

CHAPTER 52: STORM WATER REGULATIONS

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DEPARTMENT OF STORM WATER

MANAGEMENT; FEES AND BILLING

§ 52.001 INTENT.

It is the intent of this chapter to establish a storm water utility to be responsible for the operation, construction and maintenance of storm water facilities; for storm water system planning and for review of storm water development plans for compliance with storm water management codes.

(Ord. 2023-11, passed 8-1-2023)

§ 52.002 LEGISLATIVE FINDINGS AND POLICY.

(A) The Common Council of the city finds, determines and declares that the storm water system which provides for the collection, treatment, storage and disposal of storm water provides benefits and services to all property within the incorporated city limits.

(B) Such benefits include, but are not limited to:

(1) The provision of adequate systems of collection, conveyance, detention, treatment and release of storm water;

(2) The reduction of hazards to property and life resulting from storm water runoff;

(3) Improvements in general health and welfare through reduction of undesirable storm water conditions; and

(4) Improvements to the water quality in the storm water and surface water system and its receiving waters.

(Ord. 2023-11, passed 8-1-2023)

§ 52.003 CREATION OF STORM WATER UTILITY.

(A) (1) For those purposes of the Federal Clean Water Act and of I.C. 8-1.5, there is hereby created a Department of Storm Water Management which shall be governed by the City Board of Public Works and Safety pursuant to I.C. 8-1.5-3-3.

(2) The Department of Storm Water Management shall consist of a Manager, appointed by the Mayor as the Storm Water Management department head, and such staff as deemed necessary by the City Board of Public Works and Safety.

(B) The Department of Storm Water Management, under the legislative policy, supervision and control of the Common Council of the city, shall:

(1) Administer the acquisition, design, construction, maintenance and operation of the Department of Storm Water Management system, including capital improvements designated in the capital improvement program;

(2) Administer and enforce this chapter and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility storm water system, including, but not limited to, the quantity, quality and/or velocity of the storm water conveyed thereby;

(3) Advise the municipality's Common Council and other city departments on matters relating to the utility;

(4) Prepare and revise a comprehensive drainage plan for adoption by the municipality's Common Council;

(5) Review plans and approve or deny, inspect and accept extensions and connections to the system;

(6) Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended; and

(7) Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility.

(Ord. 2023-11, passed 8-1-2023)

§ 52.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

BASE RATE. The storm water user's fee for a detached single-family residential property in the city.

CONSTRUCTION. The erection, building, acquisition, alteration, reconstruction, improvement or extension of storm water facilities; preliminary planning to determine the economic and engineering feasibility of storm water facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other action necessary in the construction of storm water facilities; and the inspection and supervision of the construction of storm water facilities.

DEVELOPED PROPERTY. Real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement or other improvements.

EQUIVALENT RESIDENTIAL UNIT or ERU. The average square footage of a detached single-family residential property determined pursuant to this chapter.

EXEMPT PROPERTY. All properties of the federal, state, county and city governments, and any of their divisions or subdivisions, and property that does not discharge storm water runoff into the storm water or flood control facilities of the municipality.

FEE or STORM WATER USER'S FEE. The charge established under this chapter and levied on owners or users of parcels or pieces of real property to fund the costs of storm water management and of operating, maintaining and improving the storm water system in the municipality. The **STORM WATER USER'S FEE** is in addition to any other fee that the municipality has the right to charge under any other rule or regulation of the municipality.

FISCAL YEAR. July 1 of a calendar year to June 30 of the next calendar year, both inclusive.

IMPERVIOUS SURFACE. A surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs,

sidewalks, patios, driveways, parking lots and any other oiled, graveled, graded, compacted or any other surface which impedes the natural infiltration of surface water.

IMPERVIOUS SURFACE AREA. The number of square feet of horizontal surface covered by buildings, and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

OTHER DEVELOPED PROPERTY. Developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices and churches.

PERSON. Any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

PROPERTY OWNER. The property owner of record as listed in the county's assessment roll. A **PROPERTY OWNER** includes any individual, corporation, firm, partnership or group of individuals acting as a unit, and any trustee, receiver or personal representative.

SINGLE-FAMILY RESIDENTIAL PROPERTY. A developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single-family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.

STORM WATER. Storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

STORM WATER MANAGEMENT. The planning, design, construction, regulation, improvement, repair, maintenance and operation of facilities and programs relating to water, floodplains, flood control, grading, erosion, tree conservation and sediment control.

STORM WATER MANAGEMENT FUND or FUND. The fund created by this chapter to operate, maintain and improve the city's storm water system.

SURFACE WATER. Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

USER. The owner of record of property subject to the storm water user's fee imposed by this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.005 FUNDING OF DEPARTMENT OF STORM WATER MANAGEMENT.

(A) Funding for the Department of Storm Water Management's activities may include, but not be limited to, the following:

- (1) Storm water user's fees;
- (2) Civil penalties and damage assessments imposed for or arising from the violation of the city's storm water management ordinance;
- (3) Storm water permit and inspection fees: and
- (4) Other funds or income obtained from federal, state, local and private grants, or revolving funds.

(B) To the extent that the storm water drainage fees collected are insufficient to construct needed storm water drainage facilities, the cost of the same may be paid from such city funds as may be determined by the municipality's Common Council.

(Ord. 2023-11, passed 8-1-2023)

§ 52.006 STORM WATER FUND.

All revenues generated by or on behalf of the Department of Storm Water Management shall be deposited in a Department of Storm Water Management Fund and used exclusively for the Department of Storm Water Management.

(Ord. 2023-11, passed 8-1-2023)

§ 52.007 OPERATING BUDGET.

The municipality's Common Council shall adopt an operating budget for the Department of Storm Water Management each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

(Ord. 2023-11, passed 8-1-2023)

§ 52.008 STORM WATER USER'S FEES ESTABLISHED.

(A) There shall be imposed on each and every developed property in the city, except exempt property, a storm water user's fee, which shall be set from time to time by ordinance or resolution, and in the manner and amount prescribed by this chapter.

(B) Prior to establishing or amending user's fees, the municipality shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the city at least 30 days in advance of the meeting of the municipality's Common Council which shall consider the adoption of the fee or its amendment.

(Ord. 2023-11, passed 8-1-2023)

§ 52.009 EQUIVALENT RESIDENTIAL UNIT (ERU).

(A) *Establishment.* There is established for purposes of calculating the storm water user's fee the equivalent residential unit (ERU).

(B) *Definition.* The ERU is the average square footage of a detached single-family residential property.

(C) *Setting the ERU.* The ERU shall be set by the municipality's Common Council from time to time by ordinance or resolution.

(D) *Source of ERU.* The municipality's Common Council shall have the discretion to determine the source of the data from which the ERU is established, taking into consideration the general acceptance and use of such source on the part of other storm water systems, and the reliability and general accuracy of the source. The municipality's Common Council shall have the discretion to determine the impervious surface area of other developed property through property tax assessor's rolls or site examination, mapping information, aerial photographs and other reliable information.

(Ord. 2023-11, passed 8-1-2023)

§ 52.010 PROPERTY CLASSIFICATION FOR STORM WATER USER'S FEE.

(A) *Property classifications.* For purposes of determining the storm water user's fee, all properties in the city are classified into one of the following classes:

- (1) Single-family residential property;

- (2) Other developed property; or
- (3) Exempt property.

(B) *Single-family residential fee.* The municipality's Common Council finds that the intensity of development of most parcels of real property in the municipality classified as single-family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures and other impervious areas) on each such parcel. Therefore, all single-family residential properties in the city shall be charged a flat storm water management fee, equal the base rate, regardless of the size of the parcel or the improvements.

(C) *Other developed property fee.*

(1) The fee for other developed property (i.e., non-single-family residential property) in the municipality shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one ERU. The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property.

(2) The minimum storm water management fee for other developed property shall equal the base rate for single-family residential property.

(D) *Exempt property.* There shall be no storm water user's fee for exempt property.

(Ord. 2023-11, passed 8-1-2023)

§ 52.011 BASE RATE.

The municipality's Common Council shall, by ordinance or resolution, establish the base rate for the storm water user's fee. The base rate shall be calculated to ensure adequate revenues to fund the costs of storm water management and to provide for the operation, maintenance and capital improvements of the storm water system in the city.

(Ord. 2023-11, passed 8-1-2023)

§ 52.012 ADJUSTMENTS TO STORM WATER USER'S FEES.

The Department of Storm Water Management shall have the right on its own initiative to adjust upward or downward the storm water user's fees with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of storm water, or any significant variation in the quality of storm water, emanating from the property, compared to other similar properties. In making determinations of the similarity of property, the Department of Storm Water Management shall take into consideration the location, geography, size, use, impervious area, storm water facilities on the property and any other factors that have a bearing on the variation.

(Ord. 2023-11, passed 8-1-2023)

§ 52.013 LIABILITY FOR CHARGES.

The procedures, rates and charges for the use of and the service rendered by the city's Storm Water Management Department established in this chapter, and liability therefore, shall be the responsibility of the owner of each and every non-exempt lot, parcel of real estate, or building, regardless of occupancy. If the city permits utility bills to be invoiced to an occupant, liability for payment shall be the joint and several liability of the occupant and owner. In addition, it shall be the owner's responsibility to verify payments are timely made by an occupant. Failure on the part of the owner to pay or cause payment for such services and other city services included on the utility bill referenced in § 50.40 shall result in the exercise of remedies against the owner set forth in this chapter as well as that set forth in §§ 50.40 and 50.41.

(Ord. 2023-11, passed 8-1-2023)

§ 52.014 BILLING PROCEDURES AND PENALTIES FOR LATE PAYMENT.

(A) *Rate and collection schedule.* The storm water user's fee must be set at a rate, and collected on a schedule, established by ordinance or resolution.

(B) *Delinquent bills.* The storm water user's fee shall be paid in person or by mail at Decatur city hall, 172 N. 2nd Street, Decatur, IN 46733 and shall become delinquent as of 17 days following the billing date. Any unpaid storm water user's fee shall bear interest at the legal rate if it remains unpaid after the due date.

(C) *Penalties for late payment.* Storm water user's fees shall be subject to a late fee established by ordinance or resolution. The municipality shall be entitled to recover attorney's fees incurred in collecting delinquent drainage fees. Any charge due under this chapter which shall not be paid may be recovered at law by the municipality.

(Ord. 2023-11, passed 8-1-2023)

§ 52.015 APPEALS OF FEES.

(A) *Generally.* Any person who disagrees with the calculation of the storm water user's fee, as provided in this chapter, or who seeks a storm water user's fee adjustment based upon storm water management practices, may appeal such fee determination to the Department of Storm Water Management within 30 days from the date of the last bill containing storm water user's fees charges. Any appeal shall be filed in writing and shall state the grounds for the appeal. The Department of Storm Water Management Director may request additional information from the appealing party.

(B) *Adjustments.* Storm water user's fee adjustments for storm water management practices may be considered for: reductions in runoff volume including discharge to a non-city drainage system; and properly designed constructed and maintained existing retention facilities (i.e., evaporation and recharge). Based upon the information provided by the utility and the appealing party, the Department of Storm Water Management shall make a final calculation of the storm water drainage fee. The Department of Storm Water Management shall notify the parties, in writing, of its decision.

(Ord. 2023-11, passed 8-1-2023)

STORM WATER USER FEE

§ 52.030 INTENT; DEFINITIONS.

(A) It is the intent of this subchapter to establish a fair, equitable and dependable source of funds to manage the storm water program in the city consistent with federal and state law and local ordinance.

(B) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

BOARD. The Decatur Board of Public Works and Safety which controls the Department of Storm Water Management.

BONDS. Revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

CALENDAR YEAR. A 12-month period commencing on January 1 of any year.

COSTS OF CONSTRUCTION. Costs reasonable incurred in connection with providing capital improvements to the system or any portion thereof, including, but not limited to, the costs of:

(a) Acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefore;

(b) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith;

(c) Architectural, engineering, legal and other professional services;

(d) Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction;

(e) Any taxes or other charges which become due during construction;

(f) Expenses incurred by the city or on its behalf with its approval in seeking to enforce any remedy against any contractor or bus-contractor in respect of any default under a contract relating to construction;

(g) Principal of and interest of any bonds; and

(h) Miscellaneous expenses incidental thereto.

DEBT SERVICE. With any particular series of bonds, an amount equal to the sum of:

(a) All interest payable on such bonds during such calendar year; plus

(b) Any principal installments of such bonds during such calendar year.

DEVELOPED PROPERTY. Real property other than undisturbed property and vacant improved property.

DIRECTOR. A member of the City Board of Public Works and Safety.

DWELLING UNIT. A singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

EQUIVALENT RESIDENTIAL UNIT or ERU. The average impervious area of residential developed property per dwelling unit located within the city and as established by the Board.

ERU RATE. A utility fee charged on each ERU as established by the Common Council of the City of Decatur.

EXEMPT PROPERTY. Public rights-of-way, public streets, public alleys and public sidewalks.

EXTENSION AND REPLACEMENT. Costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisitions for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

IMPERVIOUS AREA. The number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as undisturbed property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undisturbed property, including, but not limited to, roofs, roof extensions, patios, porches, driveway, sidewalks, pavement, stone and gravel.

MANAGER. The department head for the Department of Storm Water Management.

NON-RESIDENTIAL DEVELOPED PROPERTY. Developed property that is not utilized for dwelling units within the city.

OPERATING BUDGET. The annual operating budget adopted by the city for the succeeding fiscal year.

OPERATIONS AND MAINTENANCE. The current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

REVENUES. All rates, fees, assessments, rentals or other charges or other income received by the Storm Water User Fee Fund, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the city, all as calculated in accordance with sound accounting practice.

STORM WATER MANAGEMENT SYSTEM or SYSTEM. The existing storm water management of the city and all improvements thereto which by this chapter are constituted as the property and responsibility of the city, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

STORM WATER USER FEE. A fee authorized by ordinance(s) established to pay operations and maintenance, extension and replacement and debt service.

STORM WATER USER FEE FUND. The special revenue fund created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.

UNDISTURBED PROPERTY. Real property, which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities, which have disturbed or altered the topography or soils on the property.

USER FEE DISTRICT. The area or property within the corporate limits of the city.

VACANT IMPROVED PROPERTY. Vacant property, which is or could reasonably be, served by any subdivision improvements that allow egress.

(Ord. 2023-11, passed 8-1-2023)

§ 52.031 FEE ESTABLISHED.

Subject to the provisions of this subchapter, each and every residential developed property, nonresidential developed property and vacant improved property, other than exempt property, within the corporate limits of the city, and the owners and non-owner users thereof, have imposed upon them a storm water user fee. In the event the owner and non-owner users of a particular property are not the same, the liability for each the owner and non-owner for the user fee attributable to that property shall be joint and several. The storm water user fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this chapter and the ERU and ERU rate which shall be established and changed from time to time by the Common Council of the city.

(Ord. 2023-11, passed 8-1-2023)

§ 52.032 STORM WATER USER FEE COLLECTION.

(A) The storm water user fee for residential and non-residential property shall be billed and collected monthly with the monthly utility services bill for those properties within the corporate limits of

the city.

(B) The storm water user fee for those properties utilizing city utilities is part of a consolidated statement for utility customers, which is generally paid by a single payment to the Utility Department.

(C) In the event that a partial payment is received, the payment shall be applied pro rata to each account billed on the consolidated statement in the proportion that an individual account bears to the total consolidated statement of all current charges for all accounts.

(D) All bills for storm water user fees shall become due and payable in accordance with the rules and regulations of the Utilities Department pertaining to the collection of the storm water user fees.

(Ord. 2023-11, passed 8-1-2023)

§ 52.033 USER FEE DETERMINATION.

There is hereby established the following uniform schedule of rates for the services and use of facilities of the storm water management system by the owner, tenant or occupant of the premises using the services and facilities of said system.

(A) The Common Council of the city upon recommendation of the Board of Directors for the Department of Storm Water Management shall establish reasonable rates for storm water management systems for each single-family residence; each single-family residence shall be billed at a flat fee established by the Common Council for an equivalent residential unit (ERU).

(B) (1) For all nonresidential properties, that is enterprise, business establishment, building or other occupancy not covered by this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of an equivalent residential unit times the rate established for an equivalent residential unit.

(2) The billing amount shall be updated by the Manager based on any additions to the impervious areas as approved through the building permit process.

(Ord. 2023-11, passed 8-1-2023)

§ 52.034 ERU ESTABLISHED.

The equivalent residential unit is hereby established to be 2,840 square feet of impervious area.

(Ord. 2023-11, passed 8-1-2023)

§ 52.035 ERU RATE ESTABLISHED.

The ERU rate to be charged for storm water management utility fees for each ERU is hereby established to be \$3.50 per month. This will increase to \$4.50 on January 1, 2017.

(Ord. 2023-11, passed 8-1-2023)

ILLCIT DISCHARGE AND CONNECTION

§ 52.100 PURPOSE/INTENT.

(A) It is the intent of this subchapter to prohibit the connection of non-storm water discharges to the storm water system.

(B) (1) The purpose of this subchapter is to provide for the health, safety and general welfare of the citizens of the city through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.

(2) This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(3) The objectives of this subchapter are:

(a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user;

(b) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and

(c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.101 DEFINITIONS.

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

AUTHORIZED ENFORCEMENT AGENCY. The City Department of Storm Water Management.

BEST MANAGEMENT PRACTICES (BMPs).

(1) Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters or storm water conveyance systems.

(2) BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more, as defined in the IDEM construction storm water general permit. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

DEPARTMENT. The City Department of Storm Water Management.

HAZARDOUS MATERIALS. Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in § 52.106 of this chapter.

ILLICIT CONNECTIONS. Either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks,

regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits, as defined in the IDEM industrial storm water general permit.

MANAGER. The department head for the Department of Storm Water Management.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by the EPA (or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT.

(1) Anything which causes or contributes to pollution.

(2) **POLLUTANTS** may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM. Publicly-owned facilities by which storm water is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

STORM WATER. Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER POLLUTION PREVENTION PLAN. A document which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(Ord. 2023-11, passed 8-1-2023)

§ 52.102 APPLICABILITY.

This subchapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Ord. 2023-11, passed 8-1-2023)

§ 52.103 RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.104 SEVERABILITY.

(A) The provisions of this subchapter are hereby declared to be severable.

(B) If any provision, clause, sentence or division of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.105 ULTIMATE RESPONSIBILITY.

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

(Ord. 2023-11, passed 8-1-2023)

§ 52.106 DISCHARGE PROHIBITIONS.

(A) *Prohibition of illegal discharges.*

(1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

(2) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited, except as described as follows.

(a) The following discharges are exempt from discharge prohibitions established by this chapter:

1. Water line and hydrant flushing for maintenance;
2. Irrigation water;
3. Footing, foundation, and crawl space drains (uncontaminated);
4. Excess storm sewer cleaning water not collected by a vacuum truck (uncontaminated);
5. Fire suppression activities;
6. Uncontaminated pumped groundwater;
7. Springs;
8. Residential car washing;
9. Non-commercial car washing by community organizations;

10. External building washdown, without detergents;
11. Dechlorinated/debrominated residential swimming pool discharges;
12. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20));
13. Pavement wash waters, provided spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used; and
14. Uncontaminated condensate from air conditioning units, coolers, and other compressors, and from outside storage of refrigerated gases or liquids.

(b) Discharges specified in writing by the Department as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge, but requires a verbal notification to the Department prior to the time of the test.

(d) The prohibition shall not apply to any non-storm water 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 approval has been granted for any discharge to the storm drain system.

(B) *Prohibition of illicit connections.*

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this subchapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. 2023-11, passed 8-1-2023)

§ 52.107 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Department prior to the allowing of discharges to the MS4.

(Ord. 2023-11, passed 8-1-2023)

§ 52.108 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The Department shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with this subchapter. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Department access to a permitted facility is a violation of a storm water discharge permit and of this subchapter. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Department reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this subchapter.

(7) If the Department has been refused access to any part of the premises from which storm water is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Department may seek a court order to access the premises.

(Ord. 2023-11, passed 8-1-2023)

§ 52.109 REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Department will establish requirements identifying best management practices for any activity, operation or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at his, her or their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this subchapter. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 2023-11, passed 8-1-2023)

§ 52.110 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property 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, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

(Ord. 2023-11, passed 8-1-2023)

§ 52.111 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system or water of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Department in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. 2023-11, passed 8-1-2023)

STORM WATER QUANTITY MANAGEMENT

§ 52.200 PURPOSE; INTENT.

The purpose of this subchapter is to reduce the hazard to public health and safety caused by excessive storm water runoff and to establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.201 DEFINITIONS.

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

AUTHORIZED ENFORCEMENT AGENCY. The City Department of Storm Water Management.

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

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

DEPARTMENT. The City Department of Storm Water Management.

DETENTION. Managing storm water 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.

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 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.

DRAINAGE. The removal of excess surface water or groundwater from land by means of ditches or subsurface drains.

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.

FLUVIAL EROSION HAZARD (FEH) CORRIDOR. 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.

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

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

REDEVELOPMENT. Development occurring on a previously developed site.

REGIONAL POND. A detention/retention basin sized to detain/retain the runoff from the entire watershed, on-site and off-site, tributary to the pond's outlet.

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

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

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

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.

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

(Ord. 2023-11, passed 8-1-2023)

§ 52.202 APPLICABILITY AND EXEMPTIONS.

The storage and controlled release of excess storm water runoff shall be required for all new business, institutional developments, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the City of Decatur that would disturb 10,000 square feet or more of land area. The Department, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization, sites with less than 5,000 square feet of impervious area, and agricultural zoned land within the extraterritorial boundary of the City of Decatur, if the proposed development disturbed area is less than one acre AND is less than 5,000 square feet of total impervious surface. Additional potential exemptions regarding the detention requirements are provided under § 52.206.

(Ord. 2023-11, passed 8-1-2023)

§ 52.203 RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.204 SEVERABILITY.

(A) The provisions of this subchapter are hereby declared to be severable.

(B) If any provision, clause, sentence or division of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.205 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this subchapter does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

(Ord. 2023-11, passed 8-1-2023)

§ 52.206 POLICY ON STORM WATER QUANTITY MANAGEMENT.

(A) It is recognized that most streams and drainage channels serving the City of Decatur do not have sufficient capacity to receive and convey storm water runoff resulting from continued urbanization. Accordingly, the storage and controlled release of excess storm water runoff as well as compensation for loss of floodplain storage shall be required for all developments and redevelopments located within the City of Decatur. Release rate requirements, downstream restriction considerations, acceptable outlet, adjoining property impact considerations, policy on dams and levees, policy on fluvial erosion hazard corridors, and compensatory floodplain storage rates are detailed in the City of Decatur Storm Water Technical Standards.

(B) Due to unknowns regarding the future development patterns and the associated proposed storm water quantity management systems within a watershed, it is the policy of the Department to discourage direct release of runoff from a new development or redevelopment without providing detention. However, in rare circumstances, where a comprehensive watershed-wide hydrologic study or watershed plan of a major stream (not a "beat the peak" analysis) adopted by the Department substantiates the benefits of (or allows for) direct release for a proposed development located

adjacent to a major stream, the detention requirements set in this chapter may be waived. Other special circumstances when such a waiver may be considered by Department include situations where the design of a regional pond has already taken into account the provision of direct release in certain areas in the watershed.

(Ord. 2023-11, passed 8-1-2023)

§ 52.207 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

The calculation methods as well as the type, sizing, and placement of all storm water facilities shall meet the design criteria, standards, and specifications outlined in the City of Decatur Storm Water Technical Standards Manual. The methods and procedures in the Storm Water Technical Standards Manual are consistent with the policy stated above.

(Ord. 2023-11, passed 8-1-2023)

§ 52.208 DRAINAGE EASEMENT REQUIREMENTS.

(A) All storm water systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way shall be placed within a drainage easement. There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise accepted by the Department. Additional easement requirements along storm water conveyance systems are contained in the City of Decatur Storm Water Technical Standards Manual. All drainage improvements performed relative to the conveyance of storm water runoff and the perpetual maintenance thereof, within the latter easements, shall be the responsibility of the owner or homeowner association.

(B) Any outlet to, crossing, and/or encroachment of a county regulated drainage easement requires application and acceptance from the County Drainage Board in accordance with the Indiana Drainage Code.

(Ord. 2023-11, passed 8-1-2023)

§ 52.209 PLACEMENT OF UTILITIES.

No utility company may disturb existing storm drainage facilities without the consent of the Department, whose decision may be appealed to the City of Decatur Board of Public Works and Safety. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in § 52.607.

(Ord. 2023-11, passed 8-1-2023)

§ 52.210 STRUCTURES NEAR COUNTY REGULATED DRAINS.

For regulated drains not located in platted subdivisions, unless otherwise accepted by the Adams County Drainage Board, no permanent structure (including fences) shall be erected within 75 feet measured at right angles from: (1) the existing top edge of each bank of a regulated open drain, as determined by the Adams County Drainage Board; or (2) the center line of a piped regulated drain. The Indiana Drainage Code may be consulted for further details.

(Ord. 2023-11, passed 8-1-2023)

§ 52.211 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

(A) After the approval of the storm water management permit by the Department and the commencement of construction activities, the Department has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this subchapter, the Storm Water

Technical Standards Manual, design and construction standards, and the terms and conditions of the approved permit.

(B) The Department also has the authority to perform long-term, post-construction inspection of all public or privately owned storm water quantity facilities. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Storm water quantity facilities shall be maintained in good condition, in accordance with the designed and approved performance specifications for the facilities, in addition to any prescribed operation and maintenance procedures, and shall not be subsequently altered, revised or replaced except as approved by the Department. If deficiencies are found during the inspection, the owner of the facility will be notified by the Department and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the Department will undertake the work and collect from the owner using lien rights if necessary.

(C) Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final storm water permit is approved.

(Ord. 2023-11, passed 8-1-2023)

STORM WATER POLLUTION PREVENTION

FOR CONSTRUCTION SITES

§ 52.300 PURPOSE; INTENT.

The purpose of this subchapter is to regulate the contribution of pollutants to the storm drain system from construction site runoff and to establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.301 DEFINITIONS.

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

AUTHORIZED ENFORCEMENT AGENCY. The City Department of Storm Water Management.

COMPLIANCE. The act of correcting a violation or violations within the time frame specified by the City of Decatur.

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

DEPARTMENT. The City Department of Storm Water Management.

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.

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

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

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

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

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

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.

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

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

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

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 (such as CESSWI and/or CPESC certification), or other documented and applicable experience or coursework as deemed sufficient by the City of Decatur that enable the individual to make judgments regarding storm water control or treatment and monitoring.

(Ord. 2023-11, passed 8-1-2023)

§ 52.302 APPLICABILITY AND EXEMPTIONS.

(A) The Department will require a storm water pollution prevention plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of a project's construction plans and specifications. Any project located within the corporate boundaries of the City of Decatur that includes clearing, grading, excavation or other land disturbing activities resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this subchapter. This includes both new development and re-development. This subchapter also applies to disturbances of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area. § 52.307 provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of IDEM's CSGP shall also be in compliance with the requirements contained in that permit.

(B) The requirements under this subchapter do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion and sediment control measures:

- (1) Landfills that have been issued a certification of closure under 329 I.A.C. 10;
- (2) Coal mining activities permitted under I.C. 14-34; and

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 I.A.C. 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(C) For an individual lot where land disturbance is expected to be one acre or more, the individual lot owner must complete their own notice of intent letter, apply for a storm water permit from the

Department, and ensure that a sufficient construction and storm water pollution prevention plan is completed and submitted in accordance with § 52.509, regardless of whether the individual lot is part of a larger permitted project site. For an individual lot where land disturbance is 10,000 square feet or more but less than one acre, an individual lot plot plan permit application is required prior to receiving a building permit. Details of the permitting process are contained in § 52.509.

(D) An individual lot located within a larger permitted project site is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the storm water permit approved for the larger project site. The storm water permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition, the builders of these individual lots are required to submit an individual lot plot plan permit application along with a SWPPP for that individual lot prior to receiving a building permit. Details of the permitting process for individual lots and parcels are contained in § 52.509 and additional requirements for individual lots may be found in the City of Decatur Storm Water Technical Standards Manual.

(E) It will be the responsibility of the project site owner to complete a storm water permit application and ensure that a sufficient construction plan is completed and submitted to the Department in accordance with §§ 52.500 through 52.515. It will be the responsibility of the project site owner to ensure compliance with this chapter during the construction activity and implementation of the construction plan, and to notify the Department upon completion of the project and stabilization of the site, requesting a termination inspection to be performed by the Department. However, all persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.303 RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.304 SEVERABILITY.

(A) The provisions of this subchapter are hereby declared to be severable.

(B) If any provision, clause, sentence or division of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.305 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this subchapter does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

(Ord. 2023-11, passed 8-1-2023)

§ 52.306 POLICY ON STORM WATER POLLUTION PREVENTION.

(A) Effective storm water pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling.

(B) For land disturbance of one acre or more, the developer must submit to the Department a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing. The SWPPP and the project management log must be retained for at least three years from the date the project permit is terminated. For land disturbances totaling 10,000 square feet or more but less than one acre, appropriate erosion and sediment control measures that are consistent with the City of Decatur Storm Water Technical Standards Manual must be designed and shown on the plans.

(C) The required IDEM general and implementation requirements that apply to all land-disturbing activities are contained in the City of Decatur Storm Water Technical Standards Manual.

(Ord. 2023-11, passed 8-1-2023)

§ 52.307 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

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

(A) Off-site construction activities that provide services (for example, road extensions, sewer, water, offsite stockpiles, 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) To determine if multi-lot project sites are regulated by this subchapter, 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:

(1) For a single-family residential project site where the lots are one-half acre or more, one-half acre of land disturbance must be used as the expected lot disturbance.

(2) For a single-family residential project site where the lots are less than one-half acre in size, the total lot must be calculated as being disturbed.

(3) To calculate lot disturbance on all other types of project sites, such as industrial and commercial projects project sites, a minimum of one acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one acre in size, in which case the total lot must be calculated as being disturbed.

(C) The calculation methods as well as the type, sizing, and placement of all storm water pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the Indiana Storm Water Quality Manual, the City of Decatur Storm Water Technical Standards Manual, and the product guidance/specifications of the manufacturer. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of the IDEM's CSGP. A copy of the Indiana Storm Water Quality Manual may be obtained online through IDEM.

(D) The design requirements that would apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all storm water quality and management measures contained in the SWPPP are contained in the City of Decatur Storm Water Technical Standards Manual.

(Ord. 2023-11, passed 8-1-2023)

§ 52.308 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

(A) Following approval of the storm water management permit or individual lot plot plan permit by the Department and commencement of construction activities, the Department has the authority to

conduct inspections of the site to ensure full compliance with the provisions of this subchapter, the approved storm water pollution prevention plan, the Indiana Storm Water Quality Manual, and the terms and conditions of the approved permit.

(B) A self-monitoring program (SMP) must be implemented by the project site owner to ensure the storm water pollution prevention plan is working effectively. A trained individual, acceptable to the Department, shall monitor and manage project construction and storm water activities. Details regarding the required monitoring activities are contained in the City of Decatur Storm Water Technical Standards Manual.

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

(D) A project management log must be maintained at the project site or in the possession of on-site individuals associated with the management and operations of the construction activities. Details regarding requirements related to the project management log are contained in the City of Decatur Storm Water Technical Standards Manual.

(Ord. 2023-11, passed 8-1-2023)

STORM WATER QUALITY MANAGEMENT

FOR POST-CONSTRUCTION

§ 52.400 PURPOSE; INTENT.

The purpose of this subchapter is to regulate the contribution of pollutants to the storm drain system from post-construction runoff from new development and re-development and to establish legal authority to carry-out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.401 DEFINITIONS.

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

AUTHORIZED ENFORCEMENT AGENCY. The City Department of Storm Water Management.

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

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.

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

CONVEYANCE. Any structural method for transferring storm water between at least two points.

The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

DEPARTMENT. The City Department of Storm Water Management.

DETENTION. Managing storm water 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.

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 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.

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:

- (1) **ACCELERATED EROSION.** Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.
 - (2) **CHANNEL EROSION.** An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
 - (3) **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 one to two feet to as much as 75 to 100 feet.
 - (4) **RILL EROSION.** An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils.
 - (5) **SHEET EROSION.** The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.
 - (6) **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.
- FILTER STRIP.** Usually a long, relatively narrow area (usually, 20 - 75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter storm water pollutants for the protection of watercourses, reservoirs, or adjacent properties.

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

HOT SPOT DEVELOPMENT. Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks, and the like, industrial/commercial or any hazardous waste storage areas or areas that generate such wastes, industrial sites, restaurants and convenience stores, any activity involving chemical mixing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries, and some high traffic retail uses characterized by frequent vehicle turnover.

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

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

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

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

PROJECT SITE OWNER. The person required to submit a storm water permit application and required to comply with the terms of this chapter, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

REDEVELOPMENT. Development occurring on a previously developed site.

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

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

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

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

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

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.

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.

(Ord. 2023-11, passed 8-1-2023)

§ 52.402 APPLICABILITY AND EXEMPTIONS.

(A) In addition to the requirements noted in §§ 52.300 through 52.308, the storm water pollution prevention plan, which is to be submitted to the Department as part of the storm water management permit application, must also include post-construction storm water 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 storm water runoff from the stabilized site. Any project located within the corporate boundaries of the City of Decatur that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of one acre or more of total land area is subject to the requirements of this subchapter. This includes both new development and re-development, and disturbances of land less than one acre of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more of total land area. In addition, regardless of the amount of disturbance, the Department reserves the right to require pre-treatment BMPs for proposed hot spot developments in accordance with provisions contained in the City of Decatur Storm Water Technical Standards Manual.

(B) The requirements under this subchapter do not apply to construction activities associated with a single-family residential dwelling disturbing less than one acre, when the dwelling is not part of a larger common plan of development or sale; or individual building lots within a larger permitted project.

(C) The requirements under this subchapter do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under 329 I.A.C. 10;

(2) Coal mining activities permitted under I.C. 14-34; and

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 I.A.C. 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(D) It will be the responsibility of the project site owner to complete a storm water permit application and ensure that a sufficient construction plan is completed and submitted to the Department in accordance with §§ 52.500 through 52.515. It will be the responsibility of the project site owner to ensure proper construction and installation of all storm water BMPs (especially the protection of post-storm water BMPs during construction phase) in compliance with this chapter and with the approved storm water management permit, and to notify the Department upon completion of the project and stabilization of the site, requesting a termination inspection to be performed by the Department. However, all eventual property owners of storm water quality facilities meeting the applicability requirements must comply with the requirements of this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.403 RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.404 SEVERABILITY.

(A) The provisions of this subchapter are hereby declared to be severable.

(B) If any provision, clause, sentence or division of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.405 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this subchapter does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

(Ord. 2023-11, passed 8-1-2023)

§ 52.406 POLICY ON STORM WATER QUALITY MANAGEMENT.

(A) It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues within the corporate boundaries of the City of Decatur, measures must be taken to intercept and filter pollutants from storm water runoff prior to reaching regional creeks, streams, and rivers. Through the use of appropriate best management practices (BMPs) to treat the water quality volume (WQv) or the water quality flow (Qwq), storm water runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed.

(B) It is also recognized that another major source of pollution in many Indiana streams, including those within the corporate boundaries of the City of Decatur, is the streambank erosion associated with urbanizing watersheds. Stream channels develop their shape in response to the volume and rate of runoff that they receive from their contributing watersheds. Research has shown that in hydrologically stable watersheds, the stream flow responsible for most of the shaping of the channel (called the bankfull flow) occurs between every one to two years. When land is developed, the volume and rate of runoff from that land increases for these comparatively small flooding events that are not normally addressed by the detention practices and the stream channel will adapt by changing its shape. As the stream channel works to reach a new stable shape, excess erosion occurs. As new development and re-development continues within the corporate boundaries of the City of Decatur, measures must be taken to minimize the impact of such development or re-development on streambank erosion. Through the use of appropriate best management practices (BMPs) to retain and/or detain and slowly release the channel protection volume (CPv), the volume and rate of runoff for channel forming flows will be reduced in an attempt to minimize increased streambank erosion in the receiving streams and channels.

(C) The project site owner must submit to the Department a storm water pollution prevention plan (SWPPP) that shows placement of appropriate BMP(s) from a pre-approved list of BMPs specified in the City of Decatur Storm Water Technical Standards Manual. The SWPPP submittal shall include an operation and maintenance manual for all post-construction BMP(s) included in the project and a notarized maintenance agreement, consistent with the sample agreement provided in the City of Decatur Storm Water Technical Standards Manual, providing for the long-term maintenance of those BMPs, both of which shall be recorded with the deed for the property on which the project is located. The noted BMP(s) must be designed, constructed, and maintained according to guidelines provided or referenced in the City of Decatur Storm Water 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 City of Decatur Storm Water 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 City of Decatur Storm Water Technical Standards Manual.

(D) Gasoline outlets and refueling areas must install appropriate practices (as noted under "Hot Spots" provision in the Technical Standards) to reduce lead, copper, zinc, and polyaromatic hydrocarbons in storm water runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks, regardless of the size of the facility.

(E) Discharges from new development and redevelopment sites will not be allowed directly into karst features without pre-treatment.

(Ord. 2023-11, passed 8-1-2023)

§ 52.407 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

(A) Calculation of land disturbance should follow the guidelines discussed in § 52.307.

(B) The calculation methods as well as the type, sizing, and placement of all storm water quality management measures, or BMPs shall meet the design criteria, standards, and specifications outlined in the City of Decatur Storm Water Technical Standards Manual. The methods and procedures included in the referenced standards is in keeping with the above stated policy and meet or exceed the requirements of IDEM's MS4 GP.

(Ord. 2023-11, passed 8-1-2023)

§ 52.408 EASEMENT REQUIREMENTS.

All storm water quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of monitoring, inspection, and general maintenance activities, adequate easement width, as detailed in the City of Decatur Storm Water Technical Standards Manual, beyond the actual footprint of the storm water quality management facility as well as a 20-foot wide access easement from a public right-of-way to each BMP shall be provided.

(Ord. 2023-11, passed 8-1-2023)

§ 52.409 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

(A) After the approval of the storm water management permit by the Department and the commencement of construction activities, the Department has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this subchapter, the approved storm water pollution prevention plan, the City of Decatur Storm Water Technical Standards Manual, and the terms and conditions of the approved permit.

(B) Storm water quality facilities shall be maintained in good condition, in accordance with the operation and maintenance procedures and schedules listed in the City of Decatur Storm Water Technical Standards Manual, in addition to the designed and approved performance specifications for the facilities and shall not be subsequently altered, revised, or replaced except as approved by the Department.

(C) Details regarding the required storm water BMP maintenance agreement, O and M maintenance manual, and a maintenance escrow account and their transfer to other parties or subsequent owners prior to release of the maintenance bond discussed in § 52.512 is provided in the City of Decatur Storm Water Technical Standards Manual.

(D) The Department also has the authority to perform long-term, post-construction inspection of all public or privately owned storm water quality facilities. The inspection will cover physical conditions, available water quality storage capacity and the operational condition of key facility elements. Noted deficiencies and recommended corrective action will be included in an inspection report.

(Ord. 2023-11, passed 8-1-2023)

STORM WATER PERMIT

REQUIREMENTS AND PROCEDURES

§ 52.500 PURPOSE; INTENT.

The purpose of this subchapter is to specify the requirements and procedures for applying for and securing a storm water permit from the Department for activities associated with new development and redevelopment within the City of Decatur and its extraterritorial areas.

(Ord. 2023-11, passed 8-1-2023)

§ 52.501 DEFINITIONS.

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

AUTHORIZED ENFORCEMENT AGENCY. The City Department of Storm Water Management.

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

COMPLIANCE. The act of correcting a violation or violations within the time frame specified by the City of Decatur.

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

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.

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

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

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

DEPARTMENT. The City Department of Storm Water Management.

DETENTION. Managing storm water 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 storage of storm water 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.

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 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.

DITCH. A man-made, open watercourse in or into which excess surface water or groundwater drained from land, storm water 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**.

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.

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.

FLUVIAL EROSION HAZARD (FEH) CORRIDOR. 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.

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.

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

PERMANENT STABILIZATION. The establishment, at a uniform density of 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.

PROJECT SITE OWNER. The person required to submit a storm water permit application and required to comply with the terms of this chapter, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

REDEVELOPMENT. Development occurring on a previously developed site.

REGIONAL POND. A detention/retention basin sized to detain/retain the runoff from the entire watershed, on-site and off-site, tributary to the pond's outlet.

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

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.

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 (SWCD). 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 I.C. 14-32.

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

STORM WATER MANAGEMENT SYSTEM. A collection of structural and non-structural practices and infrastructure designed to manage storm water on a site. This system may include but is not limited to erosion control measures, storm drainage infrastructure, detention/retention facilities, and storm water quality BMPs.

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

STORM WATER QUALITY MANAGEMENT PLAN. A comprehensive written document that addresses storm water runoff quality.

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

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

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 (such as CESSWI and/or CPESC certification), or other documented and applicable experience or coursework as deemed sufficient by the City of Decatur that enable the individual to make judgments regarding storm water control or treatment and monitoring.

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

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

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

(Ord. 2023-11, passed 8-1-2023)

§ 52.502 APPLICABILITY AND EXEMPTIONS.

The requirements in this subchapter applies to all development, or re-development of land, that results in land disturbance of one acre or more. Individual lots with land disturbance less than one acre shall refer to § 52.509 for plan review requirements and procedures.

(Ord. 2023-11, passed 8-1-2023)

§ 52.503 RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.504 SEVERABILITY.

(A) The provisions of this subchapter are hereby declared to be severable.

(B) If any provision, clause, sentence or division of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.505 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this subchapter does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

(Ord. 2023-11, passed 8-1-2023)

§ 52.506 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 Department. The direction provided by the Department during such a review is based on preliminary data and shall not be construed as an acceptance or binding on either party. The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

(A) Two complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems (plan sheets must be larger than 11 inches by 17 inches, but not to exceed 24 inches by 36 inches);

(B) General description of the existing and proposed drainage systems in narrative form;

(C) Map showing on-site 100-year floodplain and floodway (please note if none exists);

(D) Map showing all wetlands, lakes, and ponds on or adjacent to the site;

(E) Watershed boundaries with USGS contours or best information possible;

(F) Two copies of drainage calculations detailing existing and proposed discharges from the site; and

(G) Existing watercourse or regulated drains.

(Ord. 2023-11, passed 8-1-2023)

§ 52.507 GENERAL PERMIT PROCEDURES.

(A) The project site owner shall submit an application for a storm water management permit to the Department. The application will include a completed application checklist, construction plan sheets, a storm water drainage technical report, a storm water pollution prevention plan, and any other necessary support information. Specific information to be included in the application can be found in § 52.508. One copy of each application must be submitted to the Department. The Department may, at its discretion, require one or more copies be submitted to other entities deemed appropriate by the Department. Additionally, a digital copy of the construction plans is required in a format accepted by the Department.

(B) After the Department's receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is complete, it will be reviewed in detail by the Department and/or its plan review consultant(s).

(C) Pursuant to I.C. 13-18-27, an MS4-designated entity or other review authority such as SWCD (if applicable) must make a preliminary determination as to whether the construction plan associated with the SWPPP is substantially complete before the end of the tenth working day (for sites with less than five acres of land disturbance) after the day on which the SWPPP is submitted to the review authority or the fourteenth working day (for sites with five acres or larger of land disturbance) after the day on which the SWPPP is submitted to the review authority. Note these time limits only apply to the SWPPP portion of the overall storm water permit submittal and does not affect any official or non-official permit review timelines set by the entity for other aspects of the storm water permit application.

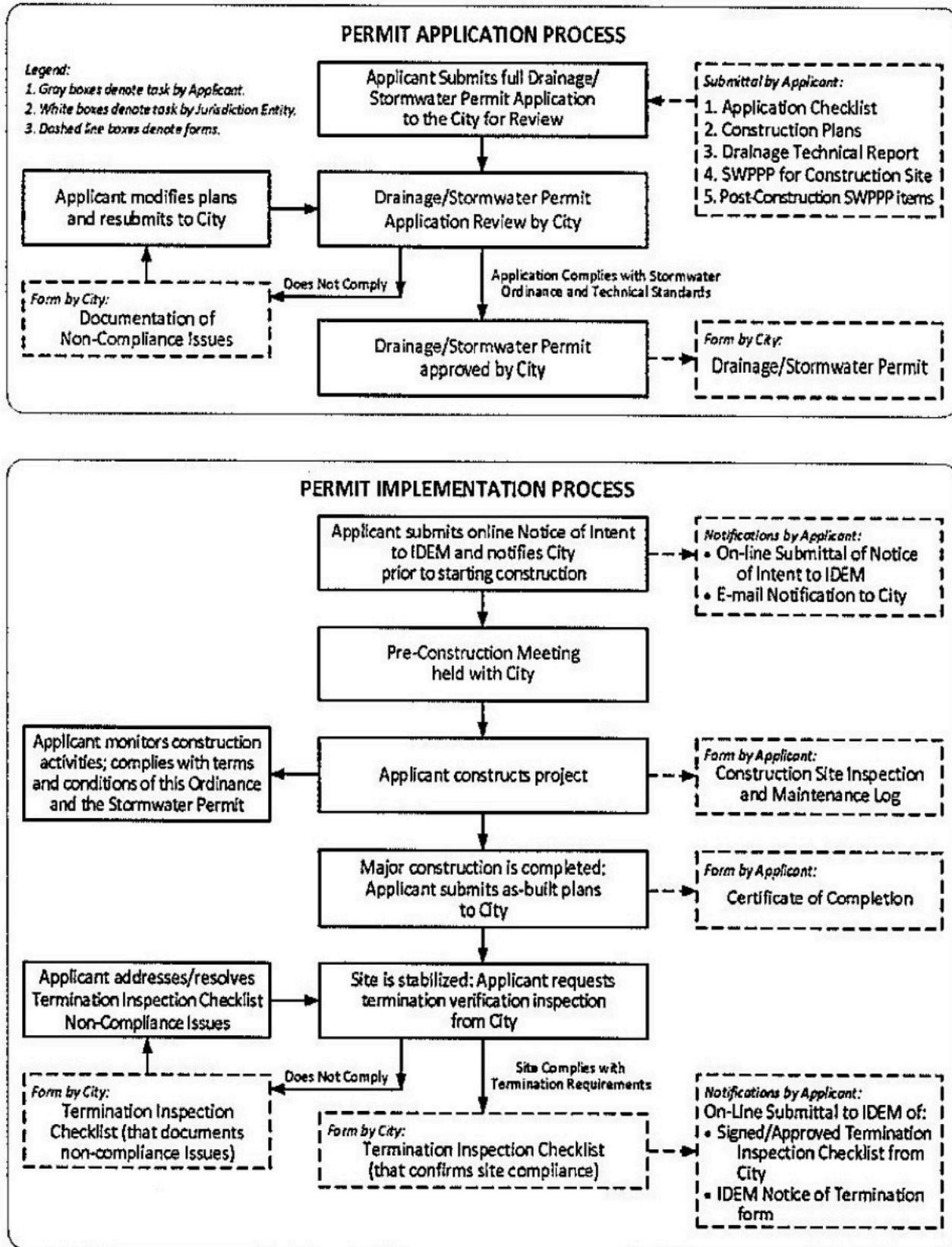
(D) Once all comments from all reviewers have been received and review completed, the Department will either approve the project, request modifications, or deny the project. If the applicant does not agree with or accept the review findings and wishes to seek an appeal, the Department will place the project on the agenda of the next regularly scheduled meeting of the City of Decatur Board of Public Works and Safety, provided the agenda for the meeting has not yet been advertised or published. If time for notification does not allow, the project shall be placed on the following regularly scheduled meeting of the City of Decatur Board of Public Works and Safety. If the project must go through a scheduled meeting, the Department will furnish the applicant a complete list of comments and objections to the plans and accompanying data prior to the scheduled meeting. After the scheduled meeting, the Department will either issue a permit, request modifications to the construction plans, or deny the project.

(E) The project site owner must notify the Department and IDEM before beginning construction. Notification to the Department shall be in the form of an email while the notification to IDEM shall be in the form of an online IDEM NOI submittal. Once a permit has been issued and the pending construction notifications submitted to the Department and IDEM before the beginning of construction, construction may commence 48 hours after the NOI is submitted to IDEM. Once construction starts, the project owner shall monitor construction activities and inspect all storm water pollution prevention measures in compliance with this chapter and the terms and conditions of the approved permit. Upon completion of construction activities, a certification of completion and compliance and as-built plans must be submitted to the Department.

(F) Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the Department, requesting a termination inspection. The Department, or its representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the requirements of chapter and the City of Decatur technical standards and that the terms and conditions of the permit. Once the applicant receives a signed copy of the termination inspection checklist confirming compliance, they must forward a copy to IDEM along with the required IDEM NOI form. Permits issued by the Department under this scenario will expire five years from the date of issuance. If construction is not completed within five years, an updated permit application must be submitted to the Department and an updated NOI must be resubmitted to IDEM at least 90 days prior to expiration.

(G) Figure 1 is a flowchart summarizing the plan review/permit approval/project termination compliance process for land disturbance of one acre or more.

Figure 1: Permit Approval and Project Termination Sign-off Process



(Ord. 2023-11, passed 8-1-2023)

§ 52.508 INFORMATION REQUIREMENTS.

(A) The different elements of a permit submittal include an application checklist, construction plans, a storm water drainage technical report, a storm water pollution prevention plan for active construction sites, a post-construction storm water 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 who also meets the definition of a trained individual found in § 52.501.

(1) *Application checklist.* As part of the City of Decatur storm water management permit application package, the application checklist provided in the City of Decatur Storm Water Technical Standards Manual must be completed by the applicant and provided along with other required supporting material.

(2) *Construction plans.* Construction plan sheets (larger than 11 inches by 17 inches, but not to exceed 24 inches by 36 inches in size) 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 must include items listed in the application checklist provided in the City of Decatur Storm Water Technical Standards Manual.

(3) *Storm water drainage technical report.* A written storm water drainage technical report must contain a discussion of the steps taken in the design of the storm water 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 City of Decatur Storm Water Technical Standards Manual.

(4) *Storm water pollution prevention plan for construction sites.* For sites with total disturbance of one acre or more, a storm water pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this chapter. The SWPPP and construction plans must include the items listed in the application checklist provided in the City of Decatur Storm Water Technical Standards Manual. For land disturbances totaling 10,000 square feet or more of land area but less than one acre, appropriate erosion and sediment control measures that are consistent with the City of Decatur Technical Standards must be designed and shown on the plans.

(5) *Post-construction storm water pollution prevention plan.* For sites with total land disturbance of one acre or more of total land area, a post-construction storm water pollution prevention plan must be designed to, at least, meet the requirements of this chapter and must include the information provided in the City of Decatur Storm Water Technical Standards Manual. The post-construction storm water pollution prevention plan must include items listed in the application checklist provided in the City of Decatur Storm Water Technical Standards Manual.

(B) Specific projects or activities may be exempt from all or part of the informational requirements listed in this section. If based on the applicability and exemptions noted in §§ 52.202, 52.302, or 52.402, the applicant believes that a project or activity is exempt from some or all requirements noted

in this section, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed in this section. This level of detailed information is not required from individual lots, disturbing less than one acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under § 52.509.

(Ord. 2023-11, passed 8-1-2023)

§ 52.509 REVIEW OF INDIVIDUAL LOTS.

(A) For all individual lots disturbing 10,000 square feet or more but less than one acre, a formal review and issuance of an individual lot plot plan permit will be required before a building permit can be issued. Similarly, for individual lots disturbing less than 10,000 square feet of total land area, developed within 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. All storm water management measures necessary to comply with this chapter must be implemented in accordance with permitted plan for the larger project.

(B) The following information must be submitted to the Department, 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.

(1) A site layout for the subject lot and all adjacent lots showing building pad location, dimensions, and elevations, and the drainage patterns and swales;

(2) Erosion and sediment control plan that, at a minimum, includes the following measures:

(a) Installation and maintenance of a stable construction site access;

(b) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance;

(c) Minimization of sediment discharge and tracking from the lot;

(d) 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;

(e) Implementation of concrete or cementitious wash water practices that securely contain and allow for the proper disposal of concrete or cementitious wash water;

(f) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization; and

(g) Self-monitoring program including plan and procedures;

(3) Certification of compliance stating that the individual lot plan is consistent with the storm water management permit, as approved by the Department, for the larger project (if the individual lot is part of a larger permitted project); and

(4) Name, address, telephone number, and list of qualifications of the trained individual in charge of the mandatory storm water pollution prevention self-monitoring program for the project site.

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

(D) Detailed requirements regarding the individual lot plans and the associated permit is contained in the City of Decatur Storm Water Technical Standards Manual.

(Ord. 2023-11, passed 8-1-2023)

§ 52.510 CHANGES TO PLANS.

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

(Ord. 2023-11, passed 8-1-2023)

§ 52.511 FEE STRUCTURE.

(A) As a condition of the submittal and the review of development plans by the Department, the applicant shall agree to pay the Department the applicable fee, as set by the Department with respect to the review of all drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data, as well as prepaid inspection fees.

(B) *Time of payment.* After the meeting at which the Department is scheduled to consider acceptance of the applicant's final storm water management plan, the Department will furnish a written statement to the applicant specifying the total amount due the Department 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.

(1) As a condition of acceptance of final drainage plans by the Department, applicant shall pay to the Department the sum set forth in said statement. The Department 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.

(2) The Department shall have the right to not accept the drainage improvements or to not approve the advancement of any project for which the applicable fees have not been paid.

(C) *Method of payment.* Fees shall be paid by personal check, certified check, cashier's check, or money order. All checks shall be made payable to: City of Decatur, 172 N. 2nd St., Decatur, Indiana 46733.

(D) *Refund of payment.* Fees are refundable only if the Department determines that compliance by the development or project with this chapter is not necessary.

(E) *Fee schedule.* Storm water permit application and inspection fees will be in accordance with the fee schedule set by Department as a separate resolution.

(Ord. 2023-11, passed 8-1-2023)

§ 52.512 REQUIRED ASSURANCES.

This subchapter shall apply to all projects whether the storm water management system or portions thereof will be dedicated to the City of Decatur or retained privately. As a condition of approval and issuance of the permit, the Department shall require the applicant to provide assurance in form of an irrevocable letter of credit or a bond when the storm water management plan has been accepted and before construction begins. Said assurance will guarantee a good faith execution of the storm water drainage plan, the storm water pollution prevention plan, the storm water quality management plan, and any permit conditions. The assurance shall be for an amount equal to 125% of the total costs of all storm water management measures for the entire project. The above-mentioned costs shall be based on an estimate as prepared by a 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 storm water quality BMPs, as regulated under this chapter, until the

construction is completed, the site is stabilized, and as-built plans are accepted by the Department. Assurances shall be for a minimum of \$5,000. All other performance bonds, maintenance bonds or other assurances required by the Department in accordance with any and all other ordinances shall also apply and so be required. Local governmental jurisdictions may require additional performance and/or maintenance assurances. The intent of this assurance is not only to complete the installation of storm drain infrastructure for the project, but also to assure that adequate storm water pollution prevention measures are properly installed and maintained. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual storm water assurance.

(Ord. 2023-11, passed 8-1-2023)

§ 52.513 TERMS AND CONDITIONS OF PERMITS.

(A) In granting a storm water management permit, the Department may impose such terms and conditions as are reasonably necessary to meet the purposes of this chapter. The project site owner shall ensure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in §§ 52.600 through 52.609.

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

(C) 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 Department may require more stringent storm water quantity and quality measures than detailed in this chapter or in the Indiana Storm Water Quality Manual.

(D) *Determination of sensitive areas.* Sensitive areas include highly erodible soils, wetlands, karst areas, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. Any discharge from a storm water practice that is a Class V injection well shall meet the Indiana groundwater quality standards and registered with US EPA as required by the IDEM. If wetlands are suspected on a site, a wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers (COE). The need for the applicant to check for the presence of threatened or endangered species habitat will be determined on a case-by-case basis. Special terms and conditions for development determined to impact or discharge to any sensitive area shall be included in the storm water management permit.

(E) *Determination of impact drainage areas.*

(1) The following areas shall be designated by default as impact drainage areas unless good reason for not including them is presented to the Department.

(a) A floodway or floodplain as designated by the most updated FEMA Code dealing with floodplain regulation and/or by the best available data through IDNR ;

(b) Land within 25 feet of each bank of any ditch within the City of Decatur's system;

(c) Land within 15 feet of the centerline of any storm water infrastructure or enclosed conduit within the City of Decatur's system;

(d) Land within 75 feet of each bank of a county open regulated drain;

(e) Land within 50 feet of a natural drainageway;

(f) Land within 75 feet of the centerline of any tiled regulated drain;

(g) Land within the fluvial erosion hazard (FEH) corridor; and

(h) Land within the expected breach inundation zone of an existing or proposed new dam, and areas protected from flooding by a levee.

(2) The Department is authorized, but is not required, to classify certain geographical areas as impact drainage areas. In determining impact drainage areas, the Department may consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility.

(3) 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 Department. Special terms and conditions for development within any impact drainage area shall be included in the storm water management permit.

(F) *Determination of designated drainage areas served by regional facilities.* The Department is authorized, but is not required, to classify certain geographical areas as designated drainage areas that are or will be served by regional facilities, such as a regional pond. In such cases, an infrastructure development fee (IDF) rate may be established for the designated drainage area. The basis for determining such a fee for a proposed development or re-development within a designated drainage area will be as detailed in the City of Decatur Storm Water Technical Standards Manual.

(Ord. 2023-11, passed 8-1-2023)

§ 52.514 CERTIFICATION OF AS-BUILT PLANS.

This subchapter shall apply to all projects whether the storm water management system or portions thereof will be dedicated to the Department or retained privately. After completion of construction of the project and before the release of required performance assurances referenced in § 52.512, a professionally prepared and certified "as-built" set of plans (record drawings) shall be submitted to the Department for review. These as-built plans/record drawings must be prepared and certified by the Engineer of Record, i.e., the company/engineer who originally prepared the construction plans. Additionally, a digital copy of the "as-built" plans (record drawings) as well as finalized digital versions of all analyses, models, manuals, and reports that are consistent with the as-built conditions is required in a format acceptable to the Department. These plans shall include all pertinent data relevant to the completed storm drainage system and storm water 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) Grades along the emergency flood routing path(s);
- (F) Pipe structure lengths;
- (G) BMP types, dimensions, and boundaries/easements;
- (H) "As-planted" plans for BMPs, as applicable;
- (I) Data and calculations showing detention basin storage volume;
- (J) Data and calculations showing BMP treatment capacity; and
- (K) Certified statement on plans stating the completed storm drainage system and storm water management facilities substantially comply with construction plans and the storm water management permit as approved by the Department. (See certificate in the Storm Water Technical Standards Manual.)

(Ord. 2023-11, passed 8-1-2023)

§ 52.515 POST-PROJECT MAINTENANCE BOND AND VERIFICATIONS.

(A) In addition to as-built plans and the certification of completion and compliance, following the release of performance assurances, the property owner, developer, or contractor shall be required to file a two-year maintenance bond or other acceptable guarantee with the Department in an amount not to exceed 25% of the cost of the storm water management system located outside the public road rights-of-way, and in a form satisfactory to the Department in order to assure that such storm water system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans and this chapter 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 Department to have been caused by the development of such project. The bond or other acceptable guarantee shall be in effect for a period of two years after the date of the release of required performance assurances referenced in § 52.512. The beneficiary of all maintenance bonds shall be the Department.

(B) To verify that all storm water infrastructure is functioning properly, visual recordings (via closed circuit television) of such infrastructure, including all subsurface drains, shall be required twice, once following the completion of installation of the storm water management system and submittal of as-builts, and the second time before release of maintenance bonds. These visual recordings will be scheduled by the Department and paid for by the developer. Notices shall be provided to the Department 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 Department before the plat is recommended for recording and again before the maintenance bond shall be recommended to be released.

(C) Additional requirements for transfer of any applicable storm water BMP maintenance agreement, O and M maintenance manual, and maintenance escrow accounts to subsequent owners prior to release of the maintenance bond is discussed in the City of Decatur Storm Water Technical Standards Manual.

(Ord. 2023-11, passed 8-1-2023)

COMPLIANCE AND ENFORCEMENT

§ 52.600 PURPOSE; INTENT.

The purpose of this subchapter is to set the compliance, enforcement, and penalties associated with the requirements and regulations discussed in this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.601 DEFINITIONS.

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

AUTHORIZED ENFORCEMENT AGENCY. The City Department of Storm Water Management.

BOARD. The Decatur Board of Public Works and Safety which controls the Department of Storm Water Management.

COMPLIANCE. The act of correcting a violation or violations within the time frame specified by the Department.

DEPARTMENT. The City Department of Storm Water Management.

DISCHARGE. In the context of water quantity provisions, usually the rate of water flow, i.e., 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. In the context of water quality provisions, the **DISCHARGE** means any addition of liquids or solids to a water body or a flow conveyance facility.

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.

ILLICIT DISCHARGE. Any discharge to a conveyance that is not composed entirely of storm water except naturally occurring floatables, such as leaves or tree limbs. **ILLICIT DISCHARGES** include polluted flows from direct and indirect connections to the MS4 conveyance, illegal dumping, and contaminated runoff.

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.

OFFENCE. Both a violation and a failure of compliance on a particular project constitute an "offense." If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate offense.

PROJECT SITE OWNER. The person required to submit a storm water permit application and required to comply with the terms of this chapter, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

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

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

VIOLATION. Any action or inaction which violates the provisions of this chapter, the requirements of an approved storm water management design plan or permit, and/or the requirements of a recorded storm water maintenance agreement may be subject to the enforcement actions outlined in this subchapter. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief, in addition to and separate from the imposition of any of the enforcement actions described below.

(Ord. 2023-11, passed 8-1-2023)

§ 52.602 APPLICABILITY AND EXEMPTIONS.

This subchapter applies to any action or inaction which violates the provisions of this chapter, the requirements of an approved storm water management design plan or permit, and/or the requirements of a recorded storm water maintenance agreement.

(Ord. 2023-11, passed 8-1-2023)

§ 52.603 RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this subchapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.604 SEVERABILITY.

(A) The provisions of this subchapter are hereby declared to be severable.

(B) If any provision, clause, sentence or division of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. 2023-11, passed 8-1-2023)

§ 52.605 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this subchapter does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

(Ord. 2023-11, passed 8-1-2023)

§ 52.606 COMPLIANCE.

(A) To secure compliance with the requirements of this chapter, violations thereof shall be subject to the enforcement provisions set forth under § 52.607. Additionally, compliance with all applicable ordinances of the City of Decatur as well as with applicable State of Indiana statues and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this chapter shall be the most recent edition available.

(B) *Warning notice.* When the Department finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, the Department 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 subchapter shall limit the authority of the Department to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(Ord. 2023-11, passed 8-1-2023)

§ 52.607 ENFORCEMENT.

(A) *Notice of violation/citation.*

(1) If the Department determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved storm water management design plan, a recorded storm water management maintenance agreement, or the provisions of this chapter, it may 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 chapter without having first secured a permit 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.

(2) The notice of violation can be in the form of a citation ticket and/or a written letter that would 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 chapter, the Department may impose upon a violator alternative compensatory actions such as

storm drain stenciling, attendance at compliance workshops, creek cleanup, public education, and the like.

(C) *Civil penalties for violations.*

(1) Any person who commits an offense under this chapter commits a civil infraction subject to a fine not to exceed \$2,500 for each offense, plus costs, damages, and expenses. Each day such violation occurs or continues without a compliance action that is satisfactory to the Department may 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 subchapter are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.

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

(3) The Department has established an enforcement response schedule as noted in the table below that standardizes the approach that the Department may, in its discretion, employ in dealing with storm water regulations offenses subject to this chapter and the associated technical standards document. When so employed, this schedule shall apply separately to each offense in the following manner: The first offense is the underlying violation itself, while the subsequent offenses two through eight (as necessary) are failures of compliance.

Offence #	Type of Response Anticipated
Offence #	Type of Response Anticipated
First offense	Verbal telephone notice, letter of violation or written warning and administrative penalty
Second offense	Letter of violation, administrative penalty and/or site visit
Third offense	Letter of violation, administrative penalty and/or site visit
Fourth offense	Letter of violation, administrative penalty and/or site visit
Fifth offense	Agreed order, administrative penalty and/or site visit
Sixth offense	Administrative order, administrative penalty and/or site visit
Seventh offense	Compliance schedule, administrative penalty and/or site visit
Eighth offense	Litigation and administrative penalty

(4) Likewise, in order to standardize the approach that the Department may, in its discretion, employ in the imposition of administrative penalties, the Department has established the following schedule of administrative penalties. Again, the penalty for the first offense would apply to the violation itself, while the subsequent penalties two through four (as necessary) would apply to failures of compliance. In its discretion, the Department may impose penalties up to the amount specified in this schedule.

Offence #	Penalty
First offense	\$250
Second offense	\$500
Third offense	\$1,000
Fourth offense	\$2,500

(D) *Stop work order.*

(1) In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this chapter or accepted final storm water management plans, the Department 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 Department to proceed with the work. A stop work order will be posted on the site by the Department and it is unlawful for any person to remove the notice or continue any work on the site without permission from the Department. The Department may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this chapter 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.

(2) The Department may bring an action under I.C. 34-28-5-1(b), to be read together with I.C. 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order against any person who neglects or fails to comply with a stop work order.

(3) For construction projects that are operating under a SWPPP approved by the Department, if a stop work order is issued on the grounds that the erosion and sediment control measures included in the construction plan are not adequate, the project site owner must be notified in writing of the inadequacies in the erosion and sediment control measures and the project site owner has 72 hours after receiving written notice to resolve the identified inadequacies before the stop work order can take effect.

(4) The 72 hour period to resolve identified inadequacies on a construction project does not apply if the stop work order is issued to a construction project where the project site owner is creating a public health hazard or safety hazard.

(E) *Withhold certificate of occupancy.* The Department 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 satisfied the requirements of this chapter as determined by the Department.

(F) *Suspension, revocation, or modification of permits.* The Department may suspend, revoke, or modify any existing permit that the violator may also have been previously granted. A suspended, revoked, or modified permit 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 may be reinstated upon such conditions as the Department 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 storm water drainage system; emergency cease and desist orders.*

(1) When the Department finds that any person has violated, or continues to violate, any provision of this chapter, 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 Department 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 chapter 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.

(2) Any person notified of an emergency order directed to it under this subchapter 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 Department may commence court action against such person under I.C. 34-28-5-1(b), to be read together with I.C. 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order.

(3) The Department may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Department that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this chapter. 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 Department within five 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.

(H) *Suspension due to illicit discharges in emergency situations.* The Department may, without prior notice, suspend storm water 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 storm water drainage system or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the Department may take such steps as deemed necessary to prevent or minimize damage to the storm water drainage system or waters of the state, or to minimize danger to persons.

(I) *Suspension due to the detection of illicit discharge.* Any person discharging to the storm water drainage system in violation of this chapter may have their storm water drainage system access terminated if such termination would abate or reduce an illicit discharge. The Department will notify a violator of the proposed termination of its storm water drainage system access. The violator may petition the Department for a reconsideration and hearing. A person commits an offense if the person reinstates storm water drainage system access to premises terminated pursuant to this subchapter, without the prior approval of the Department.

(Ord. 2023-11, passed 8-1-2023)

§ 52.608 COST OF ABATEMENT OF THE VIOLATION.

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

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

(C) If the amount due for abatement of the violation is not paid within a timely manner as determined by the decision of the Department or by the expiration of the time in which to file an appeal, the Department may commence a court action to recover the costs assessed under I.C. 34-28-5-1(b), to be read together with I.C. 34-6-2-86(1)(B) and 13-21-3-12(4).

(Ord. 2023-11, passed 8-1-2023)

§ 52.609 APPEALS.

(A) *Appeal of notice of violation.*

(1) Any person to whom any provision of this chapter has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Board of Public Works and Safety of the City of Decatur 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 Board of Public Works and Safety of the City of Decatur shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Board of Public Works and Safety of the City of Decatur may consider the recommendations of the Department staff and the comments of other persons having knowledge of the matter. In considering any such appeal, the Board of Public Works and Safety may grant a variance from the terms of this chapter to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

(a) The application of the provisions of this chapter 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 this chapter; and

(b) The granting of the relief requested will not substantially prevent the goals and purposes of this chapter, nor result in less effective management of storm water runoff.

(2) Any person who has appealed a violation to the Board of Public Works and Safety may appeal an adverse decision of the Board to the Adams County court within 60 days of the Boards order, all pursuant to I.C. 36-1-6-9(e) and (f).

(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 five days of the decision of the Board of Public Works and Safety upholding the decision of the Department, then representatives of the Department 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, including the commencing of a court action under I.C. 34-28-5-1(b), to be read together with I.C. 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce the order of the Board of Public Works and Safety.

(Ord. 2023-11, passed 8-1-2023)