

ORDINANCE NO. 2020-1E
(Final Version – December
2, 2019)

“Town of Fortville Stormwater Management Ordinance”

AN ORDINANCE REGULATING STORMWATER
DRAINAGE, EROSION AND SEDIMENT ASSOCIATED
WITH ALL
DEVELOPMENT AND REDEVELOPMENT
WITHIN THE TOWN OF FORTVILLE

Be It Ordained by the Town Council of the Town of Fortville, Indiana, That

Section I

Chapter 53 of Title V “Public Works” of the Fortville Town Code
is amended by the addition of the text in the following sections,
and Section 53.01 of the existing Town Code shall be rescinded:

CHAPTER 53: STORMWATER DRAINAGE, EROSION, AND SEDIMENT CONTROL REGULATIONS

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GENERAL INFORMATION

§ 53.100 ABBREVIATIONS AND DEFINITIONS

ABBREVIATIONS

| | |
|--------------|---|
| BMP | Best Management Practice |
| COE | United States Army Corps of Engineers |
| CWA | Clean Water Act |
| EPA | Environmental Protection Agency |
| GIS | Geographical Information System |
| IDEM | Indiana Department of Environmental Management |
| MS4 | Municipal Separate Storm Sewer System |
| NRCS | USDA-Natural Resources Conservation Service |
| NPDES | National Pollution Discharge Elimination System |
| POTW | Publicly Owned Treatment Works |
| SWCD | Soil and Water Conservation District |
| SWPPP | Stormwater Pollution Prevention Plan |
| USDA | United States Department of Agriculture |
| USFWS | United States Fish and Wildlife Service |

DEFINITIONS

Agricultural land disturbing activity. Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile. For purposes of this rule, the term does not include land disturbing activities for the construction of agricultural related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities, lakes and ponds, wetlands; and other infrastructure.

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

Best Management Practices. Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.

Buffer Strip. An existing, variable width strip of vegetated land intended to protect water quality and habitat.

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

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

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

Comprehensive Stormwater Management. A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

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

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

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

Contiguous. Adjoining or in actual contact with.

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

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

Contractor or subcontractor. An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

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

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

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

Dechlorinated swimming pool discharge. Chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

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

Detention. Managing stormwater runoff by temporary holding and controlled release.

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

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

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

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

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

Development. Any man-made change to improved or unimproved real estate including but not limited to:

1. Construction, reconstruction, or placement of a building or any addition to a building;
2. Construction of flood control structures such as levees, dikes, dams or channel improvements;
3. Construction or reconstruction of bridges or culverts;
4. 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 hundred eight (180) days;
5. Installing utilities, erection of walls, construction of roads, or similar projects;
6. Mining, dredging, filling, grading, excavation, or drilling operations;
7. Storage of materials; or
8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” 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.

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

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

Ditch. A man-made, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

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

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

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

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

Duration. The time period of a rainfall event.

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

Erodibility Index (EI). The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively cropped. It is defined to be the maximum of $(R \times K \times LS)/T$ (from the Universal Soil Loss Equation) and $(C \times I)/T$ (from the Wind Erosion Equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and steepness, C is a climatic characterization of windspeed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. Erodibility Index scores equal to or greater than 8 are considered highly erodible land.

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

- *Accelerated erosion*--Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.
- *Channel erosion* --An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
- *Gully erosion* --An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from 1-2 ft. to as much as 75-100 ft.
- *Rill erosion*--An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils (see Rill).
- *Splash erosion*--The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.
- *Sheet erosion*--The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

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

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

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

Flood (or Flood Waters). A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

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

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

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

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

Fluvial Erosion Hazard (FEH) Corridor. Fluvial (riverine) Erosion Hazard corridors represent the areas along the streams (including the channel and immediate overbanks areas) that are believed to be subject to stream movement or streambank erosion. These corridors have been delineated for most actively migrating and relatively stationary streams in Indiana through an Indiana Silver Jackets initiative. The corridor maps associated with the Town of Fortville streams are available on the Hancock County GIS website. More detailed mapping than that used as part of the Indiana Silver Jackets erosion hazard mapping program may be provided by the applicant if it is based on detailed field assessment acceptable to the Town.

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

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

Geographical Information System. A computer system capable of assembling, storing, manipulation, and displaying geographically referenced information. This technology can be used for resource management and development planning.

Grade. (1) The inclination or slope of a channel, canal, conduit, etc., or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance. (2) The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit. (3) To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

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

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

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

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

Highly Erodible Land (HEL). Land that has an erodibility index of eight or more.

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

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

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

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

Impervious surface. Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

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

Individual lot operator. A contractor or subcontractor working on an individual lot.

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

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

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

Land-disturbing Activity. Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.

Land Surveyor. A person licensed under the laws of the State of Indiana to practice land surveying.

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

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

Lowest Floor. Refers to the lowest of the following:

1. The top of the basement floor;
2. The top of the garage floor, if the garage is the lowest level of the building;
3. The top of the first floor of buildings constructed on a slab or of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
4. The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:

- a] The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two opening (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
- b] Such enclosed space shall be usable only for the parking of vehicles or building access.

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

Measurable storm event. A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

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

Municipal Separate Storm Sewer System. An MS4 meets all the following criteria: (1) is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity; (2) discharges to waters of the U.S.; (3) is designed or used for collecting or conveying stormwater; (4) is not a combined sewer; and, (5) is not part of a Publicly Owned Treatment Works (POTW).

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

Natural Drainage. The flow patterns of stormwater run-off over the land in its pre-development state.

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

Open Drain. A natural watercourse or constructed open channel that conveys drainage water.

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

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

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

Peak Discharge (or Peak Flow). The maximum instantaneous flow from a given storm condition at a specific location.

Percolation. The movement of water through soil.

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

Pervious. Allowing movement of water.

Point Source. Any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or maybe discharged (P.L. 92-500, Section 502[14]).

Porous pavement. A type of infiltration practice to improve the quality and reduce the quantity of storm water run-off via the use of manmade, pervious pavement which allows run-off to percolate through the pavement and into underlying soils

Professional Engineer. A person licensed under the laws of the State of Indiana to practice professional engineering.

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

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

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

Receiving Stream, Receiving Channel, or Receiving Water. The body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

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

Redevelopment. Alterations of a property that change a site or building in such a way that there is disturbances of one (1) acre or more of land. The term does not include such activities as exterior remodeling.

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

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

Regulatory Floodway. See Floodway.

Release Rate - The amount of storm water release from a storm water control facility per unit of time.

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

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

Retention basin. A type of storage practice, that has no positive outlet, used to retain storm water run-off for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

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

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

Riparian habitat. A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

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

Runoff Coefficient - A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drain system to the total amount of rain falling. A coefficient of 0.5 implies that 50 percent of the rain falling on a given surface appears as storm water runoff.

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

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

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

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

Slope. Degree of deviation of a surface from the horizontal, measured as a numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (run) and the second is the vertical distance (rise)--e.g., 2:1. However, the preferred method for designation of slopes is to clearly identify the horizontal (H) and vertical (V) components (length (L) and Width (W) components for horizontal angles). Also note that according to international standards (Metric), the slopes are presented as the vertical or width component shown on the numerator--e.g., 1V:2H. Slope expressions in this Ordinance follow the common presentation of slopes--e.g., 2:1 with the metric presentation shown in parenthesis--e.g., (1V:2H). Slopes can also be expressed in "percents". Slopes given in percents are always expressed as (100*V/H) --e.g., a 2:1 (1V:2H) slope is a 50% slope.

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

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

Solid Waste. Any garbage, refuse, debris, or other discarded material.

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

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

Storm Event. An estimate of the expected amount of precipitation within a given period of time. For example, a 10-yr. frequency, 24-hr. duration storm event is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hr. period.

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

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

Stormwater Pollution Prevention Plan. A plan developed to minimize the impact of storm water pollutants resulting from construction activities.

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

Stormwater Quality Management Plan. A comprehensive written document that addresses stormwater runoff quality.

Stormwater Quality Measure. A practice, or a combination of practices, to control or minimize pollutants associated with storm water runoff.

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

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

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

Subsurface Drain. A pervious backfield trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.

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

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

Temporary Stabilization. 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 material applied at a uniform density of seventy percent (70%) across the disturbed area.

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

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

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

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

Urban Drain. A drain defined as “Urban Drain” in Indiana Drainage Code.

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

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

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

Water Resources. The supply of groundwater and surface water in a given area.

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

Watercourse. Any river, stream, creek, brook, branch, natural or man-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

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

Watershed Area. All land and water within the confines of a drainage divide. See also Watershed.

Wetlands. Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

§ 53.101 AUTHORITY AND TITLE

This Ordinance is adopted in accordance with statutory authority granted to the Town of Fortville under “Home Rule”, and further required by Phase II of the National Pollution Discharge Elimination System program (FR Doc. 99–29181) authorized by the 1972 amendments to the Clean Water Act, the Indiana Department of Environmental Management’s Rule 13 (327 IAC 15-13), and the Indiana Department of Environmental Management’s Rule 5 (327 IAC 15-5). Based on this authority and these requirements, this Ordinance regulates:

- A. Discharges of prohibited non-stormwater flows into the storm drain system.
- B. Stormwater drainage improvements related to development of lands located within the Town of Fortville.
- C. Drainage control systems installed during new construction and grading of lots and other parcels of land.
- D. Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
- E. The design, construction, and maintenance of stormwater drainage facilities and systems.
- F. The design, construction, and maintenance of stormwater quality facilities and systems.
- G. The design, construction, and maintenance of new dams.
- H. The development downstream of existing dams.
- I. Development within floodways and fluvial erosion hazard corridors.

This Ordinance shall be known and may be cited as the Town of Fortville Stormwater Management Ordinance.

§ 53.102 APPLICABILITY AND EXEMPTIONS

This Ordinance shall regulate all development and redevelopment occurring within the Town of Fortville, Indiana. No building permit shall be issued and no land disturbance started for any construction in a development, as defined in Chapter 53.100, until the plans required by this Ordinance for such construction have been accepted in writing by the Town. With the exception of the requirements of Chapter 53.200 and 53.604 of this Ordinance, single-family dwelling houses in accepted subdivisions, new buildings (or cumulative building additions) with less than 500 square feet of area, and land-disturbing activities affecting less than 10,000 square feet of area shall be exempt from the requirements of this Ordinance. Also exempt from this Ordinance shall be the agricultural land-disturbing activities.

Town of Fortville government projects shall be exempt from obtaining a Stormwater Permit, but are expected to meet all applicable technical requirements of this Ordinance and the Town of Fortville Stormwater Technical Standards Manual.

The Town of Fortville has the authority to modify, grant exemptions, and/or waive any and all the requirements of this Ordinance and its associated technical standards document. A pre-submittal meeting with Town staff may be requested by the applicant to discuss the applicability of various provisions of the Ordinance and its associated technical standards document with regards to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of Town staff that may be based on the review of more detailed information and plans.

§ 53.103 (RESERVED)

§ 53.104 FINDINGS

The Fortville Town Council finds that:

- A. Water bodies, roadways, structures, and other property within and downstream of the Town of Fortville are at times subjected to flooding;
- B. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;
- C. Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;
- D. Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes, and reservoirs;
- E. Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the Town of Fortville will, absent reasonable regulation and control, adversely affect the Town's water bodies and water resources;
- F. Pollutant contributions from illicit discharges within the Town will, absent reasonable regulation, monitoring, and enforcement, adversely affect the Town's water bodies and water resources;
- G. Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;
- H. Benefits of Fluvial Erosion Hazard (FEH) Corridor maps: An FEH Corridor map shows the area a river needs to accommodate equilibrium conditions, specifically the meanders (stream length) and slope requirement of a stable stream channel. It also shows the land most vulnerable to erosion from flooding. Preventing further encroachment into the FEH corridors will minimize fluvial erosion hazards and property loss from flooding, enhance public safety, maximize channel stability, and maintain or improve water quality and habitat function;
- I. Adopting the standards, criteria, and procedures contained and referenced in this Ordinance and implementing the same will address many of the deleterious effects of stormwater runoff, illicit discharges, and fluvial erosion hazards;
- J. Adopting this Ordinance is necessary for the protection of property, preservation of the public health, safety, and welfare, for the conservation of our natural resources, and for compliance with State and Federal regulations.
- K. Adopting this Ordinance is necessary for the protection of mutual and private drains.

§ 53.105 PURPOSE

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

- A. To reduce the hazard to public health and safety caused by excessive stormwater runoff.
- B. To regulate the contribution of pollutants to the storm drain system from construction site runoff.
- C. To regulate the contribution of pollutants to the storm drain system from runoff from new development and re-development.
- D. To prohibit illicit discharges into the storm drain system.
- E. To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Ordinance.

§ 53.106 ABBREVIATIONS AND DEFINITIONS

For the purpose of this Ordinance, the abbreviations and definitions provided in § 53.100 shall apply.

§ 53.107 RESPONSIBILITY FOR ADMINISTRATION

The Fortville Town Council and/or the Planning Director or Town Manager shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Town to qualified persons or entities acting in the beneficial interest of or in the employ of the Town.

§ 53.108 CONFLICTING ORDINANCES

The provisions of this Ordinance shall be deemed as additional requirements to minimum standards required by other Fortville ordinances, and as supplemental requirements to Indiana's Rule 5 regarding Stormwater Discharge Associated with Construction Activity, (327 IAC 15-5), and Indiana's Rule 13 regarding Stormwater Runoff Associated with Municipal Separate Storm Sewer System Conveyances (327 IAC 15-13). In case of conflicting requirements, the most restrictive shall apply.

§ 53.109 INTERPRETATION

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except that words and phrases defined in § 53.100 shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this Ordinance but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

§ 53.110 SEVERABILITY

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

§ 53.111 EFFECTIVE DATE

This Ordinance shall become effective after its final passage, approval, and publication as required by law.

§ 53.112 DISCLAIMER OF LIABILITY

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by man-made or natural causes. This Ordinance does not imply that land uses permitted will be free from stormwater damage. This Ordinance shall not create liability on the part of the Town of Fortville or any officer, representative, or employee thereof, for any damage which may result from reliance on this Ordinance or on any administrative decision lawfully made there under.

The words “approve” and “accept”, and their common derivations as used in this Ordinance in relation to plans, reports, calculations, and permits shall mean that Fortville has reviewed the material produced and submitted by the applicant or his/her agents for general compliance with this Ordinance and the Fortville Stormwater Technical Standards Manual, and that such a compliance would qualify the applicant to receive a stormwater management approval or permit. Such an “approval” or “acceptance” is based on the assumption that the project engineer has followed all appropriate engineering methods in the design. Any stormwater quality or stormwater quantity (drainage) problems associated with the project caused by poor construction by the contractor and/or poor engineering design or judgment, either on-site or off-site, are the responsibility of the developer and the project engineer.

Consideration, design, construction, and maintenance of safety measures for proposed or existing stormwater facilities shall be the responsibility of the developer, applicant, and/or the property owner. The Town of Fortville or its officials and representatives shall not be responsible for maintenance and/or liable for any accidents resulting from adequacy or lack of such safety measures.



53.200 SERIES

PROHIBITED DISCHARGES AND CONNECTIONS

§ 53.201 APPLICABILITY AND EXEMPTIONS

This Chapter shall apply to all discharges, including illegal dumping, entering the storm drain system under the control of the Town of Fortville, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the storm drain system, illegal dumping, and contaminated runoff.

Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this chapter unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residences are **not** included in this exemption.

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

Finally, any construction project which has had its drainage plan approved by Hancock County prior to the effective date of this ordinance shall be exempt from all requirements of this ordinance that are in excess of the requirements of ordinances in effect at the time of approval.

§ 53.202 PROHIBITED DISCHARGES AND CONNECTIONS

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

The Town of Fortville is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the Town's stormwater drainage system.

§ 53.203 EXEMPTED DISCHARGES AND CONNECTIONS

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

- A. Water line flushing;
- B. Landscape irrigation;
- C. Diverted streamflows;
- D. Rising ground waters;
- E. Uncontaminated groundwater infiltration;
- F. Uncontaminated pumped ground water;
- G. Discharges from potable water sources;
- H. Foundation drains;
- I. Air conditioning condensation;
- J. Irrigation water;

- K. Springs;
- L. Water from crawl space pumps;
- M. Footing drains;
- N. Lawn watering;
- O. Flows from riparian habitats and wetlands;
- P. Dechlorinated swimming pool discharges;
- Q. Discharges from firefighting activities;
- R. Naturally introduced detritus (e.g. leaves and twigs).
- S. Dye-testing authorized by the Town of Fortville or Hancock County.

§ 53.204 STORAGE OF HAZARDOUS OR TOXIC MATERIAL

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

§ 53.205 PRIVATE PROPERTY MAINTENANCE DUTIES

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

§ 53.206 SPILL REPORTING

Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the Hancock County Health Department and Hancock County Emergency Management agency concerning the discharge. A written report concerning the discharge shall be filed with the Town of Fortville and IDEM, by the discharger, within five (5) days. The written report shall specify:

- A. The composition of the discharge and the cause thereof;
- B. The date, time, and estimated volume of the discharge;
- C. All measures taken to clean up the accidental discharge, and all measures proposed to be taken to prevent any recurrence;
- D. The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this Section. This requirement does not relieve discharger from notifying other entities as required by State or Federal regulations.

§ 53.207 INSPECTIONS AND MONITORING

A. Storm Drainage System

The Town of Fortville has the authority to periodically inspect that portion of the storm drainage system under the Town's control, in an effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

B. Potential Polluters

If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the Town may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the Town's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Town or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Identified illicit connections or discharges shall be subject to enforcement action as described in Chapter 8 of this Ordinance.

C. New Development and Re-Development

Following the final completion of construction and the receipt of as-built drawings, the Town has the authority to inspect new development and re-development sites to verify that all on-site stormwater conveyances and connections to the storm drainage system are in compliance with this Chapter.



53.300 SERIES

STORMWATER QUANTITY MANAGEMENT

§ 53.301 APPLICABILITY AND EXEMPTIONS

The storage and controlled release rate of excess stormwater runoff shall be required for all new business, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the Town of Fortville. The Town Council, Town Manager or Planning Administrator, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization. Additional potential exemptions regarding the detention requirements are provided under 53.301.

§ 53.302 POLICY ON STORMWATER QUANTITY MANAGEMENT

It is recognized that most streams and drainage channels serving the Town of Fortville do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release of excess stormwater runoff as well as compensation for loss of floodplain storage shall be required for all developments and redevelopments (as defined in § 53.100) located within the Town. Control devices shall limit the discharge to a rate such that the post-developed release rate from the site is no greater than 0.1 cfs per acre of development for 0 - 10 year return interval storms and 0.3 cfs per acre of developed area for 11 - 100 year return interval storms. The above fixed general release rates may be set at a lower value by the Town for geographical areas determined as Impact Drainage Area or for certain watersheds if more detailed data becomes available as a result of comprehensive watershed studies conducted and/or formally approved and adopted by the Town. Additional details regarding the release rate requirements, available basin-specific release rates, downstream restriction considerations, acceptable outlet, adjoining property impact considerations, fluvial erosion hazards considerations, policy on dams and levees, and compensatory floodplain storage rates are detailed in the Fortville Stormwater Technical Standards Manual.

§ 53.303 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

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

§ 154.304 DRAINAGE EASEMENT REQUIREMENTS

Drainage Easements (DEs) are stormwater easements and drainage rights-of-way that are dedicated to the public and trusted to the Town of Fortville for the purpose of controlling surface water and/or for the installation, operation, and maintenance of storm sewers as defined in the Fortville Stormwater Management Ordinance. These drainage easements are established under authority of the Indiana Drainage Code and the Town may exercise powers and duties as provided in said code (e.g., annual drainage assessment per lot).

There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise allowed by the Town. All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way

may be incorporated into the Town system at the discretion of the Town. The developer shall incorporate the storm system into the Town system.

If the Town accepts the petition for incorporation into their system, the following statement shall become part of the Restrictive Covenants of every platted subdivision and shown on recorded plat: *“channels, storm sewers, inlets and outlets of detention and retention ponds, and appurtenances thereto within designated Drainage Easements (DEs) are extensions of the Town of Fortville stormwater drainage system and are the responsibility of the Town. Specific definitions and requirements associated with these DEs and noted storm drainage systems are contained in Chapter § 53.304 of the Fortville Stormwater Management Ordinance and in the Fortville Stormwater Technical Standards Manual. Drainage swales shall be the responsibility of the property owner or homeowner association.”*

The following statement shall be put on each subdivision plat: *The storm drainage system and its easements that are accepted into the Town of Fortville’s drainage system are delineated on the plat as Drainage Easements (DEs).*

Any encroachment of a Drainage Easement requires approval by the Town.

All new channels, swales, drain tiles, inlet and outlet structures of detention and retention ponds, and appurtenances thereto as required by this chapter, that are installed on municipal or school property will be maintained, repaired, and constructed by the entity. The design must meet the standards of the Fortville Stormwater Management Ordinance for sizing and installation. Any off-site portion of the drainage system must be within easements and have clearly defined maintenance agreements.

Additional easement requirements along stormwater conveyance systems and stormwater BMPs are contained in the Fortville Stormwater Technical Standards.

§ 53.305 PLACEMENT OF UTILITIES

No utility company may disturb existing storm drainage facilities without the consent of the Town of Fortville. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in Chapter § 53.700 of this Ordinance.

§ 53.306 (RESERVED)

§ 53.307 INSPECTION, MAINTENANCE, RECORD KEEPING, & REPORTING

After the stormwater management approval is granted by the Town of Fortville and the commencement of construction activities, the Town has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this chapter, the Stormwater Technical Standards Manual, and the terms and conditions of the approval. After construction is complete, the Town or its authorized agent will inspect the site and provide written comments on items that need corrected. After items have been corrected, the Town or its authorized agent will re-inspect at no charge. Further inspections may result in a charge based on the amount of time spent.

The Town or its authorized agent also has the authority to perform long-term, post-construction inspection of all public or privately-owned stormwater quantity facilities. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater quantity facilities shall be maintained in good condition, in accordance with the terms and conditions of the stormwater management approval, and shall not be subsequently altered, revised or replaced except

in accordance with the stormwater approval, or in accordance with approved amendments or revisions to the original Stormwater Management approval. If deficiencies are found during the inspection, the owner of the facility will be notified by the Town and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the Town notification, the Town will undertake the work and collect from the owner using bonds and/or lien rights if necessary.

Assignment of responsibility for maintaining facilities serving more than one lot or parcel shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater approval.



53.400 SERIES

STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES

§ 53.401 APPLICABILITY AND EXEMPTIONS

The Town of Fortville will require a Stormwater Pollution Prevention Plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of the construction plans and specifications. Any project located within the Town of Fortville and includes clearing, grading, excavation, and other land disturbing activities resulting in the disturbance of 1 acre or more of total land area is subject to the requirements of this Chapter. This includes both new development and re-development. This chapter also applies to disturbances of less than one 1 acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land, within the area under the jurisdictional authority of the Town. Section 3 of this Chapter provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of 327 IAC 15-5 (Rule 5) shall also be in compliance with 327 IAC 15-5.

The requirements under this Chapter do not apply to the following activities:

- a. agricultural land disturbing activities; or
- b. forest harvesting activities.

The requirements under this Chapter do not apply to the following activities, provided other applicable State permits contain provisions requiring immediate implementation of soil erosion control measures:

- a. Landfills that have been issued a certification of closure under 329 IAC 10.
- b. Coal mining activities permitted under IC 14-34.
- c. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

For an individual lot where land disturbance is expected to be one (1) acre or more, the individual lot owner must complete their own notice of intent letter, apply for stormwater management approval from the Town, and ensure that a sufficient construction and stormwater pollution prevention plan is completed and submitted in accordance with Chapter § 53.600 of this Ordinance; regardless of whether the individual lot is part of a larger permitted project site.

An individual lot with land disturbance less than one (1) acre, located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the stormwater approval for the larger project site. The stormwater approval application for the larger project site must include typical detailed erosion and sediment control measures for individual lots. In addition, these individual lots are required to submit Individual Lot Plot Plan Permit applications prior to receiving a building permit. Details of the permitting process are contained in Chapter § 53.600.

It will be the responsibility of the project site owner to complete a stormwater management approval application and ensure that a sufficient construction plan is completed and submitted to the Town in accordance with Chapter § 53.600 of this Ordinance. It will be the responsibility of the project site owner to ensure compliance with this Ordinance and the Technical Standards during the construction activity and implementation of the construction plan, and to notify the Town with a sufficient notice of termination letter upon completion of the project and stabilization of the site. However, all persons engaging in construction and land disturbing activities on a permitted project site must comply with the requirements of this Chapter and this Ordinance as well as the Technical Standards.

§ 53.402 POLICY ON STORMWATER POLLUTION PREVENTION

Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling. The developer must submit to the Town of Fortville a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing. This SWPPP must be site and project specific. The following principles apply to all land-disturbing activities and should be considered in the preparation of a Stormwater Pollution Prevention Plan within the Town.

- A. Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fills in areas with steep slopes should be avoided wherever possible, and natural contours should be followed as closely as possible.
- B. Existing vegetation should be retained and protected wherever possible. Except for regulated drains, areas immediately adjacent (within 35 feet of top of bank) to watercourses and lakes also should be left undisturbed wherever possible. Unvegetated or vegetated areas with less than 70% cover that are scheduled or likely to be left inactive for 7 days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.
- C. All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
- D. The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet. Methods for determining acceptable velocities are included in the Stormwater Technical Standards Manual.
- E. Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
- F. Appropriate measures shall be implemented to prevent wastes or unused building materials, including, garbage, debris, packaging material, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable State statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures (including having spill response equipment on-site) shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
- G. Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
- H. Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.

§ 53.403 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

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

- A. Off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.
- B. Strip developments will be considered as one (1) project site and must comply with this Chapter unless the total combined disturbance on all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale.
- C. To determine if multi-lot project sites are regulated by this rule, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:
 - i. For a single-family residential project site where the lots are one-half (0.5) acre or more, one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.
 - ii. For a single-family residential project site where the lots are less than one half (0.5) acre in size, the total lot must be calculated as being disturbed.
 - iii. To calculate lot disturbance on all other types of projects sites, such as industrial and commercial project sites, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.

The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the "Indiana Stormwater Quality Manual" or the Stormwater Technical Standards Manual. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of IDEM's Rule 5.

§ 53.404 INSPECTION, MAINTENANCE, RECORD KEEPING, & REPORTING

Following the granting of the stormwater management approval by the Town of Fortville and commencement of construction activities, the Town has the authority to conduct inspections of the site to ensure full compliance with the provisions of this Chapter, the Technical Standards document, the *Indiana Stormwater Quality Manual*, and the terms and conditions of the approval.

A self-monitoring program must be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. A trained individual, acceptable to the Town, shall perform a written evaluation of the project site by the end of the next business day following each measurable storm event. If there are no measurable storm events within a given week, the site should be monitored at least once in that week. Weekly inspections by the trained individual shall continue until the entire site has been stabilized and a "verified" copy of the Notice of Termination has been issued. The trained individual should look at the maintenance of existing stormwater pollution prevention measures, including erosion and sediment control measures, drainage structures, and construction materials storage/containment facilities, to ensure they are functioning properly. The trained individual should also identify additional measures, beyond those originally identified in the stormwater pollution prevention plan, necessary to remain in compliance with all applicable statutes and regulations.

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

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

Although self-monitoring reports do not need to be submitted to the Town, the Town has the right to request complete records of maintenance and monitoring activities involving stormwater pollution prevention measures. All evaluation reports for the project site must be made available to the Town, in an organized fashion, within forty-eight (48) hours upon request.



53.500 SERIES

STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION

§ 53.501 APPLICABILITY AND EXEMPTIONS

In addition to the requirements of Chapter 4, the stormwater pollution prevention plan, which is to be submitted to the Town of Fortville as part of the stormwater management permit application, must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within the Town and includes clearing, grading, excavation, and other land disturbing activities resulting in the disturbance of 1 acre or more of total land area is subject to the requirements of this Chapter. This includes both new development and re-development, and disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land, within the area under the jurisdictional authority of the Town.

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

- A. agricultural land disturbing activities; or
- B. forest harvesting activities; or
- C. construction activities associated with a single family residential dwelling disturbing less than 5 acres, when the dwelling is not part of a larger common plan of development or sale; or
- D. single family residential developments consisting of four or less lots; or
- E. a single-family residential strip development where the developer offers for sale or lease without land improvements and the project is not part of a larger common plan of development of sale; or
- F. individual building lots within a larger permitted project.

The requirements under this chapter do not apply to the following activities, provided other applicable State permits contain provisions requiring immediate implementation of soil erosion control measures:

- A. Landfills that have been issued a certification of closure under 329 IAC 10.
- B. Coal mining activities permitted under IC 14-34.
- C. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

It will be the responsibility of the project site owner to complete a stormwater management approval application and ensure that a sufficient construction plan is completed and submitted to the Town in accordance with Chapter § 53.600 of this Ordinance and the Technical Standards. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMPs in compliance with this Ordinance and with the stormwater management approval, and to notify the Town with a Notice of Termination letter upon completion of the project and stabilization of the site. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this Chapter and this Ordinance.

§ 53.502 POLICY ON STORMWATER QUALITY MANAGEMENT

It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, increased potential for streambank erosion downstream, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues in the Town of Fortville, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers. Through the use of Best Management Practices (BMP), stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed. The Town has adopted a policy that the control of stormwater quality will be based on the management of Total Suspended Solids (TSS).

The project site owner must submit to the Town a Storm Water Pollution Prevention Plan (SWPPP) that would show placement of appropriate BMP(s) from a pre-approved list of BMPs specified in the Fortville Stormwater Technical Standards Manual. The noted BMPs must be designed, constructed, and maintained according to guidelines provided or referenced in the Stormwater Technical Standards Manual. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof as to whether the performance and ease of maintenance of such practices will be according to guidelines provided in the Stormwater Technical Standards Manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMPs are provided in the Stormwater Technical Standards Manual.

Requirements of this Ordinance and the Technical Standards with respect to post-construction stormwater quality management can be satisfied through a variety of methods broadly categorized under two general approaches:

1. Conventional Approach
2. Low Impact Development (LID) Approach

The site developer and designer are encouraged to review the LID discussion in the Technical Standards prior to site design.

Gasoline outlets and refueling areas must install appropriate practices to reduce lead, copper, zinc, and hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks.

§ 53.503 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

Calculation of land disturbance should follow the guidelines discussed in Chapter 4, Section 3.

The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs shall meet the design criteria, standards, and specifications outlined in the *Indiana Stormwater Quality Manual* or the Fortville Stormwater Technical Standards Manual. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of IDEM's Rule 13.

§ 53.504 EASEMENT REQUIREMENTS

All stormwater quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of access, monitoring, inspection, and general maintenance activities, the design should include a 30-foot wide drainage easement beyond the actual footprint of the stormwater quality management facility as well as a

30-foot wide access easement from a public right-of-way to each BMP. This dimension may be narrowed in certain circumstances as the discretion of the Town, generally to accommodate denser development patterns.

§ 53.505 INSPECTION, MAINTENANCE, RECORD KEEPING, & REPORTING

After stormwater management approval and the commencement of construction activities, the Town has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this chapter, the Stormwater Technical Standards Manual, and the terms and conditions of the approval.

Stormwater quality facilities shall be maintained in good condition, in accordance with the Operation and Maintenance procedures and schedules listed in the *Indiana Stormwater Quality Manual* or the Stormwater Technical Standards Manual, and/or the terms and conditions of the approved stormwater permit, and shall not be subsequently altered, revised, or replaced except in accordance with the stormwater management approval, or in accordance with approved amendments to the original approval.

All stormwater quality facilities will be inspected by representatives of the project site owner until the project is complete and a Notice of Termination has been approved. Inspection frequency shall follow specifications included in the Operation and Maintenance Manual submitted as part of the stormwater management approval application. Optional inspection checklists for some of the more common BMPs can be found in the Technical Standards. Following project completion, the owner is responsible for inspection and maintenance of the stormwater quality facilities. Upon approval by the Town, the O&M Manual shall be recorded in the Office of the Recorder of Hancock County.

The Town has the authority to conduct inspections following project completion to ensure full compliance with the provisions of this chapter. Noted deficiencies and recommended corrective action will be included in an inspection report. If deficiencies are found during the inspection, the owner of the stormwater quality facility will be notified by the Town and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the Town notification, the Town may undertake the work and collect from the owner using lien rights if necessary.



53.600 SERIES

STORMWATER MANAGEMENT PERMITTING REQUIREMENTS AND PROCEDURES

§ 53.601 CONCEPTUAL DRAINAGE PLAN REVIEW

In order to gain an understanding of the drainage requirements for a specific project, a developer may submit conceptual drainage plans and calculations for review by the Town of Fortville. The direction provided by the Town during such a review is based on preliminary data and shall not be construed as an approval or binding on either party. The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

- A. Two (2) complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems (plan sheet sizing must be at least 11" by 17", but not to exceed 24" by 36").
- B. General description of the existing and proposed drainage systems in narrative form.
- C. Watershed Boundaries shown on the best source of topographic information available for the watershed area .
- D. Existing watercourse(s) or regulated drains.

§ 53.602 PERMITTING PROCEDURES

This section applies to all development or re-development of land, under the jurisdictional authority of the Town of Fortville, which results in land disturbance of one (1) acre or more. Individual lots with land disturbance less than one (1) acre that are developed within a larger permitted project site should refer to § 53.604 for plan review requirements and procedures.

There are two scenarios for approval or permit application and processing procedures. One process is followed for projects located within the Town of Fortville; the other process is for projects that impact Hancock County regulated drains but are located within the jurisdictional areas of the Town.

A. Within the Town of Fortville

For projects located within the Town of Fortville, the project site owner shall submit an application for a stormwater management approval to the Town. The application will include a Notice of Intent letter (NOI), proof of public notice, construction plan sheets, stormwater drainage technical report, a stormwater pollution prevention plan, and any other necessary support information. Specific information to be included in the application can be found in § 53.603 below. Additionally, a digital copy of the construction plans is required in a format approved by the Town.

The Town will provide written comments and sign the plans after Construction Approval has been granted. Once the plans have been signed, and after a pre-construction meeting has been held, construction can commence.

The project site owner must notify the Town and IDEM 48 hours before beginning construction. Notification shall be in the form of an updated NOI. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this ordinance and the terms and conditions of the stormwater management approval. Upon completion of construction activities, as-built plans must be submitted to the Town in hardcopy and in an electronic format compatible with the Town's Geographic Information System

(GIS). A Notice of Termination (NOT) shall be sent to the Town once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed. The Town, or representative, shall inspect the construction site to verify the requirements for an NOT have been met. Once the applicant receives a “verified” copy of the NOT, they must forward a copy to IDEM. Permits issued under this scenario will expire 5 years from the date of issuance. If construction is not completed within 5 years, the NOI must be resubmitted at least 90 days prior to expiration. Figure 1-2018 is a flowchart summarizing the plan review/permit approval process and can be found at the end of this Chapter.

B. Impacting a Hancock County Regulated Drain

For projects located within the Town of Fortville but impacting Hancock County regulated drains, the project site owner must submit two (2) copies of the construction plans (which include drainage plans), erosion and sediment control plans, and a stormwater drainage technical report to the Hancock County Surveyor. Additionally, a digital copy of the construction plans is required in a format approved by the Hancock County Surveyor. If the project must go through a scheduled meeting, all information must be submitted at least thirty (30) days prior to its regularly scheduled meeting. The Hancock County Surveyor shall furnish the applicant a written list of objections to the plans and supporting data submitted by the applicant. This list of objections, if any, will be related only to the project's impact on Hancock County regulated drains. A resubmittal from the applicant addressing the list of objections shall be provided to the Hancock County Surveyor at least ten (10) days prior to any required scheduled meeting. Plans in substantial compliance with the requirements of this Ordinance and the Technical Standards that need to go through a scheduled meeting shall be placed on the agenda. If the Hancock County Surveyor approves the project, the applicant must satisfactorily address all issues listed in the conditional approval to obtain construction approval. This approval does *not* alleviate the applicant's responsibility to comply with Ordinance, policy, or resolution requirements of the Town.

§ 53.603 STORMWATER APPROVAL REQUIREMENTS

Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in the “Applicability and Exemptions” Sections of Chapters § 53.200, § 53.300, § 53.400, and § 53.500. If a project or activity is exempt from any or all requirements of this Ordinance, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required from individual lots, disturbing less than 1 acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under § 53.604.

The different elements of a permit/approval submittal for a Secondary Stormwater Plan approval include a Notice of Intent (NOI), proof of publication of a public notice, construction plans, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater pollution prevention plan, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the State of Indiana.

A. Draft Notice of Intent

The NOI is a standard form developed by the Indiana Department of Environmental Management which requires general project information. The NOI form should be completed in full and accompanied by proof of publication in a newspaper of general circulation, in the affected area, that notified the public that a construction activity is to commence. The publication must include the following language:

“(Company name, address) is submitting an NOI letter to notify the
Town of Fortville and the Indiana Department of Environmental

Management of our intent to comply with the requirements of the Town of Fortville Stormwater Management Ordinance, as well as the requirements of 327 IAC 15-5 and 327 IAC 15-13, to discharge stormwater from construction activities for the following project: (name of the construction project, address of the location of the construction project, and Parcel Identification Number). Run-off from the project site will discharge to (stream(s) receiving the discharge(s)).”

B. Construction Plans

Construction plan sheets and an accompanying narrative report shall describe and depict the existing and proposed conditions. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. Construction plans need to include items listed in the application checklist provided in the Fortville Stormwater Technical Standards Manual.

C. Stormwater Drainage Technical Report

A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. The technical report needs to include items listed in the application checklist provided in the Fortville Stormwater Technical Standards Manual.

D. Stormwater Pollution Prevention Plan for Construction Sites

For sites with total disturbance of land in an amount that would be governed by this Ordinance, a stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this Ordinance and must include the information provided in the Fortville Stormwater Technical Standards Manual. For land disturbances totaling less than 1 acre but greater than an amount that would be governed by this Ordinance, appropriate erosion and sediment control measures that are consistent with the Fortville Technical Standards must be designed and shown on the plans. The SWPPP must include items listed in the application checklist provided in the Fortville Stormwater Technical Standards Manual.

E. Post-Construction Storm Water Pollution Prevention Plan

For sites with total disturbance of land in an amount that would be governed by this Ordinance, a post-construction stormwater pollution prevention plan must be designed to, at least, meet the requirements of this Ordinance and must include the information provided in the Fortville Stormwater Technical Standards Manual. The post-construction storm water pollution prevention plan must include items listed in the application checklist provided in the Fortville Stormwater Technical Standards Manual.

§ 53.604 REVIEW OF INDIVIDUAL LOTS AND PARCELS

For individual lots disturbing less than 1 acre, developed within a larger permitted project, or larger than 1 acre individual parcels that are not part of a larger permitted project, a formal review and issuance of an Individual Lot Plot Plan Permit will be required before a building permit can be issued. If part of a larger permitted project, all stormwater management measures necessary to comply with this Ordinance must

be implemented in accordance with permitted plan for the larger project. All Individual Lot Plot Plans must receive the Town's approval.

The following information must be submitted to the Town for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request for review and issuance of an Individual Lot Plot Plan Permit that must be obtained prior to the issuance of a building permit.

- A. The individual lot operator must complete an Individual Lot Permit Request and pay the applicable fee.
- B. A certified site layout by an engineer or land surveyor for the subject lot and all adjacent lots showing the items noted on the Plot Plan Review Form contained in the Fortville Stormwater Technical Standards Manual.
- C. Erosion and sediment control plan that, at a minimum, includes the following measures:
 - i. Installation and maintenance of a stable construction site access.
 - ii. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
 - iii. Minimization of sediment discharge and tracking from the lot.
 - iv. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.
 - v. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
 - vi. Self-monitoring program including plan and procedures.
- D. Name, address, telephone number, and list of qualifications of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site.

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

Further details regarding individual lot and parcel control erosion and sediment control measures and the information required for permit is contained in the Fortville Stormwater Technical Standards Manual.

§ 53.605 CHANGES TO PLANS

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

§ 53.606 FEE STRUCTURE

A. Fee Amount

As a condition of the submittal and the review of development plans by the Town of Fortville, the applicant shall agree to pay the Town the applicable fee, as set by the Town Council with respect to the review of all drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data, as well as pre-paid inspection fees.

B. Time of Payment

After the meeting at which the Town is scheduled to consider acceptance of the applicant's final stormwater management plan, the Town will furnish a written statement to the applicant specifying

the total amount due to the Town in connection with the review of the applicant's submittals, plans and accompanying information and data, including the amount required to be paid by applicant for review and pre-paid inspection fees.

As a condition of acceptance of final drainage plans by the Town, the applicant shall pay to the Town the sum set forth in said statement. The Town may issue such a billing statement before the project advances to the final acceptance stage, and such payment is due by applicant upon receipt of said billing statement regardless of whether the project is advanced to the final acceptance stage.

The Town shall have the right to not accept the drainage improvements or to not accept the advancement of any project for which the applicable fees have not been paid.

C. Method of Payment

Fees shall be paid by one of the following methods:

- Check
- Money Order
- Credit Card

All checks shall be made payable to the Town of Fortville and submitted to:

Town of Fortville
c/o Planning & Building Director
714 E. Broadway St.
Fortville, IN 46040

D. Refund of Payment

Fees are refundable **only** if the Town determines that compliance by the development to this Ordinance is not necessary.

§ 53.607 REQUIRED ASSURANCES

As a condition of approval and issuance of the approval/permit, the Town of Fortville shall require the applicant to provide assurance in form of an irrevocable letter of credit or a bond when the stormwater management plan has been accepted, all applicable fees paid, and before construction begins. Said assurance will guarantee a good faith execution of the stormwater drainage plan, the stormwater pollution prevention plan, the stormwater quality management plan, and any approval/permit conditions. The assurance shall be for an amount equal to 125 percent of the total costs of all stormwater management measures for the entire project. The above mentioned costs shall be based on an estimate as prepared by a registered engineer or land surveyor. Said costs shall be for the installation and ongoing monitoring and maintenance of erosion control measures and the construction and ongoing monitoring and maintenance of storm drainage infrastructure, detention/retention facilities, and stormwater quality BMPs, as regulated under this Ordinance, until the construction is completed, site is stabilized, and as-built plans are accepted by the Town. Assurances shall be for a minimum of \$5,000. The Town shall require additional maintenance assurances for 3 years for an amount equal to 20 percent of the total costs of all stormwater management measures for the entire project. The intent of this assurance is not only to complete the installation of storm drain infrastructure for the project, but also to assure that adequate stormwater pollution prevention measures are properly installed and maintained. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual stormwater assurance.

§ 53.608 TERMS AND CONDITIONS OF APPROVALS OR PERMITS

In granting a stormwater management approval, the Town may impose such terms and conditions as are reasonably necessary to meet the purposes of this Ordinance. The project site owner shall ensure compliance with such terms and conditions. Non-compliance with the terms and conditions of approvals will be subject to enforcement as described in Chapter 53.700.

The project site owner shall inform all general contractor, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of the stormwater management approval/permit and the schedule for proposed implementation.

In the event that a project site is determined to impact or discharge to a Sensitive Area or is located in an Impact Drainage Area, the Town may require more stringent stormwater quantity and quality measures than detailed in this Ordinance, the Stormwater Technical Standards, or in the *Indiana Stormwater Quality Manual*.

A. Determination of Sensitive Areas

Sensitive Areas include highly erodible soils, wetlands, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. A listing of highly erodible soils, outstanding water, impaired water, recreation water, and surface drinking water sources can be found in the latest edition of Hancock County Storm Water Quality Management Plan (SWQMP) - Part B. If wetlands are suspected on a site, wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers (COE) and the wetland addressed in accordance to the requirements of Chapter 6 of this Ordinance. The presence of threatened or endangered species habitat will be evaluated by the Town during the approval/permit review process. Special terms and conditions for development determined to impact or discharge to any Sensitive Area shall be included in the stormwater management approval.

B. Determination of Impact Drainage Areas

The Town is authorized, but is not required, to classify certain geographical areas as Impact Drainage Areas. In determining Impact Drainage Areas, the Town shall consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility. The following areas shall be designated as Impact Drainage Areas, unless good reason for not including them is presented to the Town:

- i. A floodway or floodplain as designated by the most updated Fortville Town Code dealing with floodplain regulation.
- ii. Land within a Fluvial Erosion Hazard (FEH) corridor of Hancock County streams as shown on the FEH maps created by the Indiana Silver Jackets Fluvial Erosion Hazard Program or any updates, currently hosted on the Hancock County GIS website.
- iii. Land within 75 feet of each bank of any ditch within the Hancock County's Regulated Drainage System.
- iv. Land within 75 feet of the centerline of any drain tile or enclosed conduit within the Hancock County's Regulated Drainage System.
- v. Land within the expected breach inundation zone of an existing or proposed new dam, land within the inundation zone behind an existing or proposed new dam assumed full of water to the top of the dam, and areas protected from flooding by a levee.

Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an Impact Drainage Area by the Town.

Specific requirements for development within Impact Drainage Areas are contained in Fortville Stormwater Technical Standards Manual. Additional special terms and conditions for development within any Impact Drainage Area shall be included in the stormwater management approval.

§ 53.609 CERTIFICATION OF AS-BUILT PLANS

After completion of construction of the project and before final project acceptance, a professionally prepared and certified 'as-built' set of plans shall be submitted to the Town of Fortville for review. Additionally, a digital copy of the 'as-built' plans is required in a format accepted by the Town that must meet metadata requirements for as-built plans. These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:

- A. Pipe size and pipe material
- B. Invert elevations
- C. Top rim elevations
- D. Elevation of the emergency overflow (spillway) for ponds
- E. Pipe structure lengths
- F. BMP types, dimensions, and boundaries/easements
- G. "As-planted" plans for BMPs, vegetation, trees/buffer, as applicable
- H. Data and calculations showing detention basin storage volume
- I. Data and calculations showing BMP treatment capacity
- J. Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the stormwater management approval by the Town. (See certificate in Stormwater Technical Standards Manual.)

In addition to the digital copy of as-built plans, digital copies of all reports and plans noted in Chapters § 53.603 and § 53.604 shall be submitted in their final accepted forms to the Town so that they can be electronically filed for any future reference.

The property owner, developer, or contractor shall be required to file a three-year maintenance bond or other acceptable guarantee with the Town of Fortville, prior to final project acceptance, in an amount not to exceed twenty percent (20%) of the cost of the stormwater drainage system located outside the public road right-of-ways, and in a form satisfactory to the Town in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, that such project was done in accordance with the accepted plans and this Ordinance, and that any off-site drainage problems that may arise, whether upstream or downstream of such project, will be corrected if such drainage problems are determined by the Town to have been caused by the development of such project. The bond or other acceptable guarantee shall be in effect for a period of three years after the date of the final project acceptance by the Town.

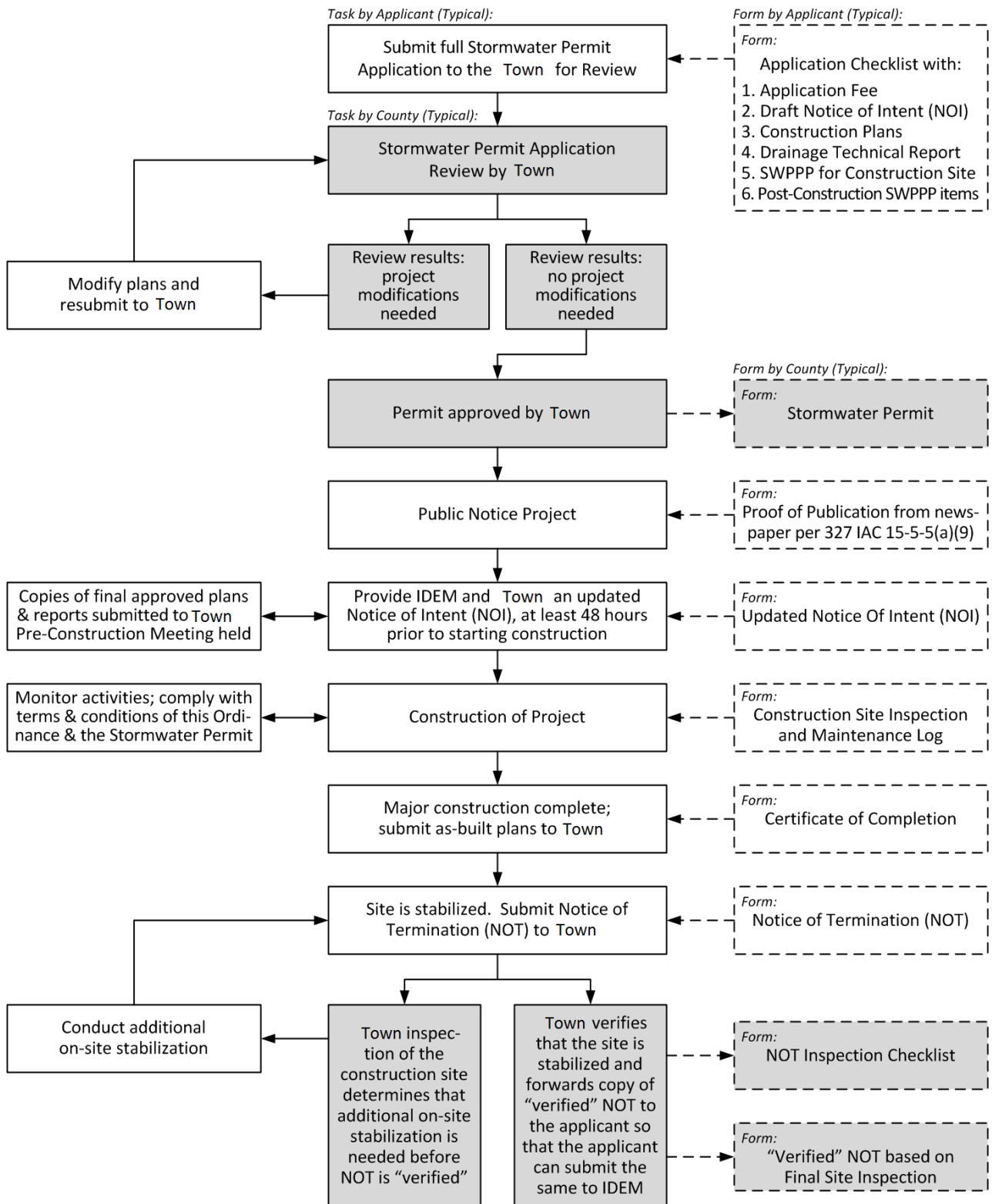
To verify that all regulated drain tiles are functioning properly, visual recordings (via closed circuit television) of such tile drains shall be required, once following the completion of installation (including the installation of all utility mains) and the second time before release of maintenance bond. These visual recordings will be scheduled by the Town and paid for by the developer. Notices shall be provided to the

Town within 72 hours following the completion of installation and again at least 60 days prior to the expiration date of the maintenance bond so that the noted recordings may be scheduled. Reports summarizing the results of the noted visual recordings shall be reviewed and accepted by the Town before the plat is recommended for recording and again before maintenance bond would be recommended to be released.

§ 53.610 VARIANCE POLICY

It is recognized that, from time to time, stormwater management design professionals may need to deviate from policies, procedures, technical standards, and design criteria adopted by the Town of Fortville. This Variance Policy is provided to give the stormwater management design professional guidance on what deviations from policies, procedures, technical standards, and design criteria will necessitate a formal variance request. In general, proposed deviations from policies and procedures set forth in this Stormwater Management Ordinance (Chapter 53) will be processed as variances, and proposed deviations from the Stormwater Technical Standards Manual (including Appendix D of those Standards) will require review and approval from Town staff.

Figure 1-2020: Permit Approval Process (Within Town of Fortville)





53.700 SERIES

COMPLIANCE AND ENFORCEMENT

§ 53.701 COMPLIANCE WITH THIS ORDINANCE

In addition to the requirements of this Ordinance, compliance with the requirements set forth in the Fortville Zoning Ordinance is also necessary. Compliance with all applicable ordinances of the Town of Fortville as well as with applicable State of Indiana statutes and regulations, Federal regulations, and County regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Ordinance shall be the most recent edition available. Violations of the requirements of this Ordinance are subject to the penalties listed below.

A. Violations

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

B. Warning Notice

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

§ 53.702 ENFORCEMENT OF THIS ORDINANCE

A. Notice of Violation

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

The notice of violation shall contain detailed inspection findings, conclusions of law, disposition of warning or fines assessed, stipulated remedial actions as discussed with the responsible party representative, reasonable deadlines for those remedial actions, and the date of re-inspection.

B. Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Town of Fortville may impose alternative compensatory actions upon a violator, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

C. Civil Penalties for Violations

Any person found in violation of any provision of this Ordinance shall be responsible for a civil infraction and subject to the minimum fines as specified in the latest version of penalty matrix approved by the Town Council, plus costs, damages, and expenses. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

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

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

The following schedule of fines have been established by the Town for violations associated with the compliance with sediment and erosion control measures.

| Violations: | 1 st Occurrence | 2 nd Occurrence | Every Subsequent Occurrence |
|---------------------------------|----------------------------|----------------------------|-----------------------------|
| Construction Entrance | \$250 | \$500 | \$500 |
| Perimeter Erosion Control | \$250 | \$500 | \$500 |
| Failure to Notify | \$100 | \$200 | \$200 |
| Streets (sediment) | \$100-250-500* | \$200-500-1000* | \$200-500-1000* |
| Concrete Washout | \$250-500* | \$500-1000* | \$500-1000* |
| Solid Waste (Trash/Debris) | \$100 | \$200 | \$200 |
| Use of Vacant Lot | \$100 | \$200 | \$200 |
| Beehive/Street Inlet Protection | \$100 each | \$200 | \$200 |

Notes: * depending on whether it is a small, medium, or large amount

D. Stop Work Order

In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this Ordinance or accepted final stormwater management plans, the Town of Fortville may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Town to proceed with the work. A Stop Work Order will be posted on the site by the Town and it is unlawful for any person to remove the notice or continue any work on the site without permission from the Town. The Town may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this Ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.

Any person who neglects or fails to comply with a stop work order shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$1,000, and such person shall also pay such costs as may be imposed in the discretion of the court. A permit/approval reinstatement fee may also be assessed by the Town.

E. Withhold Certificate of Occupancy

If applicable, the Town of Fortville may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

F. Suspension, Revocation, of Modification of Approvals/Permits

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

G. Suspension of Access to the Stormwater Drainage System

i. Emergency Cease and Desist Orders

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

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

The Town may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Town that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Town within 5 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

ii. Suspension Due to Illicit Discharges in Emergency Situations

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

iii. Suspension Due to the Detection of Illicit Discharge

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

H. Criminal Penalties for Violations

For intentional and flagrant violations of this ordinance, the Town of Fortville may issue a notice to the applicant or other responsible person and the owner of the property, requiring such person to appear in the Circuit or Superior Court of Hancock County to answer charges for such violation. Upon conviction, such person shall be punished by a fine as set by the Town Council, plus costs, damages, and expenses or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

§ 53.703 COST OF ABATEMENT OF THE VIOLATION

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

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

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

§ 53.704 APPEALS

A. Appeal of Notice of Violation

Any person to whom any provision of this Ordinance has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Fortville Town Council the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Town Council shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Town Council may consider the recommendations of Town staff and the comments of other persons having knowledge of the matter. In considering any such appeal, the Town Council may grant a variance from the terms of this Ordinance to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- i. The application of the Ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical

difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the Ordinance; and

- ii. The granting of the relief requested will not substantially prevent the goals and purposes of this Ordinance, nor result in less effective management of stormwater runoff.

B. Enforcement Measures After Appeal

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

Section II

The Fortville Town Council also hereby adopts Stormwater Technical Standards, which shall be on file at Town Hall for public inspection.

Section III

This ordinance takes effect on January 7, 2020.

Duly ordained and passed this 6th day of January, 2020 by the Town Council of the Town of Fortville, Hancock County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN OF FORTVILLE, INDIANA, BY ITS TOWN COUNCIL

Voting Affirmative:



Fritz Fentz



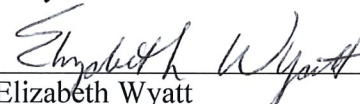
Robert Holland



Becky Davis



Tonya Davis



Elizabeth Wyatt

Voting Opposed:

Fritz Fentz


Robert Holland

Becky Davis

Tonya Davis

Elizabeth Wyatt

ATTEST:



~~Melissa Glazier~~ *Alex Intermill*
~~Clerk-Treasurer~~ *TOWN ATTORNEY*