shall set forth the reasons for such disapproval in its own records and provide the applicant with a copy.

(D) The final plat, if approved, shall be recorded with the County Recorder within 12 months from the date of approval by the Commission. If the final plat is not recorded within the period specified, all previous actions with respect to the plat shall be deemed to be null and void.

(BCC Ord. 1977-38, passed 12-19-77)

§ 152.28 PLAT CERTIFICATES AND DEED OF DEDICATION.

The forms set forth in Appendix A of this chapter shall be described upon the final plat and appropriate signatures affixed thereto.

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

DESIGN STANDARDS

§ 152.40 STANDARDS OF DESIGN GENERALLY.

(A) The final plat of the subdivision shall conform to the principles and standards of design set forth in this subchapter.

(B) The subdivision plan shall conform to the principles and standards which are generally exhibited in the Master Plan.

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.41 STREETS.

(A) The street and alley layout shall provide access to all lots and parcels of land within the subdivision, and where streets cross other streets, jogs shall not be created.

(B) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

(C) Certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity.

(D) Wherever a proposed subdivision lies adjacent to a dedicated or platted portion of a street or alley, the remainder of such street or alley shall be platted within the proposed subdivision to the prescribed width.

(E) Widths of streets and highways shall conform to the width specified in § 152.62 and the “Thoroughfare Standard Cross-Sections” located at Appendix B, Figures 3, 4 and 5.

(F) All cul-de-sacs shall terminate in a circular right-of-way with a minimum diameter of 100 feet and shall not exceed 600 feet in length.

(G) Alleys shall be discouraged in residential districts but should be included in commercial and industrial areas where needed for loading and unloading or access purposes, and where platted shall be at least 20 feet in width.

(H) The center lines of streets should intersect as nearly at right angles as possible.

(I) At intersections of streets and alleys, property line corners shall be rounded by arcs of at least 20 feet radii or by the chords of such arcs.

(J) At intersections of streets, the property line corners shall be rounded by arcs with radii of not less than 15 feet or by the chords of such arcs.

(K) If the smaller angle of intersection of two streets is less than 60 degrees, the radius of the arc at the intersection of property lines shall be increased as deemed advisable by the Commission.

(L) Intersections of more than two streets at one point shall be avoided.

(M) Where parkways, limited access highways, arterials or special types of streets are involved, the Commission may apply special standards to be followed in their design. These may include provisions for a marginal access street or a parallel street at a distance acceptable for the appropriate use of the land between the highway and such street.

(N) Unobstructed sight distances measured from a point five feet above the proposed grade line, to permit horizontal visibility on curved streets and vertical visibility on all streets, must be established along the center line of such street as follows:

- (1) Arterial streets: 500 feet.
- (2) Feeder streets: 200 feet.
- (3) Residential streets: 150 feet.

(O) Curvature measured along the center line shall have a minimum radius as follows:

- (1) Arterial streets: 1,000 feet.
- (2) Feeder streets: 400 feet.
- (3) Residential streets: 300 feet.

(P) Between reversed curves on arterial streets, there shall be a tangent of not less than 200 feet, and on feeder and residential streets, such tangent shall be not less than 100 feet.

(Q) Maximum grades for streets shall be as follows:

- (1) Arterial streets: not greater than 4%.

(2) Feeder streets, residential streets and alleys: not greater than 6%.

(R) The minimum grade of any street gutter shall not be less than 0.4%.
(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.42 BLOCKS.

(A) Blocks should not exceed 1,320 feet in length.

(B) Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth except where an interior street parallels a limited access highway or arterial street or a railroad right-of-way.

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.43 LOTS.

(A) All lots shall abut on a public or private street.

(B) Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but pointed or very irregular lots should be avoided.

(C) Double frontage lots should not be platted except that, where desired along limited access highways or arterial streets, lots may face on an interior street and back on such thoroughfares. In that event, a planting strip for a screen and buffer at least 20 feet in width shall be provided along the back of each lot.

(D) Widths and areas of lots which are not served by community water and sanitary sewer systems shall be determined in accordance with regulations of the Board of Health. For subdivisions with community water and sanitary sewer systems, the width and area of lots shall be not less than that provided in the Zoning Code for single-family

dwellings for the district in which the subdivision is located. In no instance shall the width of the lot at the building setback line be less than 60 feet and the area of the lot be less than 7,200 square feet.

(E) The depth to width ratio of the usable area of a lot shall be a maximum of 3 to 1.

(F) Wherever possible, unit shopping centers, based upon sound development standards, should be designed in contrast to the platting of lots for individual commercial use.

(G) Corner residential lots shall be wider than normal in order to permit appropriate setbacks from both streets.

(H) Lots shall not be plotted within flood-prone areas as defined in § 152.65.

(I) Each lot shall be adequately graded in order to facilitate proper drainage away from the house. (BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.44 EASEMENTS.

(A) Where alleys are not provided, easements for utilities and drainage facilities shall be provided. Utility easements shall have minimum widths of 12 feet. Drainage easements shall have a minimum width of 16 feet. Where such utility and drainage easements are located along lot lines, one-half of the width may be taken from each lot. In the case of lots extending to the boundary of the lands plotted and not adjoining another plat, the full width of the easement shall be provided on such peripheral lots.

(B) Before determining the location of utility easements, the plan shall be discussed with the local public utility companies to assure their proper placing for the installation of such services.

(C) Drainage easements shall be provided for the drainage system approved by the County Drainage Board as set forth in § 152.65. (BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.45 BUILDING LINES.

Building lines shall be as provided in the Zoning Code, as adopted in Chapter 153.
(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.46 PUBLIC OPEN SPACES.

Where sites for parks, schools, playgrounds or other public uses are located within the subdivision area as shown on the Master Plan or where such sites appear to be desirable, the Commission may request their dedication for such purposes, or their reservation for a period of one year following the date of the final approval of the plat. In the event a governmental agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period shall be extended for an additional six months.
(BCC Ord. 1977-38, passed 12-19-77)

STANDARDS FOR IMPROVEMENTS

§ 152.60 STANDARDS FOR IMPROVEMENTS GENERALLY.

The improvement of the subdivision shall conform to the standards set forth in this subchapter.
(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.61 MONUMENTS AND MARKERS.

(A) Monuments and markers shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade.

(B) Monuments shall be set:

(1) At the intersection of all lines forming angles in the boundary of the subdivision.

(2) At the corners of blocks where street right-of-way lines intersect.

(C) Markers shall be set:

(1) At the beginning and ending of all curves along street property lines.

(2) At all points where lot lines intersect curves, either front or rear.

(3) At all angles in property lines of lots.

(4) At all other lot corners not established by a monument.

(D) Monuments shall be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of 6 inches by 6 inches by 36 inches. They shall be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross. Markers shall consist of iron pipes or steel bars at least 36 inches long, and not less than $\frac{5}{8}$ -inch in diameter.

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.62 STREETS.

(A) Streets (and alleys where provided) shall be completed to grades shown on plans, profiles and cross-sections provided by the subdivider, prepared by a licensed surveyor or registered professional engineer, and approved by the Commission.

(B) The streets shall be graded, surfaced and improved to the dimensions required by such plans, profiles and cross-sections and the work shall be performed in the manner prescribed in *Indiana State Highway Standard Specifications* (current edition). References in the following divisions refer to these *Standard Specifications*.

(C) The street pavement shall be of portland cement concrete or a flexible pavement of a width as shown by the illustration "Thoroughfare Standard Cross-Sections" in Appendix B, Figures 3, 4 and 5, and shall be constructed in accordance with design

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characteristics at least equal to those given below except as modified by division (D) of this section:

DESIGN CHARACTERISTICS OF STREET AND ALLEY PAVEMENTS				
<i>Kind of Pavement and Thickness</i>	<i>Arterial (inches)</i>	<i>Feeder (inches)</i>	<i>Residential (inches)</i>	<i>Alley (inches)</i>
PORTLAND CEMENT CONCRETE Uniform thickness	7½	6½	6	6
FLEXIBLE				
Surface - Asphaltic Concrete Type "B"	1½	1½	1	1
Binder - Asphaltic Concrete or Bituminous Coated - Blended Aggregate	2	2	2	2
Base Compacted Aggregate or Water Bound Macadam	10	6	4	4
Subbase - Type II	6	6	4	4
Total Thickness	19½	15½	11	11
DEEP STRENGTH ASPHALT	11½	9½	7	7
Material types as set out in <i>Indiana State Highway Commission Specifications</i> . Feeder street design to be used on local streets serving industrial or commercial developments.				

(D) Where arterial streets are located within the subdivision as specified in §§ 152.01 et seq., the subdivider shall construct such street pavement in accordance with the requirements for feeder streets set forth in division (C) of this section. For the purpose of constructing arterial street pavements according to the design characteristics set forth in division (C) of this section, the Board is authorized to use funds available for such purposes to participate with the subdivider in the cost of such construction; provided, however, that such participation shall be limited to that cost which is additional to the cost of constructing the required feeder street improvement.

(E) Prior to placing the street and alley surfaces, adequate drainage for the street shall be provided by the subdivider. Culvert drainage pipe, when required, shall be of a type approved by the Commission and not less than 12 inches in diameter.

Upon the completion of the street and alley improvements, plans and profiles as built shall be filed with the Commission.

(F) The pavement width of residential streets shall depend upon the density of dwelling units per gross acre included in the subdivision. The pavement width for residential streets shall be measured from the face of curbs.

<i>Dwelling Units Per Gross Acre</i>	<i>Pavement Width</i>	<i>Residential Street Cross-Section</i>
Less than 2	24 feet	A
2 to less than 3	28 feet	B
3 or more	34 feet	C

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.63 SEWERS.

(A) As used in this section, the phrase “the subdivider shall provide” shall be interpreted to mean that the developer shall install the facility referred to, or whenever a private sewage disposal system or an individual water supply is to be provided, that such facilities referred to in this section shall be installed by the developer of the lots in accordance with these regulation and those of the Board of Health.

(B) Depending upon the soil limitations, as determined by the Soil Conservation Service of the USDA and the regulations of the Board of Health, the subdivider shall provide for one of the following methods of sanitary sewage disposal:

(1) A complete sanitary sewer system which shall connect with an existing approved sanitary sewer outlet.

(2) A complete sanitary sewer system to convey the sewage to a treatment plant, to be provided by the subdivider, in accordance with the minimum requirements of the Board of Health and the Indiana Stream Pollution Control Board.

(3) A private sewage disposal system on individual lots consisting of a septic tank and tile absorption field or other approved sewage disposal system meeting the minimum requirements of the Board of Health.

(C) The plans for the installation of a sanitary sewer system shall be provided by the subdivider and approved by the Indiana Stream Pollution Control Board pursuant to SPC-15 and the County Health Officer. Upon the completion of the sanitary sewer installation, the plans for such system, as built, shall be filed with the Commission.

(D) In no event will the installation of combined sanitary-storm sewers be permitted.
(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.64 WATER.

(A) As used in this section, the phrase “the subdivider shall provide” shall be interpreted to mean that the developer shall install the facility referred to, or whenever a private sewage disposal system or an individual water supply is to be provided, that such facilities referred to in this section shall be installed by the developer of the lots in accordance with these regulation and those of the Board of Health.

(B) The subdivider shall provide for one of the following methods of water supply.

(1) A complete water main supply system which shall be connected to an existing approved municipal or community water supply.

(2) A complete community water supply system to be provided by the subdivider in accordance with regulations of the County Board of Health and the State Board of Health.

(3) An individual water supply on each lot in the subdivision in accordance with the minimum requirements for individual well installations of the Board of Health.

(C) The plans for the installation of water main supply system shall be prepared by the subdivider and approved by State Board of Health and the County Board of Health. Upon the completion of the water supply installation, the plans for such system, as built, shall be filed with the Commission.

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.65 DRAINAGE.

(A) The Commission shall reject any proposed subdivision which has lots platted with the building area situated in any of the following areas:

(1) Flood plains or flood ways, as defined by the Department of Natural Resources.

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(2) Areas subject to flooding with 100-year frequency floods, as determined by the Department of Natural Resources or defined by the soil survey as being Genesee, Shoals or any other soil series occurring on the first bottoms of streams. However, in no case shall it be necessary to exceed the 100-year flood elevation.

(3) Areas designated by the soil survey as being Carlisle Muck, Linwood Muck or any other soil series identified as organic soils.

(B) Drainage facilities shall be provided as follows;

(1) All lots in a subdivision being developed will be provided with subsurface drainage connected into a working drain, hereinafter called an outlet, of the following type;

- (a) Regulated drain;
- (b) Natural stream;
- (c) Storm sewers; or
- (d) Existing open ditch.

(2) A storm drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area which drains onto the subdivision. All areas draining onto the site will be considered as fully developed for purposes of designing necessary drainage facilities.

(3) All storm and subsurface drainage facilities necessary to provide adequate surface or storm water drainage will be installed by the developer.

(4) All storm sewers and subsurface drains will be designed and installed in accordance with procedures and standards set forth by the County Drainage Board.

(5) Any storm sewer or subsurface drain in working condition that is cut through or otherwise disturbed will be reconstructed around the construction area, subject to the approval of the Commission.

(6) The subsurface drainage requirement for individual lots may be waived if, in the opinion of the Commission, based upon the soil survey, the soil is of a type that does not have a seasonal water table above four feet from the surface of the undisturbed soil.

(7) No portion of any drainage system either surface, storm or subsurface including roof downspouts shall be permitted to empty into any sanitary sewer system.

(8) Houses will not be constructed in natural drainageways.

(9) All storm sewers and subsurface drainage facilities shall be provided with drainage easements as provided in § 152.44.

(C) The plans and specifications herein called for shall include the data necessary to determine whether or not the proposed installation will be adequate. The plans shall be submitted to the County Drainage Board for review and approval prior to final approval of the subdivision.

(D) Where proposed structures will penetrate the normal high water table, basements or crawl spaces shall be provided with peripheral drainage and be approved by the Director.

(E) Maintenance of drain systems.

(1) The developer or owner of each proposed subdivision shall dedicate easements for drainage, not less than 16 feet in width, on the plat of such subdivision, in which easements the drainage system for such subdivision shall be installed.

(2) The drainage easements, as provided in division (E)(1), shall run in favor of the County Drainage Board, which Drainage Board shall have perpetual jurisdiction to repair and maintain the drainage system in each subdivision as hereinafter provided.

(3) In the event that the owner of a lot in any subdivision, approved and platted after the effective date of this chapter, believes that the drainage system in such subdivision is not operating properly and is in need of repair, such owner shall file a written petition with the County Drainage Board, which petition shall set forth the name of the subdivision, the location of the requested repair, and a brief description of the problem necessitating the requested repair.

(4) Upon receipt of such petition, the County Drainage Board shall direct the County Surveyor to make an investigation of the requested repair. The County Surveyor shall make such investigation and file a written report therein to the County Drainage Board within ten days from the date upon which he or she receives the order for investigation. The surveyor's report shall include the following:

- (a) An opinion as to whether the drainage system is in need of repair.
- (b) An opinion as to the cause of the alleged drainage problem.
- (c) An opinion as to the best method to correct such problem.
- (d) The lots in such subdivision that are adversely affected by the drainage problem in question.
- (e) An estimate of the cost to make the necessary repairs.

(5) Upon the filing of the surveyor's report, the County Drainage Board shall set a hearing on the petition for repair and the surveyor's report. Notice by ordinary mail shall be given to the owners of all lots affected as shown on the surveyor's report, and notice to the public shall be given by one publication in the *Kokomo Tribune* not less than five days prior to the hearing. At the hearing, the County Drainage Board shall make findings on each of the items contained in the surveyor's report.

(6) If the County Drainage Board shall find that the alleged problem with the drainage system is the sole fault of the owner of the lot where the problem is located, the Board shall order that such owner make the repairs necessary to correct such drainage problem within a reasonable time. In the event that such owner refuses or fails to comply with the order within the time specified by the County Drainage Board, the County Drainage Board shall have the right, power and authority to enter upon such real estate to make necessary repairs to the drainage system. If the County Drainage Board completes the repairs under the above provision, the cost thereof shall be paid from the County General Drain Fund, and the owner of the real estate where the repair was made shall be charged the entire cost thereof. If the owner fails to pay such sum into the County General Drain Fund within 30 days from the date of mailing the billings, then the amount of such cost, together with a penalty of 10% of such costs, shall be certified to the County Treasurer by the Secretary of the County Drainage Board, and the amount so certified shall be added to the owner's real estate tax statements or duplicates and shall be collected at the next consecutive time that real estate taxes become payable following such certification. Such certification shall contain a complete legal description of the lot and the name of each owner thereof. The Secretary shall also cause a copy of such certification to be recorded in the County Recorder's office.

(7) If the County Drainage Board finds that the problem with the drainage system was not caused by the fault of any one person or owner, then it shall order that the necessary work to correct such problem be done, and shall order that each lot owner affected by such a repair shall pay his or her proportionate share of the cost thereof. Upon the receipt by the County Drainage Board of a claim for the cost of such work, the Drainage Board shall mail a statement of the proportionate share of such cost to each affected lot owner, and each owner shall pay such amount billed into the County General Drain Fund within 30 days from date of mailing of the bill. If any such owner fails to pay such bill within 30 days from the date of the mailing thereof, then the amount of such unpaid bill, together with a penalty of 10%, shall be certified to the County Treasurer by the Secretary of the County Drainage Board, and the amount so certified shall be added to such owner's real estate tax statement or duplicates and shall be collected at the next consecutive time that real estate taxes become payable following such certification. Such certification shall contain a complete legal description of the lot and the name of each owner thereof. The Secretary shall also cause a copy of such certification to be recorded in the County Recorder's office.

(8) From and after the effective date of this chapter, each plat submitted for approval shall contain a covenant or other statement referring to § 152.65(E)(1) through (7), which covenant or statement shall read substantially as follows: "This subdivision is subject to the provisions of § 152.65(E)(1) through (7), inclusive, of the Howard County Subdivision Control Ordinance, as amended, which provides for the repair and maintenance of drainage systems in subdivisions, including the assessment of owners of lots to pay for the cost of repair and maintenance."

(F) A developer may petition the County Drainage Board to establish a regulated drain for all of the lots in the proposed subdivision without notice being issued as provided under I.C. 36-9-27-57

through 36-9-27-63 upon the condition that, upon information furnished to him or her by the developer, the County Surveyor issues his or her certificate to the County Drainage Board that no property owners other than the developer will be affected by the regulated drain petitioned for.

(G) A developer petitioning for a regulated drain under the provisions of division (F) shall pay all of the costs of such a petition including the attorney fees for bringing such petition and shall waive notice of hearing on the petition other than that served upon his or her attorney. Any such petition for a regulated drain filed under division (F) or this division shall comply in form and content with the provisions contained in I.C. 36-9-27-54. (BCC Ord. 1977-38, passed 12-19-77; Am. BCC Ord. 1993-9, passed 3-22-93) Penalty, see § 10.99

§ 152.66 SOIL EROSION AND SEDIMENTATION CONTROL.

(A) Because considerable soil erosion can take place during the subdivision construction, development plans shall contain proposed erosion and sediment control measures. These measures shall be incorporated into the final plat and final construction drawings. Erosion and sediment control measures shall conform to the standards and specifications established by the Soil and Water Conservation District. The measures shall apply to all features of the construction site, including street and utility installations as well as to the protection of individual lots. Measures shall also be instituted to prevent or control erosion and sedimentation during the various stages of development. Technical standards for the design and installation of erosion and sediment control measures are on file at the office of the Soil and Water Conservation District and other governmental agencies.

(B) Practical combinations of the following general principles will provide effective sediment control when properly planned and applied:

- (1) The development plan shall be fitted to the topography and soils so as to create the least erosion potential.
 - (2) Permanent vegetation and construction improvements such as streets, storm sewers or other features of the development shall be scheduled for installation to the greatest extent possible before removing the existing vegetation cover from an area.
 - (3) Whenever feasible, natural vegetation shall be retained and protected.
 - (4) Where inadequate vegetation (ground cover) exists, temporary or permanent vegetation shall be established.
 - (5) The smallest practical area of land shall be exposed at any one time during development.
 - (6) When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
 - (7) Critical areas exposed during construction shall be protected with temporary vegetation or mulching.
 - (8) Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained to remove sediment from runoff waters from land undergoing development.
 - (9) Provisions shall be made to accommodate effectively the increased runoff caused by changed soil and surface conditions during and after development.
 - (10) The permanent final vegetation and structures shall be installed as soon as practical in the development.
- (BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.67 CURB AND GUTTER.

(A) All proposed subdivisions shall be provided with curbs and gutters as required in this chapter.

(B) The curb and gutters shall be of the construction type shown in Appendix B, Figures 1 and 2, and shall be constructed according to the following specifications:

(1) The base for the curb and gutter shall be well-compacted on the existing base or grade.

(2) The minimum specifications shall be as shown for the type of cross-section in Appendix B, Figures 1 and 2.

(3) All concrete used in the curb and gutter shall meet the *State Highway Specifications* for Class A concrete.

(4) Integral or monolithic curb of the same dimensions as shown in Appendix B, Figure 1, may be built on concrete pavement; provided, the pavement widths are maintained as required in this chapter.

(5) All machine-laid hot asphaltic concrete curbs shall meet the *Federal Housing Administration Specifications*, Third Addition, October 1966, Specifications Series #3 (SS-3), as revised, and/or the current *Indiana State Highway Specifications*, whichever is the more stringent.
(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.68 SIDEWALKS.

(A) Whenever a proposed subdivision lies adjacent to or between other subdivisions which have been provided with sidewalks, or whenever the proposed subdivision will average three or more lots per gross acre included in the subdivision, the Commission shall require sidewalks to be installed so as to abut at least one lot line of each lot in the subdivision.

(B) When sidewalks are required, they shall be constructed of portland cement concrete at least four inches thick and three feet wide, and placed as shown by the illustration "Thoroughfare Standard Cross-Sections" in Appendix B, Figures 3, 4 and 5.

(C) All concrete used in sidewalks shall meet the *State Highway Specifications* for Class A concrete. (BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.69 STREET SIGNS.

The subdivider shall provide the subdivision with standard county street signs at the intersection of all streets.

(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

§ 152.70 INSPECTION.

(A) *Notification.* It shall be the responsibility of the subdivider or developer to notify the Plan Commission Office and arrange for a pre-construction conference to take place at least 24 hours in advance of the commencement of construction. The meeting shall be held at the Plan Commission Office or other designated location. At this conference an inspection schedule shall be discussed and set up. The conference shall be made up of representatives of the subdivider, Plan Commission, County Engineer, County Surveyor, and the County Soil and Water Conservation District.

(B) *Inspection required.* All improvements shall be subject to inspection by duly authorized and qualified county inspectors both during the course of construction and after construction is complete. The inspector shall have authority over materials of construction, the methods of construction and workmanship to ensure compliance with working drawings and specifications. The contractor shall provide for reasonable tests and proof of quality of materials as requested by the inspector. Upon due

cause, the inspector may require that work will be suspended and due cause shall include weather conditions, questionable materials of construction, methods of construction, workmanship or non-adherence to specifications and drawings.

(C) *Inspector.* The inspectors referred to herein shall be duly qualified inspection officers appointed by the County Plan Commission.

(D) *Inspection Reports.* The inspector shall prepare and submit to the Board of County Commissioners from time to time a report stating progress of work and giving his or her findings as to quality and quantity of materials used and quality of methods and workmanship. He or she shall in particular call attention to any circumstances that entail departures from working drawings and specifications such as unforeseen difficulties of drainage, ground water, poor subsoil, unstable fill material, unconventional or faulty practices of contractors or other circumstances. Whenever, in his or her opinion, such departures are likely to cause either a lower ultimate standard of performance of a higher construction cost than could reasonably be anticipated, he or she shall immediately notify the Board of County Commissioners. When an improvement has been completed, he or she shall prepare a summary report.

(E) *Subdivider responsible.* Approval by the inspector or absence of inspection shall in no way relieve the subdivider or developer of full responsibility for adherence by his or her contractors to specifications and working drawings nor for high standards of materials, methods and workmanship.
(BCC Ord. 1977-38, passed 12-19-77) Penalty, see § 10.99

APPENDIX A: PLAT CERTIFICATES AND DEED OF DEDICATION

§ 1 COMMISSION CERTIFICATE.

UNDER AUTHORITY PROVIDED BY I.C. 7-4-700 ET SEQ., ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO, AND AN ORDINANCE ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF HOWARD, INDIANA, THIS PLAT WAS GIVEN APPROVAL AS FOLLOWS:

Approved by the Howard County Plan Commission at a meeting held _____, 19_____.

HOWARD COUNTY PLAN COMMISSION

President

(SEAL)

Secretary

§ 2 COUNTY COMMISSIONERS CERTIFICATE.

When all or any part of a subdivision is located in the unincorporated area of the county, the following certificate shall be shown on the final plat:

UNDER AUTHORITY PROVIDED BY I.C. 7-4-700 ET SEQ., AND BY THE GENERAL ASSEMBLY, STATE OF INDIANA, THIS PLAT WAS GIVEN APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS OF HOWARD COUNTY, INDIANA, AT A MEETING HELD ON THE _____ DAY OF _____, 19_____.

BOARD OF COUNTY COMMISSIONERS

ATTEST:

COUNTY AUDITOR
(SEAL)

§ 3 SURVEYORS CERTIFICATE.

I, _____, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED BY ME ON _____, THAT ALL THE MONUMENTS SHOWN THEREON ACTUALLY EXIST, AND THAT THE LOCATION, SIZE, TYPE AND MATERIAL OF SAID MONUMENTS ARE ACCURATELY SHOWN.

(SEAL)

Signature

§ 4 DEED OF DEDICATION.

Each final plat submitted to the Commission for approval shall carry a deed of dedication in substantially the following form:

We, the undersigned _____, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance within the plat.

This subdivision shall be known and designated as _____.

An addition to _____. All streets and alleys shown and not heretofore dedicated are hereby dedicated to the public. We also certify this property is well drained and any future drainage problems will be the responsibility of the property owners.

Front and side yard building lines are hereby established as shown on this plat, between which lines and the property lines of the street there shall be erected or maintained no building or structure.

There are strips of ground _____ feet in width as shown on this plat marked "Easement" reserved for the use of utilities for the installation of water and sewer mains, surface drainage, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the utilities.

(Additional dedications and protective covenants, or private restrictions, would be inserted here upon the subdivider's initiative or upon the recommendation of the Commission. Important provisions are those specifying the use to be made of the property and, in the case of residential use, the minimum habitable floor area.)

The foregoing covenants (or restrictions) are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 19____ (a 25 year period is suggested) at which time said covenants (or restrictions) shall automatically extended for successive periods of 10 years unless changed by vote of a majority of the then owners of the building sites covered by these covenants, or restrictions, in whole or in part. Invalidation of any one of the foregoing covenants or restrictions, by judgment or court order, shall in

no way affect any of the other covenants or restrictions, which shall remain in full force and effect.

APPENDIX B: FIGURES AND ILLUSTRATIONS

FIGURE 1: TYPICAL CURB AND CONCRETE CURB AND GUTTER DETAILS.

ROLLED CURB AND GUTTER

COMBINED CURB AND GUTTER

FIGURE 2: TYPICAL HOT ASPHALTIC CONCRETE CURB AND GUTTER DETAILS.

FIGURE 3: THOROUGHFARE STANDARD CROSS-SECTIONS; ARTERIALS.

LIMITED ACCESS

PRIMARY

PARKWAY

NOTE: The cross-sections in this figure have been split to indicate the maximum and minimum development standards. Each left-hand section indicates that maximum development in urban areas. The right-hand section indicates the minimum development in rural areas. For the residential streets, use the cross-section designated by § 152.62(F). Refer to the subdivision ordinance for specific minimum

improvement standards and requirements.

FIGURE 4: THOROUGHFARE STANDARD CROSS-SECTIONS; FEEDERS.

PRIMARY

SECONDARY

NOTE: The cross-sections in this figure have been split to indicate the maximum and minimum development standards. Each left-hand section indicates that maximum development in urban areas. The right-hand section indicates the minimum development in rural areas. For the residential streets, use the cross-section designated by § 152.62(F). Refer to the subdivision ordinance for specific minimum

improvement standards and requirements.

FIGURE 5: THOROUGHFARE STANDARD CROSS-SECTIONS; RESIDENTIAL.

A

B

C

NOTE: The cross-sections in this figure have been split to indicate the maximum and minimum development standards. Each left-hand

section indicates that maximum development in urban areas. The right-hand section indicates the minimum development in rural areas. For the residential streets, use the cross-section designated by § 152.62(F). Refer to the subdivision ordinance for specific minimum improvement standards and requirements.

Section

153.01 Zoning Code adopted by reference

CHAPTER 153: ZONING CODE

Cross-reference:

Zoning Map amendments, see T.S.O. V

§ 153.01 ZONING CODE ADOPTED BY REFERENCE.

The Zoning Code, being Ordinance 1981-9, passed July 13, 1981, as may be amended from time to time, is hereby adopted by reference and made a part of this code as if fully set forth herein.

(83 Code, § 153.01) (Ord. 1981-9, passed 7-13-81; Am. BCC Ord. 2002-37, passed 9-3-02; Am. Ord. 2004-BCC-11, passed 4-5-05; Am. Ord. 2009-BCC-19, passed 5-28-09; Am. Ord. 2011-BCCO-09, passed 5-2-11; Am. Ord. 2011-BCCO-21, passed 8-25-11; Am. Ord. 2012-BCCO-35, passed 12-27-12)

**CHAPTER 154: STORM WATER MANAGEMENT IN NEW DEVELOPMENT
AND REDEVELOPMENT**

Section

- 154.01 General provisions
- 154.02 Definitions
- 154.03 Performance criteria for stormwater management
- 154.04 Stormwater management plan design criteria
- 154.05 Stormwater management permit procedures and requirements
- 154.06 Stormwater management plan review and approval
- 154.07 Financial guarantee and as-built documents
- 154.08 Site inspections and maintenance provisions
- 154.09 Enforcement
- 154.10 Appeals

154.99 Penalty

Appendix A: Fees

Cross-reference:

Illicit discharges, see Chapter 53

*Storm water erosion and sediment control, see
Chapter 156*

§ 154.01 GENERAL PROVISIONS.

(A) *Findings of fact.* It is hereby determined that land development projects increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; and contributes to increased quantities of water-borne pollutants, and storm water runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of storm water runoff from development sites.

(B) *Purpose.* This chapter is intended to set standards to regulate the quantity and quality of storm water runoff when land use changes from open or agricultural to a use that may result in increased imperviousness. These minimum requirements are established to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. It shall be the policy of the county and the County Department of Storm Water Management that these minimum requirements shall be required for any new development, redevelopment and new construction located within the county area not exempt under this chapter. This chapter seeks to meet this purpose through the following objectives:

(1) Minimize increases in storm water runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;

(2) Minimize increases in non-point source pollution caused by storm water runoff from development which would otherwise degrade local water quality;

(3) Reduce storm water runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through storm water management controls, and to ensure that these management controls are properly maintained and pose no threat to public safety.

(C) *Applicability.* The performance standards herein must be met at all new development and redevelopment areas that disturb one or more acres of land or disturbances of less than one acre of land that are part of a larger common plan of development or

sale if the larger common plan will ultimately disturb one or more acres of land within the county area. The following activities may be exempt from these storm water performance criteria:

- (1) Developments that do not disturb more than one acre of land, provided they are not part of a larger common development plan; or
- (2) Activities granted a waiver by the Board under the specifications in § 154.04; or
- (3) Any logging and agricultural activity; or
- (4) Additions or modifications to existing single family structures; or
- (5) Repairs to any storm water treatment practice deemed necessary by the County Board; or
- (6) Activities implemented under the jurisdiction of the County Surveyor.

(D) *History and application.* This chapter repeals and replaces Ordinance No. 2006-BCC-36, which was amended by Ordinance No. 2007-BCCO-46. Ordinance 2006-BCC-36, as amended, repealed and replaced Ordinance No. 2001-BCC-38 (Storm water Erosion and Control) and 2004-BCC-38 (Storm water Management in New Development and Redevelopment). (Ord. 2010-BCC-13, passed 4-19-10)

§ 154.02 DEFINITIONS.

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

ADMINISTERING AUTHORITY. The County Department of Storm Water Management (“Department”), by and through the MS4 operator, Administrator, or other authorized designee, is hereby designated to implement and administer this chapter.

ADMINISTRATOR. The Executive Director of the Department, appointed by the Board.

APPLICANT. A property owner or agent of a property owner who has filed an application for a storm water management permit.

AVERAGE ANNUAL RAINFALL. A calendar year of precipitation, excluding snow, which is considered typical.

BEST MANAGEMENT PRACTICE (BMP). Any structural or non-structural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water runoff. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.

BOARD. The Board of Directors of the Department, as defined in I.C. 8-1.5-5-2 and exercising the powers granted under I.C. 8-1.5-5-6.

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.

BUSINESS DAY. A day the office of the Department is routinely and customarily open for business.

CEASE AND DESIST ORDER. A court-issued order to halt land-disturbing construction activity that is being conducted without the required permit.

CHANNEL. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING. Any activity that removes the vegetative surface cover.

CONNECTED IMPERVIOUSNESS. An impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

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

CONSTRUCTION PROJECT SITE. The physical location(s) or legal boundaries within which a construction activity or a series of construction activities is planned to be or is being accomplished.

CONSTRUCTION SITE ACCESS. A stabilized stone surface at all points of construction related egress from a project site planned and installed in accordance with specification from an approved reference manual, and maintained throughout the period of land-disturbing activities for the purpose of capturing and detaining sediment carried by tires, tracks, or other surface contact components of vehicles, earth-moving equipment, or material and personnel transport conveyances.

COUNTY AREA. All territory of Howard County not located within the City of Kokomo, the Town of Russiaville, or the Town of Greentown.

DEDICATION. The deliberate appropriation of property by its owner for general public use.

DEPARTMENT. The Howard County Department of Stormwater Management created September 15, 2008 by Ordinance No. 2008 BCCO-29.

DESIGN STORM. A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

DETENTION. The temporary storage of storm runoff in a storm water management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DETENTION FACILITY. A detention basin or alternative structure designed for the purpose of

temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

DEVELOPER. A project site owner or person financially responsible for construction activity, or an owner of property who sells, leases, or offers for sale or lease, any lot(s) in a subdivision or larger common plan of development or sale.

DRAINAGE EASEMENT. A legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.

DRAINAGE WAY. Any channel that conveys surface storm water runoff.

EFFECTIVE INFILTRATION AREA. The area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

EROSION. The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

EROSION AND SEDIMENT CONTROL PLAN. A set of plans prepared by or under the direction of a licensed professional engineer, licensed land surveyor, or Certified Professional in Storm Water Quality (CPSWQ), indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

EROSION AND SEDIMENT CONTROL SYSTEM. Appropriate control measures combined to prevent or minimize the wearing away of soil, sediment, and rock fragments by water, wind, or ice, and to intercept detached or suspended particles to prevent their discharge from or within a project site.

FEE IN LIEU. A payment of money in place of meeting all or part of the storm water performance standards required by this chapter.

FINAL STABILIZATION. The establishment of permanent vegetative cover or the application of a permanent, non-erosive material to areas where all

land-disturbing activities have been completed and no additional land disturbing activities are planned under the current plan.

FINANCIAL GUARANTEE. A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Board by the responsible party to assure that requirements of this chapter are carried out in compliance with the storm water management plan.

GRADING. Excavation or fill of material, including the resulting conditions thereof.

HOTSPOT. An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.

HYDROLOGIC SOIL GROUP (HSG). A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

IDEM. Indiana Department of Environmental Management.

IMPERVIOUS SURFACE. An area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.

INDIVIDUAL BUILDING LOT. A single parcel or land in a multi-parcel development.

INDUSTRIAL STORMWATER PERMIT. A National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial storm water discharges or specifies on-site pollution control strategies.

INFILL AREA. An undeveloped area of land located within existing development.

INFILTRATION. The entry of precipitation or runoff into or through the soil.

INFILTRATION SYSTEM. A device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

JURISDICTIONAL WETLAND. An area that is inundated or saturated by surface water or ground water 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.

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

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.

MAINTENANCE AGREEMENT. A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

MEASURABLE STORM EVENT. A precipitation event that results in a total measured accumulation of precipitation equal to or greater than one-half inch of rainfall.

MEP or MAXIMUM EXTENT PRACTICABLE. A level of implementing best management practices which takes into account the best available technology, cost effectiveness and other competing issues such as

human safety and welfare, endangered and threatened resources, historic properties and geographic features.

MS4 or MUNICIPAL SEPARATE STORM SEWER SYSTEM. A system of storm water conveyances either owned or operated or regulated by a governmental agency that IDEM has designated as responsible to eliminate or minimize pollutant loadings of the storm water entering waters of the state.

MS4 AREA. The area of Howard County permitted under an NPDES Permit regulated by 327 I.A.C. 15-13. The **MS4 AREA** within the county includes the sections designated and from time to time updated by the County Stormwater District, excluding incorporated limits of cities or towns. A map which shows the **MS4 AREA** shall be kept in the MS4 Operator's office for public review.

MS4 OPERATOR. The person locally responsible for development, implementation, or enforcement of the Storm Water Quality Management Plan (SWQMP) for the county as regulated under 327 I.A.C. 15-13, or authorized representative thereof.

NEW DEVELOPMENT. Development resulting from the conversion of previously undeveloped land or agricultural land uses.

NON-POINT 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.

NOTICE OF PLAN APPROVAL (NPA). A notification from the MS4 Operator to the project site owner that the construction plan for a project site has been reviewed and approved by the MS4 Operator. The project site owner must insert the NPA with the Notice of Intent sent to the Director of IDEM at least 48 hours prior to initiating land disturbing activities at the construction project site.

NPDES. The National Pollutant Discharge Elimination System, a program administered by IDEM

to reduce or eliminate the pollutant loadings into public waters.

OFF-SITE FACILITY. A storm water management measure located outside the subject property boundary described in the permit application for land development activity.

ON-SITE FACILITY. A storm water management measure located within the subject property boundary described in the permit application for land development activity.

PEAK DISCHARGE. The maximum rate of flow from a point of storm water discharge during or immediately following a storm event, usually in reference to a specific return period or ‘design storm’.

PERCENT FINES. The percentage of a given sample of soil, which passes through a # 200 sieve. Note to Users: Percent fines can be determined using the *American Society for Testing and Materials*, Volume 04.02, “Test Method C117-95 Standard Test Method for Materials Finer than 75- μ m (No. 200) Sieve in Material Aggregates by Washing.” Copies can be obtained by contacting the American Society for Testing and Materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or on line at: <http://www.astm.org>.

PERIMETER CONTROL. A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PERMANENT STABILIZATION. The establishment, at a uniform minimum of 70% across the disturbed areas, of vegetative cover or permanent non-erosive material that ensures the resistance of the underlying soil to erosion, sliding, or other movement.

PERVIOUS SURFACE. An area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

PHASING OF CONSTRUCTION. Sequential development of smaller portions of a large project site, stabilizing each portion before initiating land disturbing activities on the next portion, to minimize exposure of land to erosion.

POST-CONSTRUCTION SITE. A site following the completion of land-disturbing construction activity and final site stabilization.

PRE-DEVELOPMENT CONDITION. The extent and distribution of land cover types present before the initiation of land-disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

PROTECTIVE AREA. An area of land that commences at the delineated boundary of lakes, streams, rivers, or wetlands, and that is the greatest of the following widths, as measured horizontally from the boundary to the closest impervious surface. However, in this definition, **PROTECTIVE AREA** does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location. Six categories of protective area have been identified:

(1) For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest, 75 feet.

(2) For perennial and intermittent streams identified on a United States geological survey 7.5 minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

(3) For lakes, 50 feet.

(4) For highly susceptible wetlands, 50 feet. **HIGHLY SUSCEPTIBLE WETLANDS** include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. This division does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective

area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

(5) For less susceptible wetlands, 10% of the average wetland width, but no less than ten feet nor more than 30 feet. **LESS SUSCEPTIBLE WETLANDS** include degraded wetlands dominated by invasive species such as reed canary grass.

(6) For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

RECHARGE. The replenishment of underground water reserves.

REDEVELOPMENT. Any construction, alteration, or improvement where structures and/or impervious surfaces are removed and/or replaced.

RESPONSIBLE PERSON. The person who is responsible for any violation of this chapter

RUNOFF. An accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains or waterways.

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

SEDIMENT CONTROL. Measures that prevent eroded sediment from leaving the site.

SEDIMENTATION. The settling and accumulation of unconsolidated sediment carried by storm water runoff.

SITE. A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT PERMIT. A permit issued by the municipality for the construction or

alteration of ground improvements and structures for the control of erosion, runoff and grading.

START OF CONSTRUCTION. The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STOP WORK ORDER. An order issued by the MS4 Operator, Administrator, or designee, which requires that all construction activity on the site be stopped.

STORM WATER MANAGEMENT. The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

STORM WATER MANAGEMENT PLAN. A comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

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

STORM WATER RETROFIT. A storm water management practice designed for an existing development site that previously had either no storm water management practice in place or a practice inadequate to meet the storm water management requirements of the site.

TEMPORARY STABILIZATION. The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive materials applied at a uniform minimum density of 70% across the disturbed areas of a project site.

TOP OF THE CHANNEL. An edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

TR-55. The United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), *Urban Hydrology for Small Watersheds*, Second Edition, Technical Release 55, June 1986.

TRACKING. The movement and re-depositing of dirt, mud, aggregate, sediment, or other storm water pollutants from a project site by the actions of wheels, tires, skids, tracks, or other surface contact components of cars, trucks, heavy equipment, or material and personnel transport conveyances.

TYPE II DISTRIBUTION. A rainfall-type curve as established in the *United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973*.

WATERCOURSE. Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated within the county.

WATER QUALITY VOLUME (WQ_v). The storage needed to capture and treat the “first flush” of runoff. The **WATER QUALITY VOLUME** is determined as the runoff resulting from the first one inch of rainfall upon the site. This volume would treat runoff of up to 75% of the storms annually because the total storm depth of those storms is less than one inch, according to information found in the *City of Indianapolis Drainage Design Standards and Specifications Manual*.

WATERWAY. A channel that directs surface runoff to a watercourse or to the public storm drainage system.
(Ord. 2010-BCC-13, passed 4-19-10)

§ 154.03 PERFORMANCE CRITERIA FOR STORM WATER MANAGEMENT.

Prior to design, applicants are required to consult with the Department to determine if they are subject to additional storm water design requirements. Unless judged by the Department to be exempt or granted a waiver, the following performance criteria shall be addressed for storm water management at all sites: All site designs shall establish storm water management practices to control the peak flow rates of storm water discharge associated with specified design storms and reduce the generation of storm water. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section. Such requirements are as follows:

(A) *Allowable storm water release rate (Q100 post to 0.3cfs per acre - critical duration storm).* The developer shall submit detailed computations of runoff after development, redevelopment or new construction, which demonstrates sufficient storm water storage to ensure that the 100-year return period storm of critical duration does not exceed a release rate of 0.3 cubic feet per second per acre of development. The critical duration storm is that storm duration which requires the greatest storm water storage.

(B) *Storm water quality requirements (treatment of the WQV upon development completion).* The water quality volume is the storage needed to capture and treat the runoff from the first one inch of rainfall. In numerical terms, it is equivalent to an inch of rainfall multiplied by the volumetric runoff coefficient (R_v) and the site area.

The following equation is used to calculate WQ_v (in acre-feet): $WQ_v = (P) (R_v) (A)$

where:

- WQ_v = water quality volume (acre-feet)
- P = one inch of rainfall
- R_v = 0.05+ 0.009 (I) where I is the percent impervious cover
- A = area in acres

(C) *Impact drainage areas; special requirements in protective areas.*

(1) The Board is authorized, but is not required, to classify certain geographical areas as impact drainage areas and to enact and promulgate regulations, which are generally applied. In determining impact drainage areas, the Board shall consider such factors as topography, soil type, capacity of existing regulated drains, and distance from adequate drainage facilities. In addition to specific impact drainage areas classified by the Board, the following areas are hereby designated as impact drainage areas, unless good reason for not including them is presented and approved by the Board:

(a) A floodway or floodway fringe or floodplain boundary as designated by the Indiana Department of Natural Resources.

(b) A flood boundary area or floodway as designated by the Federal Emergency Management Agency National Flood Insurance Program.

(c) Land within 75 feet of each bank of any open channel regulated drain.

(d) Land within 75 feet of the centerline of any regulated drain tile.

(2) Impervious surfaces shall be kept out of the protective area to the maximum extent practicable.

(3) Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish

habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

Note to users. It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable.

(4) Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources, may be located in the protective area.

(5) This division (C) does not apply to:

(a) Redevelopment sites;

(b) In-fill development less than five acres;

(c) Structures that cross or access surface waters such as boat landings, bridges and culverts.

(6) Storm water discharges to critical areas with sensitive resources (i.e. navigable waters, receiving waters with approved TMDL limits, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.

(D) *Fueling and vehicle maintenance areas.* Special requirements for new retail gasoline outlets, new municipal, state, federal, institutional or commercial refueling areas, or refueling areas that replace their existing tank systems. (Excludes individual or agricultural users.) Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such

that the runoff that enters waters of the state contains no visible petroleum sheen.

Note to users. A combination of the following BMPs may be used:

- (a) Oil and grease separators;
- (b) Canopies;
- (c) Petroleum spill cleanup materials; or
- (d) Any other structural or non-structural method of preventing or treating petroleum in runoff.

(E) *Alternative requirements.* The Administrative Authority may establish storm water management requirements more stringent than those set forth in this section if the MS4 Operator determines that an added level of protection is needed to protect sensitive resources.

(Ord. 2010-BCC-13, passed 4-19-10) Penalty, see § 154.99

§ 154.04 STORM WATER MANAGEMENT PLAN DESIGN CRITERIA.

(A) *Minimum requirements.* All development or redevelopment disturbing at least one acre must include provisions to preserve or minimize impacts to predevelopment site hydrology and topography to the maximum extent practicable through runoff pollution prevention techniques. In addition to runoff pollution prevention measures, storm water treatment BMPs shall be incorporated into Plan Design as needed to meet the performance criteria in § 154.03.

(B) *Runoff pollution prevention.*

(1) Storm water management begins with thoughtful design. Site planning that integrates comprehensive storm water management from the outset is the most effective way to reduce and prevent pollution and flooding. Good site planning can also

reduce the size and cost of structural solutions; when BMP storm water structures are proposed only at the final stages of design and construction, the result is often unnecessarily large and costly facilities. Planning ahead can prevent the need for large structures.

(2) *Site planning practices.* With careful site planning, developers and municipalities can reduce the amount of impervious area created by pavement and roofs and thus reduce the volume of runoff and associated pollutants requiring control. Practices that could be considered:

(a) Select site designs that preserve or minimize impacts to predevelopment site hydrology and topography;

(b) Protect environmentally sensitive areas;

(c) Practice conservation development;

(d) Use cluster development;

(e) Create open space;

(f) Maximize the flow path from inflow points to outflow points;

(g) Provide underdrain systems, where applicable;

(h) Reduce hydraulic connectivity of impervious surfaces;

(i) Practice rooftop greening;

(j) Relax frontage and setback requirements;

(k) Modify sidewalk standards;

(l) Modify driveway standards;

(m) Use alternative cul-de-sac designs;

(n) Use alternative parking lot surfaces.

(C) *Stormwater treatment BMPs.*

(1) Types of treatment BMPs. A variety of BMPs are effective in (1) filtering storm water, (2) reducing the speed at which it leaves a site, and (3) reducing the volume of runoff. These three actions are critical to reducing non-point-source water pollution and protecting downstream water bodies. Some types of storm water treatment BMPs are:

- (a) Retention systems;
- (b) Detention systems;
- (c) Infiltration systems;
- (d) Filtration systems;
- (e) Constructed wetlands;
- (f) Alternative outlet designs.

(2) Location and regional treatment options.

(a) All storm water storage facilities shall be constructed within a dedicated storm water storage easement which meets the following standards:

1. The boundary of the maximum water surface elevation of any storm water storage facility resulting from a post-development 100-year return period storm shall define the minimum dedicated storm water storage easement. Such storm water storage easement shall be bounded by not less than a 25-foot horizontal width combined utility/drainage easement to separate the storm water storage facility from any building or structure. A variance for locating any utility, building or structure within the said boundary or any building or structure within the said separation area may be granted for good cause as determined by the Administering Authority, such as allowances for underground storm water storage or for installation of community amenities.

2. The maximum water surface elevation of any storm water storage facility resulting from a post-development 100-year return period storm shall be at least two feet lower than the lowest ground floor or lowest unprotected basement opening of any building located on any property which uses the storm water storage facility as a drainage outlet.

3. Storm water storage facilities that rely on man-made berms of any kind to store storm water shall be provided with an automatic non-mechanical emergency bypass drainage device (overflow weir, and the like) capable of passing the flow resulting from a post-development 100-year return period storm without causing failure of the man-made berms or ponding greater than two feet above the maximum water surface elevation resulting from a post-development 100-year return period storm.

4. Only the dedicated storm water storage easements may be used for storm water storage facilities. Any portion of a residential lot, combined utility/drainage easements, utility easements, and traffic rights-of-way do not qualify for use as storm water storage facilities.

(b) BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.

(c) The Administering Authority may approve off-site management measures provided that all of the following conditions are met:

1. The Administering Authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the local public agency and that contains management requirements consistent with the purpose and intent of this chapter.

2. The off-site facility meets all of the following conditions:

a. The facility is in place.

b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this chapter.

c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(d) Where a regional treatment option is utilized such that the Stormwater Board may exempt the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Stormwater Board. In determining the fee for post-construction runoff, the Stormwater Board shall consider an equitable distribution of the cost for land, engineering design, construction and maintenance of the regional treatment option.

(Ord. 2010-BCC-13, passed 4-19-10) Penalty, see § 154.99

§ 154.05 STORM WATER MANAGEMENT PERMIT PROCEDURES AND REQUIREMENTS.

(A) Permit required.

(1) No responsible party may commence a land-disturbing construction activity within the county area without first receiving prior approval of a site development permit.

(2) No developer shall be granted a site development permit without the approval of a storm water management permit application package by the Administering Authority for land-disturbing activity within the county area (individual building lots less than one acre: see division (A)(3) below.)

(3) The developer of an Individual building lot containing less than one acre, but which is part of a multi-lot construction project within the county area shall be required to complete a Declaration of Responsibility for Erosion and Sediment Control for

a Small Residential Lot prior to receipt of a site development permit. This declaration assigns responsibility for conformance to the storm water management plan as required in 327 I.A.C. 15-5-7.5 to the individual building lot developer.

(4) No site development permit is required for the following activities:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(B) *Permit application package requirements.*

(1) Written permit application. The appropriate application may be obtained through the County Surveyor's Office/Department Office.

(2) Construction plans. The following elements shall be included within the Construction Plan:

(a) Contact information. The name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; and other agents, as applicable.

(b) Legal description. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(c) Location and vicinity map.

(d) Topographic base map; predeveloped condition. A topographic base map not exceeding 1 inch = 200 feet scale of the site which extends a minimum of 200 feet beyond the limits of the proposed development and indicates existing surface water drainage, including streams, ponds, culverts, ditches, and wetlands; predominant soil types

and hydrologic soil groups, current land use, including all existing structures; existing cover type and condition, topographic contours of the site at intervals not to exceed one foot, flow path and direction for all storm water conveyance sections, watershed boundaries used in hydrology determinations to show compliance with the performance standards, locations of utilities, roads, and easements; and significant natural and man-made features not otherwise shown.

(e) Soils information. If a storm water management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(f) Post-developed site conditions. A map not exceeding 1 inch = 200 feet scale of the site which extends a minimum of 200 feet beyond the limits of the proposed development and shows the following: post-construction pervious areas including vegetative cover type and condition, impervious surfaces including all buildings, structures, and pavement, post-construction topographic contours of the site at intervals not to exceed one foot, post-construction drainage network, dimensions of drainage easements, locations of maintenance easements specified in the maintenance agreement, flow path and direction for all storm water management conveyance and treatment practices, including on-site and off-site tributary drainage areas, watershed boundaries used in hydrology determinations to show compliance with the performance standards, locations of utilities and roads, and any changes to lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.

(3) Technical information report.

(a) Location factors. Explanation of the provisions to preserve and use natural topography

and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands. Also, an explanation of any restriction on storm water management measures in the development area imposed by wellhead protection plans and ordinances.

(b) Design calculations. Design calculations are required as part of the storm water permit application package and shall, at a minimum, specifically include:

1. Estimation of storm water runoff. Runoff rates during the required storm durations; C-values or SCS runoff curve numbers; and computed times of concentration.
 - a. Drainage area calculations;
 - b. Weighted curve number or runoff coefficient computations;
 - c. Time of concentration computation indicating overland flow time, shallow concentrated flow time, and flow time in the swale, gutter, pipe or channel.
2. Inlet grate and gutter flow computations;
3. Closed conduit and open channel design computations:
 - a. Size of pipe or channel cross-section;
 - b. Pipe or channel invert slope in percent;
 - c. Material and roughness coefficient;
 - d. Flowing velocities in feet per second;
 - e. Design capacity in cubic feet per second.

4. Storm drain flow and hydraulic grade line (HGL) computations;
5. Detention/retention summary information.

(4) Erosion and Sediment Control Plan and details. The Erosion and Sediment Control Plan submitted shall include all documents and information required within 327 I.A.C. 15-5.

(5) BMP Calculations and Schedules. Pertinent calculations illustrating the water quality volumes, and the like, along with the installation schedule and maintenance requirements shall be submitted for each BMP selected.

(6) Operation and maintenance manual for BMPs. An operations and maintenance (O&M) manual for BMPs (when required) shall be submitted for the final plan approval and permit process and will become a compliance guideline for the BMP once development is complete. The O&M manual will include the following:

(a) BMP owner name, address, business phone number, home phone number, email address, cellular phone number, pager number;

(b) Site drawings (8-1/2 inches by 11 inches), showing both plan and cross-section views, showing the BMP and applicable features, including dimensions, easements, outlet works, forebays, signage, and the like;

(c) Guidance on owner-required periodic inspections and identification of inspection certification requirement to the Administering Authority;

(d) Requirement of owner to perform maintenance specified by Administering Authority inspection, if any;

(e) Guidance on routine maintenance, including mowing, litter removal, woody growth removal, signage, and the like;

(f) Guidance on remedial maintenance, such as inlet replacement, outlet works maintenance, and the like;

(g) Guidance on sediment removal, both narrative and graphical, describing when sediment removal should occur in order to ensure that the BMP remains effective as a water quality and/or quantity control device;

(h) A statement that the Administering Authority's representatives have the right to enter the property to inspect the BMP;

(i) A tabular schedule showing inspection and maintenance requirements; and

(j) Identification of the property/BMP owner as the party responsible for maintenance, including cost.

(C) *Application review fees.* A filing fee in accordance with the attached 'Appendix A' shall be submitted with the completed permit application package.

(D) *Application procedures.*

(1) Applications for site development permits must be filed with the Department on any regular business day.

(2) Permit applications shall include: One digital copy of all plans in a PDF format and one copy of the construction plan, erosion and sediment control plan, and details containing all required elements, along with any required review fees.

(3) The Administrative Authority shall determine if the application package is complete within four business days of receipt of items noted in division (D)(2) of this section. If application package is determined incomplete, the review period indicated in § 154.06(A) shall not commence.

(E) *Permit conditions.* All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this

chapter shall be deemed to have accepted these conditions. The MS4 Operator or Administrator may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Administering Authority to suspend or revoke this permit may be appealed in accordance with § 154.10.

(1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations;

(2) The responsible party shall design and install all runoff pollution prevention and/or storm water treatment BMPs in accordance with the approved storm water management plan and this permit.

(3) The responsible party shall notify the MS4 Operator or Administrator at least two business days before commencing any work in conjunction with the storm water management plan.

(4) The responsible party shall notify the Administering Authority of any significant modifications it intends to make to an approved storm water management plan. The Administering Authority may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.

(5) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the county, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(6) The responsible party authorizes the Administrative Authority to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property or to charging such costs against the financial guarantee posted under § 154.07.

(F) Permit duration

(1) Initial term. The permit shall be valid for the shorter of five years from the date of issuance, or until:

- (a) The permit is revoked through enforcement action;
- (b) The permit is transferred; or
- (c) The permit is terminated as stated in division (F)(2) of this section.

(2) Permit termination. Upon completion of all construction activities associated with the site development permit and prior to any use of the constructed site/facilities, the applicant shall submit a Notice of Termination (NOT) letter to the MS4 Operator. Termination of permit will be issued by the MS4 Operator only if the following conditions are met:

(a) All land-disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.

(b) All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.

(c) The applicant may submit an NOT letter to obtain early release from compliance with this rule if the following conditions are met:

1. The remaining, undeveloped acreage does not exceed five acres, with contiguous areas not to exceed one acre.

2. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots.

3. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.

4. All permanent storm water quality measures have been implemented and are operational.

(3) Permit renewal.

(a) The project owner may file a Request for Permit Renewal with the Administering Authority if construction of the permitted site will exceed the initial permit term of five years and is not yet eligible for permit termination. Such request shall be filed at least 30 days prior to the expiration of the initial permit term. Such request shall include the following information:

1. Construction plans as defined in division (B)(2) of this section that indicate which portions of the initially permitted construction plans remains under development, including ownership information for each individual parcel remaining undeveloped; and

2. An updated schedule indicating anticipated timing for installation of BMPs, final stabilization and completion of development.

(b) Two types of permit renewal are available:

1. Type I. If all public and common improvements, including infrastructure, have been completed but other requirements for permit termination have not yet been met, a Type I permit renewal may be issued. A Type I renewal shall not require changes or additions to public and/or common improvements, including infrastructure, that have been approved and completed in compliance with the original permit.

2. Type II. If all public and common improvements, including infrastructure, have NOT been completed, and other requirements for permit termination have not yet been met, a Type II permit renewal may be issued. A Type II renewal may

require changes or additions to proposed public and/or common improvements, including infrastructure, that were approved in the original permit, but are not yet completed, if requirements or regulations current at time of permit renewal are, in the discretion of the Stormwater Board and/or MS4 Operator, different than those previously approved.

(Ord. 2010-BCC-13, passed 4-19-10) Penalty, see § 154.99

§ 154.06 STORMWATER MANAGEMENT PLAN REVIEW AND APPROVAL.

(A) Review period.

(1) Within 28 days of the receipt of a complete permit application, including all documents as required by this chapter, the Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.

(2) If the project site owner does not receive notification within 28 days after the completed permit application is received by the Administering Authority, stating that the plan is disapproved, the project site owner may submit the Notice of Intent (NOI) letter information to IDEM in accordance with 327 I.A.C. 15-5-6(a) and § 154.07(B).

(3) If notification of a disapproved plan is received after the review period outlined above and following commencement of construction activities, the plans must be modified to meet the requirements of this chapter and resubmitted within 14 days of receipt of the notification of disapproved plans.

(4) The initiation of construction activity following notification by the Administering Authority that the plan does not meet the requirements of this chapter is a violation and subject to enforcement action.

(B) Review actions available.

(1) Approve. The permit application is found to be completely consistent with the requirement within this chapter; therefore, the Administering

Authority shall issue a Notice of Plan Approval (NPA);

(2) Approve with conditions. The permit application is generally consistent with the requirements within this chapter, but specific minor modification are required to meet all of the applicable requirements. Therefore, the Administering Authority shall issue the permit subject to these written conditions along with a Conditional Notice of Plan Approval (CNPA); or

(3) Disapprove. The permit application does not meet the requirements of this chapter and requires modifications that would result in significant changes to the construction plan, or erosion and sediment control plan. Therefore, the Administering Authority shall disapprove the application indicating the reason(s) and procedure for submitting a revised application and/or submission.

(C) *Notification to the Indiana Department of Environmental Management.* The developer must include the NPA or CNPA as verification of plan approval with the Notice of Intent (NOI) and proof of advertisement sent to the Director of IDEM in accordance with 327 I.A.C. 15-5-6(a) at least 48 hours prior to land-disturbing activities.

(Ord. 2010-BCC-13, passed 4-19-10)

§ 154.07 FINANCIAL GUARANTEE AND AS-BUILT DOCUMENTS.

(A) *Performance bonds or irrevocable letter of credit for storm water treatment BMPs.* If not required by other local agencies or regulations, the Administering Authority may, at its discretion, require the submittal of a performance bond or letter of credit prior to issuance of a permit in order to ensure that the storm water practices listed below in division (A)(1) and (2) of this section are installed by the permit holder as required by the approved storm water management plan. The performance security shall contain forfeiture provisions for failure to complete such work as specified in the storm water management plan. The amount of the installation performance security shall be the total estimated construction cost

plus 25% of the storm water management practices approved under the permit, including:

(1) Total installed cost for storm drain pipe, culvert, manhole, and box inlet installation; and

(2) Total cost for site filling and grading, including construction of open drainage swales and detention/retention facilities.

(B) *Maintenance bonds.* If a financial guarantee is required under division (A) of this section, then prior to the release of the storm water facility performance surety, a maintenance surety will be required. The maintenance surety will be in an amount not to exceed 20% of the cost of construction and cover a period of three years from the date of acceptance by the Administering Authority.

(C) *As-built documents required.*

(1) As part of the final acceptance process, as-built documents, being plans and calculations of the as-built conditions, of the storm water facilities, must be submitted to the Administering Authority, as set forth herein, for the following types of developments:

(a) All platted subdivisions;

(b) Industrial and commercial sites.

(2) As-built drawings shall be prepared and certified by either a land surveyor or a professional engineer licensed in the State of Indiana and provide the following information:

(a) Building pad elevations;

(b) Structure inverts, pipe inverts, top-of-casting elevation and the flow line of rear and/or side yard swales at 50-foot intervals or at lot lines;

(c) Horizontal alignment of storm drain pipes, culverts, streets, and storm drain structures, to a minimum accuracy of +/- two feet;

(d) The horizontal location and/or bank cross-sections for all detention/retention facilities

or other information sufficient to verify that the constructed detention/retention facility provides the required minimum runoff storage volume; and

(e) A tag reference to the operations and maintenance manual for each BMP will be included.

(3) As-built plans will be submitted as both digital and paper copy. The digital submittal will be in a format compatible with the county's Geographical Information System (GIS) database. If notice of noncompliance is not given within 30 calendar days from the date of submission of as-built documents, the documents shall be construed as approved.

(D) *Release of sureties.* Notice of scheduled date for completion of construction shall be provided to the Administering Authority at least 72 hours prior to its planned completion. The contractor or owner will schedule the final inspection with the Administering Authority's observer. Upon final approval and acceptance, the performance bond or letter of credit will be released at the subsequent meeting of the Board. (Ord. 2010-BCC-13, passed 4-19-10) Penalty, see § 154.99

§ 154.08 SITE INSPECTIONS AND MAINTENANCE PROVISIONS.

(A) *Notice of construction commencement.* The applicant must notify the Administering Authority 48 hours in advance before the commencement of construction. It shall be a condition of every site development permit that the Administering Authority has the right to enter the construction project site periodically to inspect for compliance with the site development permit and this chapter.

(B) *Inspections during construction.*

(1) By permitted project owner.

(a) The permittee shall maintain a copy of the approved stormwater management plan on site. When required, the permittee shall designate a

responsible person for “self-monitoring” and provide all contact information for such individual to the Administering Authority. Self-monitoring shall be conducted within 24 hours of a measurable rain event, or at minimum once per week. All inspections shall be documented and written reports prepared that contain the following information:

1. The date and location of the inspection;
2. Whether construction is in compliance with the approved storm water management plan;
3. Any remedial action needed to maintain compliance with the approved storm water management plan;
4. Schedule and designated party for proposed remedial actions.

(b) Written reports shall be kept on-site and be made available to the Administering Authority within 48 hours of request for review.

(2) By Administering Authority.

(a) Regular inspections of the storm water management system construction shall be conducted by the staff of the Administering Authority. All inspections shall be documented and written reports prepared that contain the following information:

1. The date, location and name of inspector;
2. Whether construction is in compliance with the approved storm water management plan;
3. Variations from the approved construction specifications;
4. Any violations that exist.

(b) Inspectors shall notify the on-site personnel or the developer in writing when violations are being observed, describing items to address and actions to be taken.

(C) *Post-construction.*

(1) Maintenance agreement required. A maintenance agreement shall be required for storm water management practices and shall be an agreement between the Department and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Recorder as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.

(2) Maintenance covenants. The maintenance agreement shall contain the following information and provisions:

(a) Identification of the storm water facilities and designation of the drainage area served by the facilities.

(b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under § 154.05 and the requirement that the responsible party(s), organization, or city, county, or town shall maintain the practices in accordance with the schedule.

(c) Identification of the responsible party(s), organization or city, county, or town responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under § 154.05.

(d) Authorization for the Administrative Authority to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement. The party designated as responsible for long-term maintenance of the storm water management practices shall be notified by the

Administrative Authority of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Administering Authority.

(e) Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available to the Administrative Authority during inspection of the facility and at other reasonable times upon request.

(f) At minimum, annual inspection of the storm water management facility shall be the responsibility of the party designated in this section. Record of the inspection and certification by a qualified individual that the storm water management system has been adequately maintained shall be submitted to the Administering Authority.

(g) Authorization of the Administering Authority to perform the corrected actions identified in the inspection report if the responsible party does not make the required corrections in the specified time period. The Administering Authority shall enter the amount due on the tax rolls and collect the money as a special charge against the property.

(h) The Board, in lieu of a maintenance covenant, may accept dedication of any existing or future storm water management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(Ord. 2010-BCC-13, passed 4-19-10) Penalty, see § 154.99

§ 154.09 ENFORCEMENT.

(A) *Violations.* Any land-disturbing construction activity or storm water runoff initiated after the effective date of this chapter by any person, firm, association, or corporation subject to provisions of this chapter shall be deemed a violation unless

conducted in accordance with the requirements of this chapter. Both the owner of the property upon which a violation is committed, and the person actually committing the violation, if different from the owner, may jointly or severally be a “responsible person” subject to the enforcement provisions of this section.

(B) *Notice of violation.* When the MS4 Operator, Administrator, or designee determines that an activity is not being carried out in accordance with the requirements of this chapter, he or she shall issue by certified mail a written notice of violation to the responsible person, including the owner of the property if applicable. The notice of violation shall contain:

- (1) The name and address of the owner of the property;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the development activity into compliance with this chapter and a time schedule for the completion of such remedial action;
- (5) A notice that all construction activities must halt in accordance with division (D) of this section;
- (6) A statement of the penalty or penalties that shall or may be assessed by the Board against the responsible person;
- (7) A statement that the determination of violation may be appealed to the Board by the responsible person by filing a written notice of appeal within 15 days of service of notice of violation.

(C) *Remediation.* Upon receipt of written notification from the MS4 Operator, Administrator, or designee under division (B) of this section, the responsible person shall correct work that does not

comply with the storm water management plan or other provisions of this permit. The responsible person shall make corrections as necessary to meet the specifications and schedule set forth by the MS4 Operator, Administrator, or designee in the notice.

(D) *Stop work orders.* Persons receiving a notice of violation will be required to halt all construction activities. This stop work order will be in effect until the MS4 Operator, Administrator, or designee confirms that the development 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 chapter.

(E) *Emergency stop work orders.* If the MS4 Operator, Administrator, or designee determines that a violation of this chapter constitutes an immediate and material threat to water quality and/or health and safety, he or she may issue an emergency stop work order to the responsible person by oral, phone, FAX, e-mail or similar communication. Persons receiving such emergency notice are required to halt all construction until the violation is corrected. If necessary, the MS4 Operator, Administrator, or designee shall immediately follow-up an emergency order by issuing a Notice of Violation under division (B) above.

(F) *Miscellaneous enforcement provisions.* The Department and the MS4 Operator, Administrator, or designee shall administer, implement and enforce the provision of this chapter. For this purpose, the MS4 Operator, Administrator and his agents shall have the right to enter upon and inspect real estate and facilities subject to regulation under this chapter as often as necessary during reasonable times to determine compliance or noncompliance with this chapter. The remedies listed in this chapter are not exclusive of any other remedies available under any federal, state or local laws or regulations.

(G) *Transfer of permit.* Prior to termination of the permit, if all or part of the construction site transfers from one MS4 area to another through annexation or other means, the site development

permit, bond, and enforcement authority shall transfer through a Notice of Transfer between the two MS4 entities. This shall not indemnify the permit holder from any pending enforcement action.
(Ord. 2010-BCC-13, passed 4-19-10)

§ 154.10 APPEALS.

(A) *Appeal Authority.* The Board shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the MS4 Operator, Administrator or designee in administering this chapter. The Board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Board may authorize variances from the provisions of this chapter that are not contrary to the public interest, and where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary hardship.

(B) *Who may appeal.* Appeals to the Board may be taken by any aggrieved person or by an officer, department, or board of a corporation affected by any decision of the MS4 Operator, Administrator or designee.
(Ord. 2010-BCC-13, passed 4-19-10)

§ 154.99 PENALTY.

(A) In the event the MS4 Operator, Administrator, or designee is unable to obtain compliance through the procedures prescribed under § 154.09(B), (C) and/or (D), the MS4 Operator, Administrator or designee shall, after determining in his sole discretion which course of action will best result in a correction of the violation:

(1) File the notice of violation with the Board, which shall conduct a hearing, with notice to the responsible person, within 30 days of such filing. If the Stormwater Board finds by a preponderance of the evidence that a violation of this chapter has occurred, it may impose fines upon the responsible person in an amount not to exceed \$7,500, all in

accordance with I.C. 36-1-6-9(d), and/or issue orders to correct violations. In the event the responsible person does not pay any fine imposed by the Board or correct the violation as ordered by the Board, the Board may commence a court action to enforce any fine or to obtain compliance with any order under I.C. 34-28-5-1(b); or

(2) Commence a court action under I.C. 34-28-5-1(b) to enforce this chapter. Such action may be for injunctive relief restraining the responsible person from activities causing a violation or compelling such person to perform abatement or remediation of the violation. In addition, or in the alternative, the court, in its discretion, may impose fines not exceeding \$7,500.

(3) For purposes of this section, a separate violation shall be deemed to have occurred for each day during which a particular violation occurs or continues to occur.

(B) Any appeal under § 154.10(A) by a responsible person of an order of fine issued by the Board must be filed with the court not more than 60 days after the day on which the Board order is entered, all in accordance with I.C. 36-1-6-9(e) and (f).

(C) The Board may from time to time adopt and publish a schedule of fines to be imposed for violations of this chapter. Any such schedule shall serve as a guideline to the Board, from which the Board may deviate if, in the Board's sole discretion, the facts require.

(Ord. 2010-BCC-13, passed 4-19-10)

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APPENDIX A: FEES

	Inside City Limits	Outside City Limits
RESIDENTIAL		
Single Family Dwelling	\$325	\$575
Multi-Family Dwelling	\$550 per building	\$1,000 per building
Demolition	\$150	\$300
Additions	\$150	\$300
Declaration of Responsibility	\$50	\$50
SUBDIVISION		
2-4 Lots	\$450	\$800
5 Lots or more	\$300 + \$50/lot	\$550 + \$100/lot
Planned Unit Development	\$300 + \$50/lot	\$550 + \$100/lot
COMMERCIAL/INDUSTRIAL		
Principal	\$950 + \$50/acre	\$1,500 + 100/acre
UTILITY		
Per Acre Disturbed	\$150	\$300
POND		
Per Acre Disturbed	\$150	\$300
RETURNED CHECK FEE	\$30	\$30

Any land-disturbing activity requiring its own NOI (Notice of Intent) will be subject to the above fees.

Please make check or money orders payable to the Howard County Stormwater District.

If a check is returned due to insufficient funds, the plan will NOT be reviewed.

Fees are non-refundable.

(Ord. 2010-BCC-13, passed 4-19-10)

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Section

155.01	Definitions	CHAPTER 155: DIGGING OR TRENCHING REGULATIONS
155.02	Requirements	
155.03	Inspections	
155.04	Indemnity	
155.05	Enforcement	
155.99	Penalty	

§ 155.01 DEFINITIONS.

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

COUNTY PROPERTY. Any drain (including tile), easement or right-of-way (excluding road pavement) in which the county owns or possesses an interest, whether by grant or by law.

PERMITTEE. Any person granted a permit to dig or trench in accordance with § 155.02(B).

PERSON. Includes an individual, firm, corporation, partnership, utility or similar entity.
(Ord. BCC-2003-05, passed 2-3-03)

§ 155.02 REQUIREMENTS.

(A) It shall be unlawful for any person to plow, cut, grade or otherwise disturb the soil in or upon county property other than by digging or trenching. This prohibition does not apply to plowing for strictly agricultural purposes.

(B) It shall be unlawful for any person to dig or trench in or upon any county property without first

obtaining a permit from the County Surveyor. Any person desiring to dig or trench in or upon county property shall make written application to the County Surveyor, specifying the location, necessity for and details of the proposed digging or trenching, together with proof of liability insurance coverage with limits of not less than \$1,000,000, covering the county as an additional insured, and proof of worker's compensation coverage. All permits issued shall state the time period within which the proposed digging or trenching shall be completed.

(C) It shall be unlawful for any person who digs or trenches in or upon any county property pursuant to a permit obtained under division (B) of this section to:

(1) Fail to restore the digging or trenching site to the same condition as before the digging or trenching; or

(2) Fail to repair at its sole expense any damage to county property which occurs as a result of the digging or trenching; or

(3) Fail to repair at its sole expense any damage to private drains or tiles which occurs as a result of the digging or trenching.

(Ord. BCC-2003-05, passed 2-3-03)

§ 155.03 INSPECTIONS.

The County Surveyor shall inspect the progress of any digging or trenching for which a permit has been issued at such times as he deems appropriate.

(Ord. BCC-2003-05, passed 2-3-03)

§ 155.04 INDEMNITY.

By applying for and obtaining a permit to dig or trench under § 155.02(B), the permittee agrees to indemnify and hold the county harmless from any loss, damage, claim or suit (including costs and reasonable attorneys fees) incurred, suffered or threatened by reason of any activity of the permittee, its agents, employees, contractors or subcontractors.

(Ord. BCC-2003-05, passed 2-3-03)

§ 155.05 ENFORCEMENT.

(A) Whenever the County Surveyor shall have reason to believe that any person has violated any provision of this chapter, he shall report such violation to the Board. Upon receipt of such report, the Board may, in its discretion, cause a written notice to be served upon the alleged violator, specifying the provisions of this chapter

alleged to be violated, and may order that corrective action be taken within a reasonable time. Any such order shall become final unless, no later than five days after the order is served, the alleged violator requests in writing a hearing before the Board. After any hearing, the Board shall affirm, modify or rescind its orders or issue other orders for the prevention, abatement or control of the violation involved.

(B) In lieu of proceeding under division (A) of this section, or in conjunction therewith, the Board may at any time and within its discretion, institute legal or equitable action against an alleged violator to enforce the provisions of this chapter, by injunction or otherwise, and may in addition or in the alternative, seek the imposition of penalties under § 155.99.

(Ord. BCC-2003-05, passed 2-3-03)

§ 155.99 PENALTY.

(A) Any person who violates any provision of this chapter shall be subject to a fine not to exceed \$2,500. Each day of violation shall constitute a separate violation.

(B) Nothing in this chapter shall be construed to abridge, limit or otherwise impair the right of any person to maintain any action or other appropriate proceedings relating to any digging or trenching which might be subject to this chapter.

(Ord. BCC-2003-05, passed 2-3-03)

Section

General Provisions
CHAPTER 156: STORM WATER EROSION AND SEDIMENT CONTROL

- 156.01 Introduction
- 156.02 Purpose
- 156.03 Definitions

Permit Procedures

- 156.10 Permit requirements
- 156.11 Review and approval of the permit application

Administration and Enforcement

- 156.20 Inspections
- 156.21 Notice
- 156.22 Violation
- 156.23 Appeals
- 156.24 Remedies not exclusive
- 156.25 Transfer of permit
- 156.26 Termination of permit

Cross-reference:

Illicit discharges, see Chapter 53

Storm water drainage, see Chapter 154

GENERAL PROVISIONS

§ 156.01 INTRODUCTION.

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates

repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.02 PURPOSE.

(A) As a result, the purpose of this chapter is to safeguard persons, protect property, and prevent damage to the environment in the MS4 Area.

(B) This chapter will also promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land within the MS4 Area.

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.03 DEFINITIONS.

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

BEST MANAGEMENT PRACTICE or ***BMP***. Any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water runoff. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.

CLEARING. Any activity that removes the vegetative surface cover.

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

CONSTRUCTION PLAN. An ordered collection of drawings, narratives, data and documents assembled for review, approval, authorization and establishment of guidelines for the initiation, management and completion of construction activities at a project site regulated by this chapter. A Storm Water Pollution Prevention Plan (SWP3) is a part of the construction plan.

CONSTRUCTION PROJECT SITE. The physical location(s) or legal boundaries within which a construction activity or a series of construction activities is planned to be or is being accomplished.

CONSTRUCTION SITE ACCESS. A stabilized stone surface at all points of construction-related egress from a project site, planned and installed in accordance with specification from an approved reference manual, and maintained throughout the period of land-disturbing activities to capture and detain sediment carried by tires, tracks or other surface-contact components of vehicles, earthmoving equipment, or material and personnel transport conveyances.

DEPARTMENT. The Indiana Department of Environmental Management (IDEM).

DEVELOPER. A project site owner or person financially responsible for construction activity; or an owner of property who sells, leases, or offers for sale or lease, any lot(s) in a subdivision or larger common plan of development or sale.

DIRECTOR. The chief executive officer of IDEM.

DRAINAGE WAY. Any channel that conveys surface storm water runoff.

EROSION AND SEDIMENT CONTROL PLAN. A set of plans prepared by, or under the direction of, a licensed professional engineer, licensed land surveyor, or certified professional in storm water quality (CPSWQ), indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

EROSION AND SEDIMENT CONTROL SYSTEM. Appropriate control measures combined to prevent or minimize the wearing away of soil, sediment and rock fragments by water, wind or ice, and to intercept detached or suspended particles to prevent their discharge from or within a project site.

EROSION CONTROL. A measure that prevents erosion.

FINAL STABILIZATION. The establishment of permanent vegetative cover, or the application of a permanent, non-erosive material to areas where all land-disturbing activities have been completed and no additional land-disturbing activities are planned under the current plan.

GRADING. Excavation or fill of material, including the resulting conditions thereof.

INDIVIDUAL BUILDING LOT. A single parcel of land in a multi-parcel development

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

MEASURABLE STORM EVENT. A precipitation event that results in a total measured accumulation of precipitation equal to or greater than one-half inch of rainfall.

MS4 AREA. The area of Howard County permitted under an NPDES Permit and regulated by 327 I.A.C. 15-13. The **MS4 AREA** includes the sections designated, and from time to time updated by the County Commissioners, excluding incorporated limits of cities or towns. A map showing the **MS4 AREA** shall be kept in the MS4 Operator's office for public review.

MS4 OPERATOR. The person locally responsible for development, implementation or enforcement of the Storm Water Quality Management Plan (SWQMP) for Howard County, as regulated under 327 I.A.C. 15-13, or an authorized representative thereof.

MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4. A system of storm water conveyances, either owned or operated or regulated by a governmental agency that IDEM has designated as responsible to eliminate or minimize pollutant loadings of the storm water entering waters of the state.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM or NPDES. A program administered by IDEM to reduce or eliminate pollutant loadings into public waters.

NOTICE OF PLAN APPROVAL or NPA. A notification, from the MS4 Operator to the project site owner, that the construction plan for a project site has been reviewed and approved by the MS4 Operator.

PEAK DISCHARGE. The maximum rate of flow from a point of storm water discharge during or immediately following a storm event, usually in reference to a specific return period or design storm.

PERIMETER CONTROL. A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PERMANENT STABILIZATION. The establishment, at a uniform minimum of 70% across the disturbed areas, of vegetative cover or permanent non-erosive material that ensures the resistance of the underlying soil to erosion, sliding or other movement.

PHASING OF CONSTRUCTION. Sequential development of smaller portions of a large project site, stabilizing each portion before initiating land-disturbing activities on the next portion, to minimize exposure of land to erosion.

RESPONSIBLE PERSON. The person who is responsible for any violation of this chapter.

RUNOFF. An accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains or waterways.

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

SEDIMENT CONTROL. Measures that prevent eroded sediment from leaving the site.

SEDIMENTATION. The settling and accumulation of unconsolidated sediment carried by storm water runoff.

SITE. A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT PERMIT. A permit issued by the municipality for the construction or

alteration of ground improvements and structures for the control of erosion, runoff and grading.

START OF CONSTRUCTION. The first land-disturbing activity associated with a development, including land preparation, such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STORM WATER POLLUTION PREVENTION PLAN or ***SWP3.*** A plan developed to minimize the impact of storm water pollutants resulting from construction and post-construction activities, including the erosion and sediment control plan.

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

TEMPORARY STABILIZATION. The covering of soil to ensure its resistance to erosion, sliding or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive materials applied at a uniform minimum density of 70% across the disturbed areas of a project site.

TRACKING. The movement and re-depositing of dirt, mud, aggregate, sediment or other storm water pollutants from a project site by the actions of wheels, tires, skids, tracks or other surface-contact components of cars, trucks, heavy equipment, or material and personnel transport conveyances.

WATERCOURSE. Any body of water, including but not limited to, lakes, ponds, rivers, streams, and bodies of water delineated within the county.

WATERWAY. A channel that directs surface runoff to a watercourse or to the public storm drainage system.

(Ord. 2004-BCC-38, passed 11-1-04)

PERMIT PROCEDURES

§ 156.10 PERMIT REQUIREMENTS.

(A) (1) For land-disturbing activity within the MS4 Area uncovering one or more acres of land, no developer shall be granted a site development permit without the approval by the MS4 Operator of a Storm Water Pollution Prevention Plan.

(2) For individual building lots less than one acre, see division (B) below.

(B) (1) The developer of an individual building lot containing less than one acre, but which is a part of a multi-lot construction project within the MS4 Area, shall be required to complete a Declaration of Responsibility for Erosion and Sediment Control for a Small Residential Lot, prior to receipt of an improvement location permit.

(2) This declaration assigns responsibility for conformance to the construction plan, as required in 327 I.A.C. 15-5-7.5, to the individual building lot developer.

(C) No responsible party may commence a land-disturbing construction activity within the MS4 Area, without first receiving prior approval of a site development permit, as required in division (A) or (B) above.

(D) The Storm Water Pollution Prevention Plan submitted to the MS4 Operator shall include all documents and information required within 327 I.A.C. 15-5.

(E) No site development permit is required for the following activities:

(1) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

(2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(F) (1) Each site development permit application shall bear the name(s) and address(es) of the developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee.

(2) The developer or his or her authorized agent shall sign the application.

(G) A site development permit may be denied if, in the opinion of the MS4 Operator, the proposed plan is likely to result in runoff that causes undue channel erosion, increases water pollution by scouring or the transportation of particulate matter, or endangers property or public safety.

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.11 REVIEW AND APPROVAL OF THE PERMIT APPLICATION.

(A) The MS4 operator will review each application for a site development permit to determine its conformance with the provisions of this chapter.

(1) Within 28 days after receiving an application, the MS4 Operator shall approve, approve with conditions, or disapprove the application.

(2) Possible actions are further defined as:

(a) **APPROVE.** The permit application is found to be completely consistent with the requirement within this chapter. Therefore, the MS4 Operator shall issue a Notice of Plan Approval (NPA);

(b) **APPROVE WITH CONDITIONS.** The permit application is generally consistent with the requirements within this chapter, but specific minor modifications are required to meet all of the applicable requirements. Therefore, the MS4 Operator shall issue the permit, subject to these written conditions, along with a Conditional Notice of Plan Approval (CNPA); or

(c) **DISAPPROVE.** The permit application does not meet the requirements of this chapter, and requires modifications that would result in significant changes to the construction plan. Therefore, the MS4 Operator shall disapprove the application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(B) The developer must include the NPA or CNPA, as verification of plan approval, with the Notice of Intent (NOI) sent to the Director of IDEM, in accordance with 327 I.A.C. 15-5-6(a), at least 48 hours prior to land-disturbing activities.

(C) The initiation of construction activity, following notification by the MS4 Operator that the plan does not meet the requirements of this chapter, is a violation and subject to enforcement action.

(D) If, within 28 days after the plan is received by the MS4 Operator, the project site owner does not receive notification stating that the plan has been disapproved, the project site owner may submit the NOI letter information to IDEM, in accordance with 327 I.A.C. 15-5-6(a).

(E) If notification of a disapproved plan is received after the review period outlined in division (A)(1), and following commencement of construction activities, the plans must be modified to meet the requirements of the chapter, and resubmitted within 14 days of receipt of the notification of disapproved plans.

(F) The developer shall be required to submit a copy of the NOI to the MS4 Operator.

(G) The permit shall be valid for the shorter of five years from date of issuance, or until:

(1) The permit is terminated under § 156.26.

(2) The permit is transferred under § 156.25.

(3) The permit is revoked under § 156.22(B).

(Ord. 2004-BCC-38, passed 11-1-04)

ADMINISTRATION AND ENFORCEMENT

§ 156.20 INSPECTIONS.

(A) The permittee shall have a copy of the approved Storm Water Pollution Prevention Plan readily available.

(B) Every active site having a Storm Water Pollution Prevention Plan should be inspected by the MS4 Operator for compliance with the plan.

(C) Inspectors shall prepare written reports after every inspection.

(D) Inspectors shall notify the on-site personnel or the developer, in writing, when violations are being observed, describing items to address and actions to be taken.

(E) It shall be a condition of every site development permit that the MS4 Operator has the right to enter the construction project site periodically to inspect for compliance with the site development permit and this chapter.

(F) (1) The County Drainage Board and the County Surveyor shall administer, implement and enforce the provisions of this chapter.

(2) For this purpose, the County Surveyor and his or her agents shall have the right to enter upon, and to inspect real estate and facilities subject to regulation under this chapter, as often as necessary to determine compliance or non-compliance with this chapter.

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.21 NOTICE.

(A) The County Surveyor shall issue a notice of violation letter by certified mail to any responsible person committing a violation of this chapter.

(B) The notice of violation letter will:

(1) Describe the violation that has been committed; and

(2) State that such violation must be corrected within 15 days of the date of notice or further action may be taken, including possible fines.

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.22 VIOLATION.

(A) If the violation is corrected within the 15 days from the postmarked date of notice, no further action will be taken.

(B) If the violation is not so corrected, the Surveyor shall, after determining which course of action best will result in a correction of the violation:

(1) File the notice of violation with the County Drainage Board, which shall conduct a hearing, with notice to the responsible person, within 30 days of such filing.

(a) If the Drainage Board finds by a preponderance of the evidence that a violation of this Chapter has occurred, it may:

1. Impose fines upon the responsible person in an amount not to exceed \$2,500, all in accordance with I.C. 36-1-6-9(d), and/or

2. Issue orders to correct violations.

(b) In the event the responsible person does not pay any fine imposed by the Drainage Board or correct the violation as ordered by the Drainage Board, the Drainage Board may commence a court action to enforce any fine or to obtain compliance with any order under I.C. 34-28-5-1(b); or

(2) Commence a court action under I.C. 34-28-5-1(b) to enforce this chapter.

(a) Such action may be for injunctive relief, restraining the responsible person from activities causing a violation, or compelling such person to perform abatement or remediation of the violation.

(b) In addition or in the alternative, the court, at its discretion, may impose fines not exceeding \$2,500.

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.23 APPEALS.

Any appeal by a responsible person of an order or fine issued by the Drainage Board must be filed with the Court not more than sixty (60) days after the day on which the Drainage Board Order is entered, all in accordance with I.C. 36-1-6-9(e) and (f).

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.24 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any federal, state or local laws or regulations.

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.25 TRANSFER OF PERMIT.

(A) Prior to termination of the permit, if all or part of the construction site transfers from one MS4 Area to another through annexation or other means, the site development permit, bond and enforcement authority shall transfer, through a Notice of Transfer between the two MS4 entities.

(B) This shall not indemnify the permit holder from any pending enforcement action.

(Ord. 2004-BCC-38, passed 11-1-04)

§ 156.26 TERMINATION OF PERMIT.

(A) Upon completion of all construction activities associated with the site development permit, the applicant shall submit a Notice of Termination (NOT) letter to the MS4 Operator.

(B) Termination of Permit will be issued by the MS4 Operator only if the following conditions are met:

(1) All land-disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.

(2) All public and common improvements, including infrastructure, have been completed and permanently stabilized, and have been transferred to the appropriate local entity.

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(C) The applicant may submit an NOT letter to obtain early release from compliance with this rule, if the following conditions are met:

(1) The remaining, undeveloped acreage does not exceed five acres, with contiguous areas not to exceed one acre.

(2) A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter.

(3) The map must be accompanied by a list of the names and addresses of individual lot owners or individual lot operators of all undeveloped lots.

(4) The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.

(5) All permanent storm water quality measures have been implemented and are operational.
(Ord. 2004-BCC-38, passed 11-1-04)