

ORDINANCE NO. 5-09-05-B

AN ORDINANCE REGULATING STORM WATER RUNOFF
ASSOCIATED WITH CONSTRUCTION AND POST-CONSTRUCTION
ACTIVITIES IN THE HAMILTON COUNTY

SECTION 1. INTRODUCTION/PURPOSE.

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat. Following the completion of construction activities, dust, dirt, and erosion will continue to affect the storm water facilities and receiving streams unless post-construction practices are put in place during the construction and maintained in perpetuity.

As a result, the purpose of this Ordinance is to safeguard persons, protect property, and prevent damage to the environment in the Hamilton County. This Ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth in the Hamilton County.

The purpose of this Ordinance is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This Ordinance seeks to meet that purpose through the following objectives:

1. Minimize increases in storm water runoff from any development in order to reduce flooding, siltation and stream bank erosion and maintain the integrity of stream channels;
2. Minimize increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality
3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
4. Reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

SECTION 2. DEFINITIONS.

Agricultural land disturbing activity: means tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tiles. For the purposes of this chapter, the term does not include land disturbing activities for the construction of agricultural-related facilities such as barns, buildings to house livestock, roads associated with infrastructure, other infrastructure, agricultural waste lagoons and facilities that process residential, workshop, or human wastes, and lakes, pond,

and wetlands; and other infrastructure.

Best Management Practices (BMP's): Structural or nonstructural practices, or a combination of practices, designed to act as effective, practicable means of minimizing the impacts of development and human activities on water quality. Traditional structural BMPs, including extended detention dry ponds, wet ponds, infiltration trenches, and sand filtration systems, are now common elements of most new development projects. Structural BMPs rely heavily on gravitational settling and/or the infiltration of soluble nutrients through a porous medium for pollutant removal. Nonstructural BMPs, which may be used independently or in conjunction with structural BMPs, rely on a much wider breadth of mechanisms to prevent or control NPS pollution. Nonstructural BMPs range from programs that increase public awareness to prevent pollution, to the implementation of control-oriented techniques (such as bioretention and storm water wetlands) that utilize vegetation to enhance pollutant removal and restore the infiltrative capacity of the landscape.

Clearing: means any activity that removes the vegetative surface cover.

Construction activity: means 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 plan: means a representation of a project site and all activities associated with the project. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A storm water pollution prevention plan is a part of the construction plan.

Contractor or subcontractor: means an individual or company hired by the project site owner, or by an individual lot owner or individual lot operator to perform services on or connected to the project site or individual lot.

Developer: means 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.

Erosion: means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

Erosion and sediment control measure: means a practice, or a combination of practices, to control erosion and resulting sedimentation.

Erosion Control: means a measure that prevents erosion.

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

Hamilton County Surveyor's Office: employees or designees of the County Surveyor of Hamilton County designated to enforce this Ordinance

Land Disturbance or Land Disturbing Activity: means any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.

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

Maximum Extent Practicable: means the use of a practice or procedure that attains the highest result that is economically and technically reasonable under the circumstances.

Project site: means the entire area on which construction activity is to be

performed.

Project site owner: means the person required to submit the NOI letter per Rule 5 and required to comply with the terms of this Ordinance, and Rule 5, 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.

Rule 5: means the rules promulgated under 327 IAC 15-5 et seq. as amended.

Rule 13: means the rules promulgated under 327 IAC 15-3 et seq. as amended.

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

Sediment Control: Measures that prevent sediment from leaving the project site.

Soil: means the unconsolidated mineral and organic material on the surface of the earth that serves as the natural medium for the growth of plants.

Soil and Water Conservation District or SWCD: means a political subdivision established under IC 14-32.

Storm Water. "Storm Water" means water resulting from rain, melting or melted snow, hail, or sleet.

Storm Water Pollution Prevention Plan (SWPPP): A plan developed to minimize the impact of storm water pollution resulting from construction and post-construction activities. The plan indicates the specific measures and sequencing to be used to control sediment, soil erosion and other construction

site wastes during and after construction.

Storm Water quality measure: means a practice, or a combination of practices, to control or minimize pollutants associated with storm water run-off.

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

Technical Review and Comment Form: A form issued by the Hamilton County Surveyor's Office stating that the storm water pollution prevention plan is adequate or stating revisions needed in the SWPPP.

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

Water Quality Volume (WQv): means the storage needed to capture and treat 90% of the average annual storm water runoff volume. Numerically (WQv) will vary as a function of long term rainfall statistical data.

Waters of the United States. A term used in federal regulations that defines all water bodies regulated as waters of the U.S. It includes: (1) all waters which may be susceptible to use in interstate or foreign commerce; (2) all interstate waters, including interstate wetlands; (3) all other waters, such as intrastate lakes, rivers, streams (including intermittent streams), mud flats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce including any such waters; (4) all impoundments

of waters otherwise defined as waters of the United States; (5) tributaries of waters identified in this section; (6) the territorial seas; and (7) wetlands adjacent to waters

Watershed: means an area of land from which water drains to a common point.

SECTION 3. APPLICABILITY.

1. The requirements under this Ordinance are in compliance with 327 IAC 15-5 (Rule 5) and apply to all persons meeting the requirements of 327 IAC 15-5-2. In general, this Ordinance requires the control of polluted run-off from construction sites with a land disturbance greater than or equal to one (1) acre, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will disturb one (1) or more acres of land as part of the same project.
2. The requirements under this rule do not apply to persons who are involved in agricultural land disturbing activities or forest harvesting activities.
3. The requirements under this rule do not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:
 - a. Landfills that have been issued a certification of closure under 329 IAC 10.
 - b. Coal mining activities permitted under IC 14-34.
 - c. Municipal solid waste landfills that are accepting

waste pursuant to a permit issued by the department under 329 IAC 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. Road and regulated drain maintenance.

4. In addition to the requirements of this Ordinance, storm water pollution prevention plans shall be developed in accordance with the current Hamilton County standards and specifications to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

SECTION 4. SUBMITTALS, REVIEW AND APPROVAL.

1. A Technical Review and Comment Form stating that the "Plan is Adequate" and an improvement location permit shall be obtained prior to the initiation of any land disturbing activities.
2. A complete storm water pollution prevention plan and erosion and sediment control plan shall be submitted in triplicate to the Hamilton County Surveyor's Office.
3. At the time of submittal, the date and time will be recorded.
4. Each application shall bear the name(s) and address(es) of the owner or developer of the project site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee, included in the schedule of fees of the Hamilton County.

5. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the storm water pollution prevention plan. The Hamilton County Surveyor's Office will review each application for a Rule 5 permit to determine its conformance with the provisions of this regulation. Within twenty-eight (28) days after receiving an application, the Hamilton County Surveyor's Office shall, in writing:
 - a. Approve the erosion and sediment control plan and SWPPP and provide a Technical Review and Comment Form stating that the "Plan is Adequate" and issue an improvement location permit;
 - b. Approve the erosion and sediment control plan and SWPPP subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the Technical Review and Comment Form stating that the "Plan is Adequate" and issue an improvement location permit;
or
 - c. Provide a Technical Review and Comment Form stating that the "Plan is Deficient" and indicating the reason(s) and procedure for submitting a revised application and/or submission.
6. Failure of the Hamilton County Surveyor's Office to act on an original or revised application within 28 days of receipt shall authorize the applicant to proceed in accordance with the plans as

filed unless such time is extended by agreement between the applicant and the Hamilton County Drainage Board.

7. The sufficiency of the construction plans shall be based upon Rule 5 regulations and the design criteria described in the current Hamilton County standards and specifications.
8. After receiving a Technical Review and Comment Form stating that the "Plan is Adequate", if revisions to the construction plans require a change in measures appropriate to control the quality or quantity of storm water runoff, then revised plans must be submitted to the Hamilton County Surveyor's Office.
9. The applicant will be required to file with the Board of Commissioners of Hamilton County, a performance bond, letter of credit, or other improvement surety in an amount deemed sufficient by the Hamilton County Surveyor to cover all costs of improvements, landscaping maintenance of improvements for such period as specified by the SWPPP, and engineering and inspection costs to cover the cost of failure to repair of improvements installed on the project site.
10. After receiving a Technical Review and Comment Form stating that the "Plan is Adequate" from the Hamilton County Surveyor's Office, and at least forty-eight (48) hours prior to the start of construction, the following shall be submitted to the Indiana Department of Environmental Management and Hamilton County Surveyor's Office:
 - a. Notice of Intent Form (required by 327 IAC 15-5);

- b. A copy of the Technical Review and Comment Form stating that the "Plan is Adequate"; and
 - c. Proof of Publication required by 327 IAC 15-5-5(9).
11. The project site owner must submit a Notice of Termination (NOT) letter to IDEM and transmit a copy of the NOT letter to the Hamilton County Surveyor's Office when all land disturbing activities have been completed, the entire project site has been stabilized and all temporary erosion and sediment control measures have been removed.
 12. Upon receipt of the NOT, the Hamilton County Surveyor's Office shall make a final inspection of the site and upon satisfaction that all conditions have been addressed shall request that the surety be released by the Hamilton County Board of Commissioners.

SECTION 5. STORM WATER POLLUTION PREVENTION PLAN.

The storm water pollution prevention plan (SWPPP) including erosion and sediment control measures shall meet the requirements contained in Rule 5, the Hamilton County Drainage Standards Manual, and the Indiana Storm Water Quality Manual.

SECTION 6. DESIGN REQUIREMENTS.

Erosion and sediment control measures shall be designed and installed in accordance with Rule 5, the Hamilton County Drainage Standards Manual, and the Indiana Storm Water Quality Manual. Unless judged by the Hamilton County Surveyor to be exempt or granted a waiver, the following performance criteria shall be addressed for storm water management at all sites:

1. All site designs shall establish storm water management practices

to control the peak flow rates of storm water discharge associated with specified design storms and reduce the generation of storm water. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

2. All storm water runoff generated from new development shall not discharge directly into a jurisdictional wetland or Waters of the United States 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 jurisdictional storm water authority. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the Indiana Department of Natural Resources.
3. Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods.
4. For new development, structural Best Management Practices (BMPs) shall be designed to remove to the maximum extent practicable of the average annual post development total suspended solids load (TSS). It is presumed that a BMP complies with this performance standard if it is:

- a. sized to capture the prescribed water quality volume (Wqv),
- b. designed according to the specific performance criteria outlined in the local storm water design manual,
- c. constructed properly, and
- d. maintained regularly.

A list of pre-approved post-construction BMPs along with procedures to be followed for approval of innovative BMPs or BMPs not in the pre-approved list are provided in the Hamilton County standards and specifications.

SECTION 7. INSPECTION.

1. A self-monitoring program by the project site owner is required during construction of any project described in Section 3. A trained individual employed or retained by the project site owner shall prepare and maintain a written evaluation of the project site by the end of the next business day following each measurable storm event and at a minimum, one (1) time per week.
2. The evaluation must address the maintenance of existing storm water quality measures to ensure they are functioning properly; and identify additional measures necessary to remain in compliance with all applicable statutes and rules.
3. Written evaluation reports must include the following:
 - a. the name of the individual performing the evaluation;
 - b. the date of the evaluation;
 - c. problems identified at the project site; and

- d. details of corrective actions recommended and completed.
4. All evaluation reports for the project site must be made available to the inspecting authority within one business day of a request.
5. All persons engaging in construction activities on a project site must comply with the storm water pollution prevention plan, this Ordinance, Rule 5 and the Hamilton County Drainage standards and specifications.
6. The Hamilton County Surveyor's Office will perform inspections and provide recommendations to evaluate the installation, implementation and maintenance of control measures and management practices at any project site involved in construction activities. Construction project sites will be prioritized based on the nature and extent of the construction activity, topography and the characteristics of soils and receiving water quality
7. If after a recommendation is provided to the project site owner, corrective action is not taken, the Hamilton County Surveyor's Office will pursue enforcement according to Section 8 of this Ordinance.

SECTION 8. ENFORCEMENT.

1. Written Notification:

In the event the Hamilton County Surveyor's Office, the designated entity's planning department, or other regulatory agency determines the project is not in compliance with this Ordinance, Rule 5 or the Hamilton County Drainage standards and specifications, the

project site owner will be issued a written notification form. The written notification by certified mail or in person may be in the form of a warning letter of noncompliance or violation notice.

2. Penalties:

Any site owner who has not corrected a deficiency within five (5) days after written notification shall be guilty of a Class B infraction and may be fined not more than one-thousand dollars (\$1,000.00) for each violation. For purposes of this Ordinance each day shall be deemed a separate violation and subject to above penalty.

3. Stop-Work Order (Revocation of Permit):

Revocation of Permit. In the event that any person holding a site development permit pursuant to this Ordinance violates the terms of the permit or implements site development in such a manner as to directly or indirectly adversely affect the water quality of the watershed, the Hamilton County Drainage Board may suspend or revoke the site development permit.

4. Restitution:

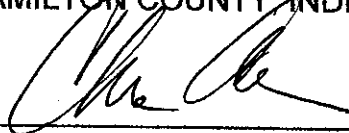
Any agency charged with enforcement of this Ordinance, under Section A above, may after a five day notice, enter a construction site in order to construct, repair or replace any erosion control device to reduce or remediate storm water runoff from the site. The enforcement agency may recover the direct cost of such remediation activities, in addition to the penalties assessed in this section.

SECTION 9. ORDINANCE ADOPTION.

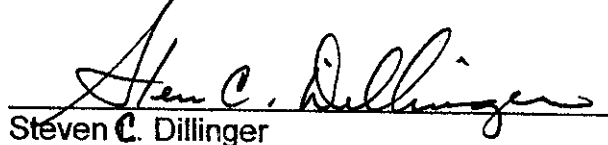
This Ordinance shall be effective on 1st day of September, 2005.

ALL OF WHICH IS ORDAINED by the Board of Commissioners of
Hamilton County this 11th day of July, 2005.

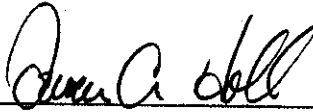
BOARD OF COMMISSIONERS OF
HAMILTON COUNTY INDIANA



Christine Altman, President



Steven C. Dillinger



Steven A. Holt

ATTEST:



Robin Mills
Hamilton County Auditor

APPROVED AS TO LEGAL FORM:



Michael Howard, County Attorney