

ORDINANCE NO. 9-2007

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF  
LAPORTE, INDIANA, REGULATING POST-CONSTRUCTION  
ACTIVITY AND STORMWATER MANAGEMENT**

**WHEREAS**, the purpose of this ordinance is to establish requirements within the City of LaPorte for stormwater discharges from post-construction activities of one (1) acre or more so that the public health, existing water uses, and aquatic biota are protected. This ordinance will promote the public welfare by guiding, regulating and controlling the design, construction, inspection, use and post-construction maintenance and stormwater management of any development or other activity that disturbed or broke the topsoil and resulted in the movement of earth in the City of LaPorte; and,

**WHEREAS**, after the construction process, and prior to the establishment of permanent vegetative cover, soil is vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair/maintenance of sewers and ditches and the dredging of lakes and streams; and,

**WHEREAS**, the Federal Clean Water Act, 33 U.S.C. 1251 et seq. and Indiana State Regulation 327 IAC 15-13, Stormwater Run-off Associated with Municipal Separate Storm Sewer System Conveyances (Rule 13), designates the City of LaPorte, Indiana as a Municipal Separate Storm Sewer System (MS4). As a designated MS4, the City of LaPorte is required to implement, manage and enforce a program to reduce or eliminate pollutants in stormwater runoff from post-construction activities that result in land disturbance equal to or greater than one (1) acre and control of stormwater discharges from post-construction activity disturbing less than one (1) acre if that post-construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more; and,

**WHEREAS**, Indiana State Regulation 327 IAC 15-5, Stormwater Run-off Associated with Construction Activity (Rule 5), established specific minimum requirements for control of stormwater runoff associated with post-construction activity and stormwater management. The requirements of Rule 5 shall be met except as specifically noted herein.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of LaPorte, Indiana, that:

**SECTION 1: Short Title.**

This ordinance shall be known as the "MS4 Post-Construction Activity Stormwater Management Plan Program."

**SECTION 2: Purpose.**

The purpose of this ordinance is to meet the requirements of IDEM Rule 327 IAC 15-13 (Rule 13).

**SECTION 3: Definitions.**

For the purposes of this ordinance, the following shall mean:

- A. **“Accelerated Erosion”** means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.
- B. **“Applicant”** means a property owner or agent of a property owner who has filed an application for a stormwater management permit.
- C. **“Best Management Practice”** or **“BMP”** means any structural or non-structural control measure utilized to improve the quality and, as appropriate, the quantity of stormwater runoff.
- D. **“Building”** means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.
- E. **“Channel”** means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- F. **“City”** means the Civil City of LaPorte, Indiana.
- G. **“Dedication”** means the deliberate appropriation of property by its owner for general public use.
- H. **“Detention”** means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.
- I. **“Detention Facility”** means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.
- J. **“Developer”** means a person who undertakes land disturbance activities.
- K. **“Drainage Easement”** means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.
- L. **“Erosion and Sediment Control Plan (ESCP)”** means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

- M. **“Fee in Lieu”** means a payment of money in place of meeting all or part of the stormwater performance standards required by this ordinance.
- N. **“Hotspot”** means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
- O. **“Hydrologic Soil Group (HSG)”** means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.
- P. **“Impervious Cover”** means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).
- Q. **“Industrial Stormwater Permit”** means a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
- R. **“Infiltration”** means the process of percolating stormwater into the subsoil.
- S. **“Infiltration Facility”** means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.
- T. **“Jurisdictional Wetland”** means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
- U. **“Land Disturbance Activity”** means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.
- V. **“Landowner”** means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
- W. **“Maintenance Agreement”** means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- X. **“MS4 Advisory Committee”** means those appointed representatives of the

municipal and county entities who administer the MS4 Program under the permit issued by IDEM.

- Y. **“MS4 Coordinator”** means a designated representative of the City responsible for assisting in the implementation and management of the Stormwater Quality Management Program for the City.
- Z. **“Non-point Source Pollution”** means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- AA. **“Offset Fee”** means a monetary compensation paid to a local government for failure to meet pollutant load reduction targets.
- BB. **“Off-Site Facility”** means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.
- CC. **“On-Site Facility”** means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.
- DD. **“Recharge”** means the replenishment of underground water reserves.
- EE. **“Redevelopment”** means any construction, alteration or improvement equal to or greater than 43,560 square feet (1 acre) in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.
- FF. **“Rule 5” and “Rule 13”** mean 327 IAC 15-5 and 327 IAC 15-13, respectively. The Indiana Department of Environmental Management (IDEM) has the authority to administer the Erosion Control Program under Rule 5. When IDEM approves the transfer of the Erosion Control Program to MS4 entities, such authority will be by Rule 13 in the MS4 areas only. Rule 5 will continue to apply to non-MS4 areas of the state. The issuance of an authorization letter by IDEM will determine which rule will have precedence or apply.
- GG. **“Stop Work Order”** means an order issued which requires that all construction activity on a site be stopped.
- HH. **“Stormwater Management”** means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality habitat.
- II. **“Stormwater Retrofit”** means a stormwater management practice designed for

an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

- JJ. **“Stormwater Runoff”** means flow on the surface of the ground, resulting from precipitation.
- KK. **“Stormwater Treatment Practices (STP’s)”** means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.
- LL. **“Water Quality Volume (WQ<sub>v</sub>)”** means the storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically WQ<sub>v</sub> will vary as a function of long term rainfall statistical data.
- MM. **“Watercourse”** means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**SECTION 3: Applicability.**

- A. This ordinance shall be applicable to all subdivision or site plan applications with land disturbances effecting one acre or more unless eligible for an exemption or granted a waiver by the MS4 Coordinator under the specifications of Section 7 of this ordinance. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.
- B. To prevent the adverse impacts of stormwater runoff, the City has developed a set of performance standards that must be met at new development sites. The following activities are exempt from these stormwater performance criteria:
- 1) Additions or modifications to existing single family structures;
  - 2) Developments that do not disturb more than 43,560 square feet (1 acre) of land, provided they are not part of a larger common development plan;
  - 3) Repairs to any stormwater treatment practice deemed necessary by the Wastewater Department of the City of LaPorte.
- C. When a site development plan is submitted that qualifies as a redevelopment project as defined in Section 2 of this ordinance, decisions on permitting and on-site stormwater requirements shall be governed by stormwater sizing criteria found in the Reference Manuals noted in Section 5. This criteria is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final

authorization of all redevelopment projects will be determined after a review by the MS4 Coordinator.

**SECTION 4: Compatibility with Other Permit and Ordinance Requirements.**

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

**SECTION 5: Reference Manuals.**

A. Information pertaining to Best Management Practices that can assist developers in meeting the requirements of this ordinance can be found in the following reference manuals:

- 1) The Indiana Department of Environmental Management (IDEM) "Indiana Stormwater Quality Manual";
- 2) The U.S. Department of Agriculture "Urban Watershed Forestry Manual";
- 3) The "Indiana Drainage Handbook".

B. If there are any conflicts with this ordinance and/or any existing LaPorte ordinances with the above named Reference Manuals, the LaPorte ordinances shall supersede.

**SECTION 6: Permit Procedures and Requirements.**

A. Permit Requirements. No land owner or developer shall commence any land disturbance activities without first meeting the requirements of the "MS4 Construction Activity Erosion and Sediment Control Program" ordinance, including, where applicable, obtaining a Site Development Permit based upon an Erosion and Sediment Control Plan (ESCP) approved by the MS4 Coordinator.

B. Application Requirements.

- 1) Unless specifically excluded by this ordinance, any land owner or developer desiring a permit for a land disturbance activity shall submit to the MS4 Coordinator a permit application on a form provided for that purpose.
- 2) Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered:
  - a) a Stormwater Management Plan; and
  - b) a maintenance agreement.

- 3) The Stormwater Management Plan shall be prepared to meet the requirements of Sections 10 through 12 of this ordinance; the maintenance agreement shall be prepared to meet the requirements of Section 14 of this ordinance.
  - 4) The Stormwater Management Plan and maintenance agreement shall be submitted as part of the ESCP submitted to the MS4 Coordinator as part of the compliance requirements contained within the "MS4 Construction Activity Erosion and Sediment Control Program" ordinance.
- C. Application Review Fees. The Site Development Permit Fee submitted with the ESCP pursuant to the "MS4 Construction Activity Erosion and Sediment Control Program" ordinance shall satisfy the application fee for review of the Stormwater Management Plan.
- D. Application Procedure.
- 1) Applications for land disturbance activity permits must be filed with the MS4 Coordinator.
  - 2) The Stormwater Management Plan and maintenance agreement shall be submitted by the construction project site owner in triplicate to the MS4 Coordinator, within the same application required for the ESCP submittal as part of the "MS4 Construction Activity Erosion and Sediment Control Program" ordinance.
  - 3) Within 20 business days of the receipt of a complete permit application including all documents as required by this ordinance, the MS4 Coordinator shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
  - 4) If the permit application, stormwater management plan or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement. If additional information is submitted, the MS4 Coordinator shall have five business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
  - 5) If the permit application, final stormwater management plan and maintenance agreement are approved by the MS4 Coordinator, all appropriate land disturbance activity permits shall be issued.
- E. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the MS4 Coordinator notifies the permit holder that all stormwater management practices have passed the final inspection requirements under permit condition.

**SECTION 7: Waivers for Providing Stormwater Management.**

- A. Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the MS4 Coordinator for approval.
- B. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
- 1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
  - 2) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City and the implementation of the plan is required by local ordinance.
  - 3) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
  - 4) The MS4 Coordinator finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
  - 5) Non-structural practices, as explained in the Reference Manuals listed in Section 5, will be implemented, with the amount of credit available for using such practices as determined by the MS4 Coordinator. Non-structural practices will be used on the site that reduce:
    - a) the generation of stormwater from the site;
    - b) the size and cost of stormwater storage; and,
    - c) the pollutants generated at the site.
- C. In instances where one of the conditions above applies, the MS4 Coordinator may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the City that the variance will not result in the following impacts to downstream waterways:



- 1) Deterioration of existing culverts, bridges, dams and other structures;
- 2) Degradation of biological functions or habitat;
- 3) Accelerated stream bank or streambed erosion or siltation;
- 4) Increased threat of flood damage to public health, life, property.

D. Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the MS4 Coordinator. Mitigation measures may include, but are not limited to, the following:

- 1) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat.
- 2) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance.
- 3) Monetary contributions (Fee-in-Lieu) to fund stormwater management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macro-invertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of stormwater management practices).

**SECTION 8: Fee in Lieu of Stormwater Management Practices.**

- A. Where the MS4 Coordinator waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City.
- B. When an applicant obtains a waiver of the required stormwater management requirements, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the stormwater authority agree on a greater alternate contribution) established by the City, and based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

**SECTION 9: Dedication of Land.**

In lieu of or in conjunction with a monetary contribution, an applicant may obtain a waiver of the stormwater management requirements by entering into an agreement with the Wastewater Department of the City of LaPorte for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

**SECTION 10: General Performance Criteria for Stormwater Management**

A. Unless judged by the MS4 Coordinator to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites one acre or greater:

- 1) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- 2) All stormwater runoff generated from new development shall not discharge directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the MS4 Coordinator. In no case shall the impact on functional values be any less than allowed by the U.S. Army Corps of Engineers (U.S. ACE) or other agencies regulating wetlands in the State of Indiana.
- 3) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the Reference Manuals of Section 5.
- 4) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- 5) Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan, and shall file a Notice of Intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES). The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.
- 6) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural STPs and pollution prevention practices.

- 7) Prior to design, applicants are required to consult with the MS4 Coordinator to determine if they are subject to additional stormwater design requirements.
- 8) The calculations for determining peak flows as found in the Reference Manuals of Section 5, or other municipal ordinances, shall be used for sizing all stormwater management practices.

**SECTION 11: Basic Stormwater Management Design Criteria.**

**A. Minimum Control Requirements**

- 1) All stormwater management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 10 year, 100 year) as identified in the Reference Manuals or other municipal ordinances are met, unless the MS4 Coordinator grants the applicant a waiver or the applicant is exempt from such requirements.
- 2) In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the MS4 Coordinator reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

**B. Site Design Feasibility.**

- 1) Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:
  - a) Topography;
  - b) Maximum Drainage Area;
  - c) Depth to Water Table;
  - d) Soils;
  - e) Slopes;
  - f) Terrain;
  - g) Location in relation to environmentally sensitive features or ultra-urban areas.
- 2) Applicants shall consult the Reference Manuals of Section 5 and other ordinances for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

- C. Conveyance Issues. All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:
- 1) Maximizing of flow paths from inflow points to outflow points;
  - 2) Protection of inlet and outfall structures;
  - 3) Elimination of erosive flow velocities;
  - 4) Providing of under-drain systems, where applicable.
- D. Treatment/Geometry Conditions. All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in the Reference Manuals and other ordinances. These specifications will designate the water quantity and quality treatment criteria that apply to an approved stormwater management practice.
- E. Landscaping Plan Requirements. All stormwater management practices must have a landscaping plan detailing both the vegetation and how and who will manage and maintain this vegetation.
- F. Maintenance Agreements. All stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.
- G. Non-Structural Stormwater Practices. The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the Reference Manuals of Section 5 and/or by the MS4 Coordinator. Applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

**SECTION 12: Requirements for Stormwater Management Plan Approval.**

- A. Stormwater Management Plan Required for all Developments.
- 1) No application for development will be approved unless it includes a Stormwater Management Plan detailing how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be

prepared by an individual approved by the City and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices.

- 2) The Stormwater Management Plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in the final approved Stormwater Management Plan. This final plan must be signed by a licensed Professional Engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Submittal Checklist provided by the MS4 Coordinator. No land disturbing activities shall commence until a satisfactory final Stormwater Management Plan, or a waiver thereof, shall have undergone a review and been approved by the MS4 Coordinator after determining that the plan or waiver is consistent with the requirements of this ordinance.

B. Stormwater Management Plan Requirements.

A Stormwater Management Plan shall be required will all permit applications and will include sufficient information (e.g., maps, hydrologic calculations, etc) to evaluate the stormwater effects of the project, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project. The intent of this planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the following information shall be included in the Stormwater Management Plan:

- 1) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required.
- 2) Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications of the Reference Manuals.
- 3) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

- 4) A written description of the required maintenance burden for any proposed stormwater management facility.
- 5) The MS4 Coordinator may also require a Stormwater Management Plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- 6) For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the Stormwater Management Plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this ordinance to the maximum extent practicable.
- 7) Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- 8) Topographic Base Map. A 1" = 200' topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
- 9) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this ordinance. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the Reference Manuals or other ordinances, and (ix) documentation of sources for all computation methods and field test results.
- 10) Soils Information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil test pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- 11) Maintenance and Repair Plan. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures

to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

- 12) Landscaping Plan. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered Landscape Architect or by the Soil Conservation District.
  - 13) Maintenance Easements. The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with the transfer of title to subsequent property owners.
  - 14) Maintenance Agreement. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure in accordance with the specifications of this ordinance.
  - 15) Erosion and Sediment Control Plans for Construction of Stormwater Management Measures. The applicant must prepare an erosion and sediment control plan for all construction activities related to implementing any on-site stormwater management practices.
  - 16) Other Permits. The applicant shall assure that all other applicable permits have been acquired for the site prior to approval of the final stormwater management plan.
- C. Stormwater Management Concept Plan. If deemed necessary by the MS4 Coordinator, a Stormwater Management Concept Plan can be required to be submitted by the developer, prior to the preparation of a Stormwater Management Plan, to document for the MS4 Coordinator the overall impact of stormwater effects of the proposed development and the intent of the type(s) of stormwater management measures necessary for the proposed project, on a conceptual basis.
- D. Performance Bond/Security
- 1) The City requires the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the

permit, plus 25%. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

- 2) The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The MS4 Coordinator will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done pursuant to a partial release determination made by the MS4 Coordinator.

**SECTION 13: Construction Inspection.**

**A. Notice of Construction Commencement.**

- 1) The applicant must notify the MS4 Coordinator in advance before the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the staff of the City or certified by a professional engineer or their designee who has been approved by the MS4 Coordinator. All inspections shall be documented and written reports prepared that contain the following information:

- a) The date and location of the inspection;
- b) Whether construction is in compliance with the approved stormwater management plan;
- c) Variations from the approved construction specifications;
- d) Any violations that exist.

- 2) If any violations are found, the property owners shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the MS4 Coordinator.

**B. As Built Plans.** All applicants are required to submit actual "as-built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a Professional Engineer. A final inspection by the MS4 Coordinator is required before the release of any performance securities can occur.

**C. Landscaping and Stabilization Requirements**



- 1) Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten (10) days from the substantial completion of such clearing and construction. The following criteria shall apply to revegetation efforts:
  - a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
  - b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
  - c) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
- 2) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

#### **SECTION 14: Maintenance and Repair of Stormwater Facilities.**

- A. Maintenance Easement. Prior to the issuance of any permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Wastewater Department of the City of LaPorte or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded in the land records.
- B. Maintenance of Covenants.
  - 1) Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the Wastewater Department of the City of LaPorte and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper

function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

- 2) The Wastewater Department of the City of LaPorte, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
- C. Requirements for Maintenance Covenants. All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs to ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal; and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the MS4 Coordinator, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.
- D. Inspection of Stormwater Facilities. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspection with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.
- E. Right-of-Entry for Inspection. When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the Wastewater Department of the City of LaPorte, or its designee, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

- F. **Records of Installation and Maintenance Activities.** Parties responsible for the operation and maintenance of a stormwater management facility shall keep records of the installation of all maintenance and repairs, and shall retain the records for at least three (3) years. These records shall be made available to the MS4 Coordinator during inspection of the facility and at other reasonable times upon request.
- G. **Failure to Maintain Practices.** If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the Wastewater Department of the City of LaPorte, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Wastewater Department of the City of LaPorte, or its designee, shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have three (3) days to effect maintenance and repair of the facility in an approved manner. After proper notice, the Wastewater Department of the City of LaPorte may assess the owner(s) of the facility for the cost of the repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the Wastewater Department of the City of LaPorte.

**SECTION 15: Enforcement and Penalties.**

- A. **Violations.** Any development activity that is commenced or is conducted contrary to this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.
- B. When the MS4 Coordinator determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
- 1) The name and address of the owner or applicant;
  - 2) The address when available or a description of the building, structure or land upon which the violation is occurring;
  - 3) A statement specifying the nature of the violation;
  - 4) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
  - 5) A statement that the determination of violation may be appealed by filing a written notice of appeal within fifteen (15) days of service of notice of violation.
- C. **Stop Work Orders.** Persons receiving a notice of violation will be required to halt all construction activities. This "stop work order" will be in effect until the MS4

Coordinator confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil and/or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

- D. Civil Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be punished by a fine of not more than \$2,500.00 for each violation. Each day that such violation occurs or continues shall constitute a separate offense.
- E. Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Wastewater Department of the City of LaPorte may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- F. Holds on Occupation Permits. Occupation permits will not be granted until a correction to all stormwater violations have been made and accepted by the MS4 Coordinator.
- G. Appeal of Decisions. The interpretation or implementation of the Rule 5 or Rule 13 program requirements by the MS4 Coordinator may be appealed to the MS4 Advisory Committee, in writing and within five (5) days of the interpretation or implementation decision. The appeal will be decided by the MS4 Advisory Committee within ten (10) days. The appeal process does not stay a stop work order issued under Section 15.C.

**SECTION 16: Administration.**

- A. Generally. The Mayor, through the Wastewater Department of the City of LaPorte, is hereby authorized to implement and monitor all aspects of this ordinance.
- B. Project Specific Administration. The MS4 Coordinator shall be responsible for implementation and monitoring compliance with the provisions of this ordinance. Any authority or power conferred upon the MS4 Coordinator under this ordinance may also be exercised by the Director of Municipal Code Enforcement.

**SECTION 17: Severability.**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

Passed by the Common Council of the City of LaPorte, Indiana, this 19<sup>th</sup> day  
of March, 2007.

*Leigh E. Morris*

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Leigh E. Morris  
Mayor, City of LaPorte

ATTEST:

*Teresa L. Ludlow*

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Teresa Ludlow  
Clerk-Treasurer

Approved by me, this 19<sup>th</sup> day of March, 2007.

*Leigh E. Morris*

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Leigh E. Morris  
Mayor, City of LaPorte

ATTEST:

*Teresa L. Ludlow*

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