SPONSOR: MAYOR GEORGE PABEY

ORDINANCE NO.08-0005

AN ORDINANCE ESTABLISHING A DEPARTMET OF STORM WATER MANAGEMENT AND PROVIDING FOR THE SAFE AND EFFICIENT CAPTURE AND CONVEYANCE OF STORMWATER RUNOFF

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GENERAL PROVISIONS

§ 1.01 BOARD OF STORMWATER MANAGEMENT TO OPERATE STORMWATER SYSTEM.

(A) *Adoption of state law.* The provisions of IC 8-1.5-5 are hereby adopted in their entirety, and the following entities are established in the City of East Chicago:

(1) A Department of Stormwater Management to be controlled by a Board of Directors.

(3) A Stormwater Management District, extending to the corporate boundaries of the City of East Chicago is hereby established for the purpose of providing for the collection and disposal of stormwater of the city in a manner which protects the public health and welfare, and for the purpose of assessing fees to pay for the cost of stormwater facilities and services. As the corporate boundaries of the city change, whether through annexation or otherwise, so shall the boundaries of the Stormwater District change.

(B) *Powers of the Board.* The Board of Directors of the Department of Stormwater Management shall have exclusive jurisdiction over the collection and disposal of stormwater within the District, and shall possess all the powers and duties set forth in IC 8-1.5-3-4 and 8-1.5-5-6 including but not limited to the power to:

(1) Establish and enforce rules and regulations governing the Department of Stormwater Management.

(2) Hold hearings following public notice.

(3) Make findings and determinations.

(4) Install, maintain and operate a stormwater collection and disposal system.

(5) Make all necessary or desirable improvements of the grounds and premises under its control.

(6) Subject to the approval of the Common Council, establish, assess, and collect user fees from all of the property of the Stormwater District for the operation and maintenance of the storm water system. The amount of the user fees must be the minimum amount necessary for the operation and maintenance of the storm water system.

§ 1.02 PURPOSE AND OBJECTIVE.

(A) The function of the Department of Stormwater Management is to provide for the safe and efficient capture and conveyance of stormwater runoff; mitigate the damaging effects of stormwater runoff; correct stormwater collection and conveyance problems; and fund the activities of stormwater management including design, planning, regulation, education, coordination, construction, operation, maintenance, inspection and enforcement activities, all for the protection of the public health, welfare and safety. It is the further function of the Division of Stormwater Management to insure the city's compliance with its NPDES stormwater discharge permit(s).

(B) It is hereby determined necessary for the protection of public health, safety and welfare and to conform with federal, state and local laws and regulations that a system of charges for stormwater service in the city be established which allocates the cost of providing stormwater service to each user in such a manner that the charges assessed are proportionate to the cost of providing stormwater service to that user, insofar as those costs can reasonably be determined.

§ 1.03 ABBREVIATIONS AND DEFINITIONS.

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

(A) *Abbreviations.*

BMP	Best Management Practice
BSM	East Chicago Board of Stormwater Management
CWA	Clean Water Act
DSM	East Chicago Sanitary District Division of Stormwater Management
USEPA	U.S. Environmental Protection Agency
GIS	Geographic Information System
IDDE	Illicit Discharge Detection & Elimination
IDEM	Indiana Department of Environmental Management
MS4	Municipal Separate Storm Sewer Systems
NOI	Notice of Intent

NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
SWQMP	Stormwater Quality Management Plan
SWPPP	Stormwater Pollution Prevention Plan

(B) *Definitions.*

ABATEMENT. Any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting a stormwater drainage system.

AGRICULTURAL LAND DISTURBING ACTIVITY. Tillage, planting, cultivation or harvesting operations for the production of agricultural or nursery vegetative crops, pasture establishment and renovation, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tiles.

AGRICULTURAL PROPERTY. A parcel or lot exceeding five acres of land encompassing two or more structures used to support agricultural activities.

APARTMENT/CONDOMINIUM PROPERTY. A lot or parcel of real estate on which is situated a building containing five or greater single-family dwelling units, or on which two or more buildings each containing multiple single-family dwelling units are situated.

APPROVED PLANS. Plans approved by the Division of Stormwater Management according to a permits and plan review which will govern all improvements made within the city that require stormwater facilities or changes or alterations to existing stormwater facilities.

AUTHORIZED ENFORCEMENT AGENCIES. Division of Stormwater Management, Engineering Department, Department of Code Enforcement, City of East Chicago Police and Fire Departments, or its subcontractors shall be the agencies authorized to enforce this Chapter of the East Chicago Municipal Code.

BEST MANAGEMENT PRACTICE (BMP). Any structural or non-structural control measure used to temporarily store or treat stormwater runoff, to improve its quality and, as appropriate, reduce the quantity of stormwater runoff. Also includes the design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques and other management practices.

BOARD. Board of Directors of the Division of Stormwater Management established under §1.01.

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.

CODE. East Chicago Code of Ordinances.

COMBINED SEWER. A sewer that is designed, constructed, and used to receive and transport combined sewage.

CONTIGUOUS. Abutting or adjoining as in having a common boundary or edge.

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

COUNTY-REGULATED DRAIN. Part of stormwater conveyance system under the jurisdiction of the Lake County Drainage Board, including certain ditches, tiles and sewers.

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

DETENTION. The temporary storage of stormwater runoff in a basin, pond or other structure to control the peak discharge rates by holding the stormwater for a lengthened period of time and which provides some gravity settling of particulates.

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

DEVELOPED. The condition of real property altered from its natural state by the addition to or construction on such property of impervious surfaces or physical improvements such that the hydrology of the property or a portion thereof is affected.

DIRECT DISCHARGE. Stormwater runoff from a contiguous property that enters an exempt drain, such as a river, without entering the utility-controlled drainage system.

DIRECTOR. The Director of the East Chicago Sanitary District.

DISCHARGE. The flow of any substance into the stormwater system.

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

DRAIN. Relative to stormwater drainage, any sewer, tile, ditch, stream or other stormwater runoff conveyance channel or conduit.

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

DSM. City of East Chicago Division of Stormwater Management.

EQUIVALENT UNIT. A unit value, equal to the average residential amount of impervious area of a single (ERU) family residential property within the city, and established at 2,500 square feet of (measured) impervious area. It is also the basis for calculating the proper assessment of stormwater charges to all users of the city stormwater system.

EROSION. The wearing away of the land surface by water, wind, ice, gravity, or other geological agents.

EXEMPT DRAIN. A primary line of stormwater conveyance for which primary jurisdiction and maintenance fall to the State Department of Natural Resources, U.S. Army Corps of Engineers and/or the Lake County Drainage Board rather than the city.

FLOATABLE. Any solid waste that will float on the surface of the water. For the purpose of this chapter, the term does not include naturally occurring floatables, such as leaves or tree limbs.

GEOGRAPHIC INFORMATION SYSTEM (GIS). A computer system capable of assembly, storage, manipulation, and display of geographically referenced information. This technology can be used for resource management and development planning.

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

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

ILLEGAL CONNECTION. The connection of any discharge to a separate stormwater conveyance that would allow the introduction of material that is not

composed entirely of stormwater and naturally occurring floatables into the stormwater conveyance system.

ILLICIT CONNECTION. Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drainage system. This would include, but not be limited to, any conveyance that discharges sanitary sewage, process wastewater or wash water from sources such as indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency. Also, any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE. Any discharge to a conveyance, other than stormwater and naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges may include sanitary wastewater, septic tank effluent, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, and household hazardous wastes.

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

IMPERVIOUS SURFACE/AREA. Areas that have been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop and blacktop, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

INDUSTRIAL WASTE. Any solid, liquid or gaseous substance or form of energy discharged, permitted to flow or to escape, or be transported from an industrial, manufacturing, commercial or business operation or process or from the development, recovery or processing of any natural resource carried on by any person.

INFILTRATION. The process of allowing runoff to penetrate the ground surface and flow though the upper soil surface.

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

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

MONTH. The period between any two consecutive regular billings by the utility for service rendered to a customer. Billings are scheduled at intervals of approximately 30 days. For purposes of billing, a month is 25 through 35 days. Any bills produced outside the month parameter will be prorated.

MONTHLY. Occurring once in a month. For purposes of billing, bills are issued on a monthly basis or one time per month.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). An MS4 meets the following criteria:

(a) Is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity;

(b) Discharges to waters of the U.S.;

(c) Is designed or used for collecting or conveying stormwater;

(d) Is not a combined sewer; and

(e) Is not part of a publicly owned treatment works (POTW).

NON-RESIDENTIAL PROPERTY. All properties not encompassed by the definition of ***RESIDENTIAL*** shall be defined as non-residential. ***NON-RESIDENTIAL PROPERTY*** will include:

(a) Agricultural property;

(b) Apartment and condominium property;

(c) Mobile home parks;

(d) Commercial property;

(e) Industrial property;

(f) Institutional property;

(g) Governmental property;

(h) Churches;

(i) Schools;

(j) Federal, state and locals property; and

(k) Any other property not mentioned in this or the list of residential properties below.

NPDES. National Pollutant Discharge Elimination System. Regulations for stormwater discharges as described in the Federal Register, 40 CFR Parts 122, 123, and 124.

NPDES PERMIT. Permit issued pursuant to Section 402 of the Clean Water Act (CWA).

NON-STORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

OCCUPANT. Any person or entity that lives or does business within a real property, whether with or without any right, title or interest in the property or any person or entity in possession or charge of such real estate in the event that the owner resides or is located elsewhere.

ON-SITE STORMWATER CONVEYANCES/ CONNECTIONS. Conveyances/connections located throughout the entire area included in the legal description of the land on which land disturbing activity is to be performed.

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

OUTLET. An opening through which water is discharged.

PEAK DISCHARGE. The maximum rate of flow of water passing a given point during or after a rainfall event. The term also means the maximum instantaneous flow from a given storm condition at a specific location.

PERMANENT STABILIZATION. The establishment, at a uniform density, of vegetative cover or permanent non-erosive material on a disturbed site that will ensure the resistance of the soil to erosion, sliding, or other movement.

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

POLLUTING SUBSTANCES. Discharges of untreated wastewater and other substances from municipalities, industries, and commercial businesses that cause an imbalance in the chemical, physical, and biological integrity of the city's waters.

PRIVATE STORMWATER FACILITIES. Various stormwater and drainage works not under the control or ownership of the city, county, state and/or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

PROJECT SITE OWNER. The person who is required to submit the NOI letter and is required to comply with the terms set forth in 327 IAC 15-5 and 327 IAC 15-13 and this chapter, including either of the following: 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.

PROPERTY OWNER. That individual, partnership or corporation holding the deed or record title to the property. A contract purchaser is not considered the property owner.

PUBLIC STORMWATER FACILITIES. The various stormwater and drainage works under the control and/or ownership of the city, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

RIPARIAN ZONE. Of, on, or pertaining to the banks of a stream, river, or pond.

RESIDENTIAL PROPERTY. For the purpose of this chapter, this definition refers to a lot or parcel of real estate on which a building or mobile home is situated which building contains a group of rooms forming a single inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating. This definition also includes a lot containing one individual building containing four or fewer separate or contiguous single-family dwelling units. Each and every residential property shall be assigned one ERU.

RETENTION. The holding of stormwater runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

RETROFIT. To install a new BMP or improve an existing BMP.

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

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

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

SEWAGE. The water-carried wastes from residences, business buildings, institutions and industrial establishments, singularly or in any combination, together with such ground, surface and stormwaters as may be present.

SEWER. May refer to storm, sanitary, or combined water conduction facility.

SHEET DRAINAGE. Storm runoff that causes sheet erosion, or the gradual removal of a fairly uniform layer of soil from the land surface.

SQUARE FOOTAGE OF IMPERVIOUS AREA. For the purpose of assigning an appropriate number of ERUs to a parcel of real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard to topographic features of the enclosed surface.

STOP WORK ORDER. An order issued which requires that all construction activity on a site be stopped.

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

STORM SEWER. A sewer designed or intended to convey only stormwater, surface runoff, street wash waters, and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry stormwater only, which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer. Also called a storm drain.

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

STORMWATER FACILITIES. Various stormwater and drainage works under the control and/or ownership of the city, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move, or regulate stormwater.

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

STORMWATER QUALITY MANAGEMENT PLAN (SWQMP). A comprehensive written document that addresses stormwater runoff quality.

STORMWATER SERVICE CHARGE. A charge imposed on users of the city's stormwater collection, impounding and transportation system.

STORMWATER SERVICE CUSTOMER/USER. The owner of a lot or parcel of residential or non-residential property shall be considered the Division of Stormwater Management customers for the purpose of assessing stormwater service charges.

STORMWATER SYSTEM. All constructed facilities, including combined sewers, structures and natural watercourses used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations.

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

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

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.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or manmade drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

§ 1.04 SEVERABILITY.

(A) The invalidity of any section, sentence, clause, division, part or provision of this chapter shall not affect the validity of any other section, sentence, clause, division, part or provision of this chapter which can be given meaning without such invalid part or parts.

(B) All ordinances or parts of ordinances and sections of the municipal code of the city in conflict herewith are hereby repealed.

CONSTRUCTION SITE CONTROL

§ 1.10 PURPOSE AND INTENT.

The purpose of this subchapter is to establish requirements for stormwater discharges from construction activities of one acre or more so that the public health, existing water uses, and aquatic biota are protected. This section 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. The objectives of this Chapter are:

(A) To regulate construction activities disturbing more than one acre of land as governed by 327 IAC 15-5; and

(B) To require construction site operators to develop and implement a Construction Plan including a Storm Water Pollution Prevention Plan in order to receive a land disturbance permit from the City.

§ 1.11 APPLICABILITY AND EXEMPTIONS.

(A) It shall be required that a Notice of Intent (NOI) be submitted to the Indiana Department of Environmental Management and to the DSM and that a Stormwater Pollution Prevention Plan (SWPPP) be submitted and approved by the DSM for any project located within the East Chicago Stormwater Management District that includes clearing, grading, excavation, filling and other land disturbing activities resulting in the following:

(1) The disturbance of one (1) acre or more of total land area as determined in § 53.13.

(2) Disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land.

(B) The SWPPP must be approved by the DSM prior to the beginning of any land disturbing activities on the site for which the plan is submitted. The SWPPP must comply with the design criteria and technical standards and specifications approved by the BSM.

(C) This Chapter does not apply to the following types of activities:

(1) Agricultural land disturbance activities.

(2) Forest harvesting activities.

(D) This section does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under 329 IAC 10.

(2) Coal mining activities under IC 14-34.

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by IDEM under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(4) Roadway projects initiated by the Indiana Department of Transportation.

§ 1.12 RESPONSIBILITY FOR ADMINISTRATION.

The Board of Stormwater Management of the City of East Chicago shall administer, implement, and enforce the provisions of this Chapter.

§ 1.13 DETERMINATION OF LAND DISTURBANCE.

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

(A) Off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.

(B) Strip developments will be considered as one (1) project site and must comply with this Chapter unless the total combined disturbance on all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale.

(C) To determine if multi-lot project sites are regulated by this rule, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:

(1) For a single-family residential project site where the lots are one-half (0.5) acre or more, one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.

(2) For a single-family residential project site where the lots are less than one half (0.5) acre in size, the total lot must be calculated as being disturbed.

(3) To calculate lot disturbance on all other types of projects sites, such as industrial and commercial projects project sites, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.

(D) The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design

criteria and the technical standards and specifications approved by the Board of Stormwater Management.

§ 1.14 RESPONSIBILITY FOR IMPLEMENTATION.

A project site owner shall be identified for all projects that require the submission of a Stormwater Pollution Prevention Plan (SWPPP) and a construction permit per § 1.11(A).

(A) The project site owner has the following responsibilities:

(1) Ensure that a sufficient SWPPP is completed, submitted and approved by the Division of Stormwater Management (DSM).

(2) Complete a sufficient Notice of Intent (NOI) letter to be submitted to the Indiana Department of Environmental Management (IDEM), with a copy sent to the DSM.

(3) Make application and obtain a land disturbance permit in accordance with procedures established by the DSM.

(4) Ensure compliance with this Chapter during:

(a) The construction activity; and

(b) Implementation of the construction plan.

(5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this rule and the approved SWPPP.

(6) Notify the IDEM with a sufficient Notice of Termination (NOT) letter with a copy sent to the DSM.

(B) For an individual lot where land disturbance is expected to be one acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:

(1) Ensure that a sufficient stormwater management construction plan has been submitted to and approved by the DSM and a construction permit has been obtained.

(2) The stormwater management plan and construction activity shall comply with the technical standards adopted by the BSM and with all sections of this Chapter and be in accordance with the applicable procedures established by the DSM.

(3) Complete his or her own sufficient Notice of Intent (NOI) letter to be submitted to the Indiana Department of Environmental Management (IDEM), with a copy sent to the DSM.

(4) Notify the IDEM with a sufficient Notice of Termination (NOT) letter with a copy sent to the DSM.

(C) For an individual lot where the land disturbance is less than one acre and the lot lies within a project site permitted under this rule, the individual lot operator shall:

(1) Comply with the provisions and requirements of the DSM approved SWPPP and the stormwater construction permit for the overall site, comply with the technical standards adopted by the BSM and comply with this Chapter. All work shall be performed in accordance with the applicable procedures established by the DSM.

(2) A NOI is not required.

§ 1.15 GENERAL REQUIREMENTS FOR STORMWATER QUALITY CONTROL.

All storm water quality measures and erosion and sediment controls necessary to comply with this Chapter must be implemented in accordance with the stormwater pollution prevention plan and comply with the technical standards adopted by the Board of Stormwater Management. All water quality measures must be sufficient to satisfy the following conditions.

(A) Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fill in areas with steep slopes should be avoided wherever possible, and natural contours should be followed as closely as possible.

(B) Existing natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to watercourses and lakes also should be left undisturbed wherever possible. Non-vegetated or vegetated areas with less than 70% cover that are scheduled or likely to be left inactive for 15 days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.

(C) All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.

(D) The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.

(E) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.

(F) Appropriate measures shall be implemented to prevent wastes or unused building materials, including, garbage, debris, packaging material, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable State statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures (including having spill response equipment on site) shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

(G) Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.

(H) Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.

(I) Natural features, including wetlands, shall be protected from pollutants associated with stormwater runoff. All erosion and sediment control measures necessary to comply with this Chapter and with other provisions as outlined in 327 IAC 15-5-7 must be implemented in accordance with the submitted plans.

STORMWATER QUALITY MANAGEMENT CONTROL FOR POST-CONSTRUCTION

§ 1.20 PURPOSE AND INTENT.

The purpose of this subchapter is to establish requirements for the installation of permanent stormwater quality features designed to intercept and filter pollutants in stormwater discharges from newly developed or redeveloped construction sites of one acre or more. Through the use and installation of stormwater quality BMPs, stormwater

runoff from these sites will be filtered and harmful amounts of sediment, nutrients and contaminants will be removed prior to reaching regional creeks, streams and rivers. The control of stormwater quality will be based on the management of total suspended solids (TSS).

§ 1.21 APPLICABILITY AND EXEMPTIONS.

(A) It shall be required that a Stormwater Pollution Prevention Plan (SWPPP) that addresses post-construction stormwater quality control measures be submitted and approved by the DSM for any project located within the East Chicago Stormwater Management District that includes clearing, grading, excavation, filling and other land disturbing activities resulting in the following:

(1) The disturbance of one (1) acre or more of total land area as determined per §1.13.

(2) Disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land.

(B) The SWPPP must be approved by the DSM prior to the beginning of any land disturbing activities on the site for which the plan is submitted. The SWPPP shall include stormwater quality features that shall become permanent features of the site plan and shall remain in place following completion of construction activities. The SWPPP shall comply with the design criteria and technical standards and specifications approved by the BSM.

(C) This Chapter does not apply to the following types of activities:

(1) Agricultural land disturbance activities.

(2) Forest harvesting activities.

(3) Construction activities associated with a single family residential dwelling disturbing less than five (5) acres, when the dwelling is not part of a larger common plan of development or sale.

(4) Single family residential developments consisting of four or less lots.

(5) A single family residential strip development that the developer offers for sale or lease without land improvements and which project is not part of a larger common plan of development or sale.

(6) Individual building lots within a larger permitted project.

(D) This section does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under 329 IAC 10.

(2) Coal mining activities permitted under IC 14-34.

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by IDEM under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(4) Roadway projects initiated by the Indiana Department of Transportation.

§ 1.22 RESPONSIBILITY FOR IMPLEMENTATION.

A project site owner shall be identified for all projects that require the submission of a Stormwater Pollution Prevention Plan (SWPPP) and a construction permit per § 1.11(A).

(A) The project site owner has the following responsibilities:

(1) Ensure that a sufficient Stormwater Pollution Prevention Plan (SWPPP) is completed, submitted and approved by the Division of Stormwater Management (DSM). The approved SWPPP shall include the placement of appropriate Best Management Practices (BMPs), designed, constructed and maintained, from a pre-approved list specified in the East Chicago Development Criteria/ Standards Manual or Stormwater Technical Standards Manual.

(2) Complete a stormwater permit application, along with a sufficient construction plan, and submit to the DSM in accordance with §§ 1.10 through 1.15.

(3) With the approved stormwater management permit, ensure proper construction and installation of all stormwater BMPs in compliance with the technical standards adopted by the BSM.

(4) Notify the Indiana Department of Environmental Management (IDEM) with a Notice of Termination (NOT) letter upon completion of the project and stabilization of the site. A copy of the Notice of Termination (NOT) letter must be submitted to the DSM.

(B) The project site owner must submit to the DSM a Storm Water Pollution Prevention Plan (SWPPP) that addresses the requirements of 327 IAC 15-5-6.5(a)(8) and shows the placement of appropriate BMPs from a pre-approved list of BMPs specified in the East Chicago Development Criteria/Standards Manual or Stormwater Technical Standards Manual developed and approved by the East Chicago Board of Stormwater

Management. The selected and approved BMPs must be designed, constructed, and maintained according to guidelines provided or referenced in the City of East Chicago Development Criteria/Standards Manual or Stormwater Technical Standards Manual.

(C) Practices other than those specified in the pre-approved list may be utilized. However, the applicant shall be required to prove, to the satisfaction of the plan review staff employed by the Division of Stormwater Management for the City of East Chicago, that the performance and maintenance of such practices will be according to guidelines provided in the East Chicago Development Criteria/ Standards Manual or Stormwater Technical Standards Manual.

(D) It shall be the responsibility of the project site owner to complete a stormwater permit application and to ensure that a sufficient construction plan is completed and submitted to the Division of Stormwater Management in accordance with §§ 1.10 through 1.15 of this Chapter. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMPs in compliance with this Chapter with the design standards adopted by the Board of Stormwater Management for the City of East Chicago, and with the approved stormwater management permit. The project site owner shall notify the Division of Stormwater Management for the City of East Chicago upon completion of the project and stabilization of the site with a sufficient Notice of Termination letter. However, all owners of property including stormwater quality facilities meeting the applicability requirements must comply with the requirements of this Chapter.

§ 1.23 CALCULATIONS, DESIGN STANDARDS AND SPECIFICATIONS.

Calculation of land disturbance should follow the guidelines discussed in § 1.13 and the East Chicago Development Criteria/Standards Manual or Stormwater Technical Standards Manual adopted by the Board of Stormwater Management.

The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs, shall meet the design criteria, standards, and specifications outlined in the East Chicago Development Criteria/Standards Manual or Stormwater Technical Standards Manual adopted by the East Chicago Board of Stormwater Management. The methods and procedures included in these references are in keeping with the above stated policy and meet the requirements of IAC 327 15-13.

INSPECTION, MAINTENANCE AND REPORTING

§ 1.30 INSPECTION, MAINTENANCE AND REPORTING.

(A) Upon the approval of the SWPPP and the issuance of all other required permits and approvals by the DSM the following shall occur during the period of construction activities:

(1) The BSM, or its designee, shall have the authority to conduct inspections of the site to ensure full compliance with the provisions of this Chapter, the design standards and technical specifications by the BSM and the terms and conditions of the approved SWPPP.

(2) A self-monitoring program shall be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. The program must include the following:

(a) A trained individual shall perform an inspection and prepare a written evaluation of the project site:

1. By the end of the next business day following each 0.5 inch of rain; and

2. At a minimum of one time per week.

(b) The evaluation must:

1. Address the maintenance of existing stormwater quality measures to ensure they are functioning properly; and

2. Identify additional measures necessary to remain in compliance with all applicable laws and ordinances.

(c) Written evaluation reports must include:

1. The name of the individual performing the evaluation;

2. The date of the evaluation;

3. Problems identified at the project site; and

4. Details of corrective actions recommended and completed.

(d) All evaluation reports for the project site must be made available to the inspecting authority within forty-eight (48) hours of a request.

(B) Upon completion of the construction activities the following shall occur perpetually in accordance with the SWPPP regardless of site usage and land ownership:

(1) All constructed stormwater quality facilities shall be maintained by the property owner, or per agreements on file with the DSM, and be in good condition and in accordance with the approved SWPPP operation and maintenance procedures and schedules and the BSM approved technical standards.

(2) The approved stormwater quality facilities shall not be subsequently altered, revised or replaced except in accordance with the approved SWPPP or in accordance with DSM approved amendments or revisions to the SWPPP.

(3) The BSM, or its designee, shall have the authority to conduct inspections of the site and the installed BMPs to ensure full compliance with the provisions of this Chapter, the design standards and technical specifications approved by the BSM and terms and conditions of the SWPPP.

PROHIBITED DISCHARGES AND CONNECTIONS

§ 1.40 PURPOSE AND INTENT.

The purpose of this section is to provide for the health, safety and general welfare of East Chicago, Indiana through the regulation of nonstormwater discharges to the municipal separate storm sewer system and to establish the legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

§ 1.41 APPLICABILITY AND EXEMPTIONS.

This Chapter shall apply to all discharges, including illegal dumping, entering the stormwater drainage system under the control of the Board of Stormwater Management for the City of East Chicago. These discharges include flows from direct connections to the stormwater drainage system, illegal dumping, and contaminated runoff.

This section shall not apply to the following categories of nonstormwater discharges or flows which are exempted from the requirements of this Chapter per 40 CFR 122.26(d)(2)(iv)(B)(1) and may be discharged into the separate storm sewer system so long as the appropriate tap, connection or discharge permits have been secured, if needed:

(A) Water line flushing;

(B) Landscape irrigation or lawn watering;

(C) Diverted stream flows;

(D) Rising ground waters;

(E) Uncontaminated groundwater infiltration;

(F) Uncontaminated pumped ground water;

(G) Discharges from potable water sources;

(H) Foundation, footing drains or crawl space pump discharge;

(I) Air conditioning condensation;

(J) Irrigation water;

(K) Springs;

(L) Individual residential car washing;

(M) Flows from riparian habitats and wetlands;

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

(O) Street wash water;

(P) Discharges from firefighting activities;

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

§ 1.42 PROHIBITED DISCHARGES AND CONNECTIONS.

(A) *Illicit Discharges Prohibited.* No person shall discharge or cause to be discharged to East Chicago's municipal separate storm sewer system, watercourse, or water body, directly or indirectly, any discharge that is not composed entirely of stormwater except permitted discharges per 40 CFR 122.26(b)(2). Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater through the use of best management practices (BMPs). The Division of Stormwater Management of the City of East Chicago is authorized to require dischargers to implement pollution- prevention measures, including BMPs, as may be necessary to prevent or reduce the discharge of pollutants into East Chicago's stormwater drainage system.

(B) *Illegal Connections Prohibited.* The construction, use, maintenance or existence of illegal connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illegal connections made in the past regardless of whether the connection was permissible under law or practices prevailing or applicable at

the time of connection and regardless of whether the connection was approved by an authorized enforcement agency at the time of the connection.

(C) It shall be a violation of this Chapter to permit, allow or engage in the discharge of any pollutant into any waterway of the United States, including but not limited to, the Grand Calumet River, the Indiana Harbor Ship Channel, any of their tributaries or streams or any streets, storm sewers or drains, ditches or drainage ways leading to any such waterway of the United States.

§ 1.43 STORAGE OF HAZARDOUS OR TOXIC MATERIAL.

It shall be a violation of this Chapter to store polluting substances, as identified by USEPA or IDEM, in a manner that violates any federal, state or local statute, ordinance or regulation relating to the protection of the public health, safety and welfare or environment, when such storage is shown to have the potential of allowing discharge to any waterway of the United States including, but not limited to the Grand Calumet River, the Indiana Harbor Ship Channel, any of their tributaries or streams or any streets, storm sewers or drains, ditches or drainage ways leading to any such waterway of the United States.

Storage or stockpiling of hazardous or toxic material on any site must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

§ 1.44 MONITORING OF DISCHARGES.

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

(B) *Access to Facilities.*

(1) The East Chicago Department of Stormwater Management shall have all authority provided by law and pursuant to the terms and conditions of any applicable permit to enter and inspect facilities as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access by properly identified representatives of the Department of Stormwater Management or authorized enforcement agencies.

(2) Facility operators shall allow the Department of Stormwater Management ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept as part of the conditions of an NPDES permit.

(3) The Department of Stormwater Management shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Department or

an authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Department of Stormwater Management shall have 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 stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction or condition that would obstruct the safe and easy access to the facility to be sampled or monitored shall be promptly removed by the operator upon the oral or written request of the Department of Stormwater Management and such obstruction shall not be replaced. The costs of clearing such access, if any, shall be borne by the facility.

(6) Unreasonable delays in allowing the Department of Stormwater Management access to a facility regulated under this Chapter is a violation of this Chapter of the East Chicago Municipal Code. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies reasonable access by the Department of Stormwater Management or an authorized enforcement agency to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

(7) If the Department of Stormwater Management has been refused access to any part of the premises from which stormwater is discharged, and it can demonstrate probable cause to believe that there may be a violation of this Chapter or the Municipal Code, 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 Chapter of the East Chicago Municipal Code or any order issued hereunder or to protect the overall public health, safety and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

§ 1.45 POLLUTANT REDUCTION THROUGH THE USE OF BEST MANAGEMENT PRACTICES.

The Department of Stormwater Management will establish acceptable Best Management Practices (BMPs) for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the municipal storm drainage system or the waters of the United States.

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal separate storm sewer system or watercourses, using the City's approved BMPs. Further, any person responsible for a property or premise that is or may be the source of an illicit discharge may be required to implement additional BMPs as required by the Department of Stormwater Management to prevent

further discharge of pollutants into 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 to be compliance with the provisions of this section.

§ 1.46 PRIVATE PROPERTY MAINTENANCE DUTIES.

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

(B) Easements intended for periodic or occasional use as conductors for the flow of surface water runoff shall be maintained in an unobstructed condition by the owners of the properties they cross. The utility shall have the right to determine if any obstruction exists and to repair or maintain, or require such repair and maintenance by the property owner, as shall be reasonably necessary to keep the conductors unobstructed.

(C) No property owner or occupant shall change the stormwater runoff pattern of his property in such a way that neighboring properties or city property is adversely affected. Consideration and provisions must be made for drainage to and from neighboring properties when land use or development is altered.

(D) No property owner or occupant shall direct stormwater runoff from roof drains, sump pump outfalls or other building drains in such a way that neighboring properties or city property is adversely affected.

§ 1.47 SPILL REPORTING.

As soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information about any known or suspected release of material that may result in illegal discharges or pollutants entering the storm sewer system or watercourses, said person shall take all necessary steps to ensure the timely discovery, containment and cleanup of such release.

In the event of a release of hazardous material, 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 has notify the Department of Stormwater Management or authorized enforcement agency in person or by phone or facsimile no later than the next business day.

If the report is made in person or by phone, the reporting party shall confirm the notice in writing addressed to the DSM within five (5) days. The written report shall specify:

(A) The composition of the discharge and the cause thereof;

(B) The date, time, and estimated volume of the discharge;

(C) All measures taken to clean up the accidental discharge and all measures proposed to be taken to prevent any recurrence;

(D) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

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

RATES, CHARGES AND BILLING

§ 1.50 STORMWATER SERVICE CHARGE.

A stormwater service charge shall be imposed on each and every lot and parcel of land within the city which directly or indirectly contributes to the stormwater system of the city, which charge shall be assessed against the owner thereof, who shall be considered the user for the purposes of this chapter. This charge is deemed reasonable and is necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future city stormwater system and for compliance with the city's NPDES stormwater discharge permit(s).

§ 1.51 STORMWATER RATE ESTABLISHMENT PROCEDURES.

(A) The stormwater service rate shall be fixed as provided in I.C. 8-1.5-5

For the purpose of this chapter, a month shall be considered to be a period of 25 days up through 35 days depending on billing cycles. Any billings for stormwater service outside this time shall be on a per diem basis.

(B) This stormwater rate is designed to recover the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the city's stormwater service charge. This rate is established so as to maintain adequate fund

reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(C) This rate shall be evaluated annually as to its sufficiency to satisfy the needs of the DSM.

§ 1.52 RATE STRUCTURE AND CALCULATION.

(A) For the purposes stated in §§ 1.02 and 1.51 there is hereby assessed a stormwater service charge to each user situated within the corporate limits of the city who contributes directly or indirectly to the stormwater system of the city, in an amount as determined below.

(B) For any such property, lot, parcel of land, building or premises which contributes directly or indirectly to the stormwater system of the city, such charge shall be based upon the quantity of impervious area situated thereon.

(C) All properties having impervious area within the city will be assigned an Equivalent Residential Unit (ERU), or multiple thereof, with all properties having impervious area assigned at least one ERU.

(1) Residential properties. A monthly flat-rate charge for stormwater service rendered to residential properties shall be charged to each account within the city limits according to the service address. All residential properties are hereby assigned one ERU. This flat fee shall apply to all residential properties as defined herein. Residential properties may apply for credits as outlined at §1.55. Based on the granting of a credit, a residential property may pay for less than one ERU. However, in no case shall a residential property pay for less than 35% of the gross stormwater bill owed before credits were applied.

(2) Non-residential properties. Non-residential properties will be assigned an ERU multiple based upon the property's individually measured impervious area (in square feet) divided by 2,500 square feet (one ERU). The division will be calculated to the first decimal place.

(3) Only whole ERUs shall be used in determining the assignment of gross ERUs to a property. All rounding necessary to reach the appropriate whole ERU shall be done according to mathematical convention (0 - 0.4 rounded down to nearest whole ERU; 0.5 - 0.9 rounded up to nearest whole ERU).

(D) There shall be no exceptions or exemptions from the assignment of gross stormwater ERUs.

§ 1.53 BILLINGS; TERMS OF PAYMENT.

(A) Billings. All stormwater bills shall be rendered on a monthly basis, along with the user's charges for other city utility services.

(B) Terms of payment. The stormwater service charges prescribed in § 1.51 shall be due on the payment date set out on the bill. It shall be a violation of this chapter to fail to pay a stormwater service bill when due. All bills for stormwater services not paid on or before the due date, which due date shall be approximately 15 days after the bill is rendered, shall be subject to a collection or deferred payment charge of 10% on outstanding balance.

(C) Payment priority. Stormwater service charges shall take priority over all other charges for city utility services. Partial payments shall first be applied to satisfy the garbage user fee under Chapter 50 and secondly, to these charges.

(D) Collection. Delinquent stormwater service charges may be collected in a civil action along with other delinquent city utility charges, reasonable attorney fees and court costs.

§ 1.54 APPEALS OF ERU DETERMINATION.

(A) If, in the opinion of any user, the ERU multiple assigned to his property is inaccurate in light of the amount of impervious area of said property, the user shall have the right to contest the ERU determination and thus the rate assessed in the following manner.

(B) User shall obtain and complete a petition to appeal stormwater rate form (petition) which shall be returned to the DSM with verifiable documentation supporting user's claim.

(C) The DSM shall investigate user's claim and, upon review thereof, shall render a written determination that either the original ERU determination and assessed rate should be affirmed or the user's rate should be adjusted according to the petition.

(D) If user's petition is denied, said opinion shall be forwarded to user by certified mail, return receipt requested. User shall then have seven days from date of receipt to request a reconsideration by the Director. Any additional facts concerning the dispute shall be reduced to writing and submitted, along with a copy of the original petition and supporting documents, to the Director. The DSM shall submit a written report of the determination in the case, along with any documents used in denying the user's claim.

(E) Thereafter, the Director, or his designee, shall review all documentation and conduct, as necessary in his opinion, an informal hearing to determine and resolve the dispute based on the documentation submitted and any oral testimony. A written opinion shall be rendered within 30 days after the hearing or submission of documentation if no hearing is conducted. The written opinion of the Director of his designee shall constitute

the final DSM determination, and may be challenged by the user by a written request to the Board for formal consideration within 15 days of the Director's opinion.

(F) The Board shall conduct a hearing and issue a determination which shall be binding on the Department of Stormwater Management. The hearing shall be electronically recorded and a transcript of the hearing provided upon request at a cost per page as determined by the Department of Stormwater Management Accounting Department and amended from time to time.

(G) A party or person aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with state law.

(H) If the DSM recommends the user's rate be reduced, or reduction is ordered by the Director, Board or court of law, user shall be credited accordingly for any overpayment made from the date of the petition.

(I) Dispute or appeal of an ERU determination for stormwater service rate shall not be a valid reason for non-payment of the originally assessed stormwater service charge by the user.

§ 1.55 DISCOUNT AND CREDITS POLICIES AND PROCEDURE.

(A) This section establishes a discount for land and buildings used for various purposes when exempt from property taxation under IC 6-1.1-10-1, 6-1.1-10-2, 6-1.1-10-4, 6-1.1-10-5, and 6-1.1-1016.

(B) This section also discusses some of the most common credit considerations and requirements but is not intended to be the exclusive authority. The Board, through the rules and regulations of the DSM shall more fully and completely establish the credit policies and procedures for stormwater management.

(1) Discounts. The following categories of property exempt from property taxation shall be entitled to a 25% discount off of the gross ERUs assigned for any such land or building under § 1.52 where the statutory exemption has been granted and can be confirmed through the records of the Lake County Auditor's office, upon proper application for said discount:

(a) IC 6-1.1-10-1. Property of the United States and its agencies and instrumentalities.

(b) IC 6-1.1-10-2. Property owned by the state, and any agency thereof or the Indiana Bureau of Motor Vehicles Commission.

(c) IC 6-1.1-10-4. Property owned by a political subdivision of the state.

(d) IC 6-1.1-10-5. Property owned by the city which is used to provide a municipal service.

(e) IC 6-1.1-10-16. Property owned, occupied, and used for educational, literary, scientific, religious or charitable purposes.

(2) Credit availability.

(a) Credit will be available to all properties for various forms and levels of abatement.

(b) Maintenance requirements. Credit will only be allowed for properties where structural controls are maintained in fully functional condition and according to maintenance criteria and design standards issued by the DSM.

(c) Existing structure credits. Credit will be allowed for previously constructed abatement features or stormwater controls. The amount of credit granted will be determined by the methods of design as outlined within the rules and regulations of the DSM.

(d) Property location. Credit will be granted on the basis of location of a given property in relation to a major waterway of the United States, if it directly discharges its stormwater to that waterway in conformance with all maintenance criteria and design standards as applicable. The waterways covered by this section shall include the Grand Calumet River and the Indiana Harbor Ship Channel, tributaries and other ditches and drains specified in the rules and regulations of the DSM, and any legal public drains under the control by Lake County.

(e) Voluntary controls. For new developments, credit will be granted where the city requires abatement features or stormwater controls to be constructed and/or maintained, and all city standards and criteria are met. Other voluntary controls or upgrades of existing systems through retrofitting will be granted credits on a case-by-case basis considering the impact of the controls on the city's stormwater system, as determined by the DSM.

(f) Detention/retention. Credit will be granted for qualifying detention basins and wet ponds. Credit may be granted for other control devices on a caseby-case basis providing sufficient technical justification is available to make such determinations.

(g) Oversized facilities. Oversized private stormwater facilities or improvements exceeding standard abatement design criteria and intended to serve an area larger than the immediate project site or designed to handle a larger than specified storm event as required by the DSM shall be considered for additional credit.

(h) Industrial NPDES permit credits. No credit shall be allowed for industries in compliance with federal laws and regulations regarding industrial stormwater discharge permits at this time.

(i) Pollution reduction Credit may be granted on a case-by-case basis for efforts to reduce the amount of pollutants in a user's stormwater runoff or for improvements to the quality of a user's stormwater discharge.

(j) Regional basins. Credit will not be granted to properties draining into ponds or basins maintained or owned by the city. Credit will be considered for privately owned and maintained regional controls and will be apportioned among owners on a prearranged basis.

(k) Percent discounted credits for private stormwater facilities.

1. Discounts and credits shall be computed on an ERU basis. A maximum credit of less than 100% of the gross ERUs originally assigned can be granted for the construction and maintenance of private stormwater facilities considering the potential of each to reduce peak flow and/or volume stormwater flow and direct discharge capabilities. Private stormwater facilities eligible for credits listed above constitute elements of the secondary drainage system. The secondary system is designed to drain a limited area with benefits limited to the owners of the particular property or owners of adjacent properties. As such, secondary elements of the system are not eligible for 100% credit.

2. Further, there are administrative costs involved with operation of the DSM that must be shared by all users, including costs incurred to meet quality-based permit requirements, which provide community-wide benefits, and thus cannot be credited. Discounts and credits shall be cumulative; however, in no case shall the total amount of discounts and credits equal more than 65% of the user's gross stormwater service fee.

3. The formula for determining the applicable credit percentage for individual parcels shall be specifically set out in the Rules and Regulations of the DSM.

(l) Federal, state, city and county roadways, publicly-owned airport movement areas. Publicly-owned streets and roads and highway shall be given 100% credit in reliance on governmental guidance documents which classify them as an integral part of the stormwater conveyance system. Publicly-owned airport movement areas including runways, taxiways, ramps and other areas of an airport which are used for taxiing or hover taxiing, air taxiing, takeoff and landing of aircraft when constructed and maintained similarly to public roadways, shall also qualify for this credit. The surface water control systems incorporated in the design of roadways and airport movement are areas engineered to convey all design runoff without street flooding, and the like associated with frequent, small runoff events up to about five- or ten- year recurrence intervals, and as such, constitute elements of the primary drainage system. Primary

elements of the drainage system yield community-wide benefits and are installed to service the general public's interests, conveying runoff from large areas encompassing whole watershed in some cases.

(3) Procedure.

(a) Timing of applications and/or determinations. Application for credits shall be made on forms provided by Division of Stormwater Management and accompanied by the appropriate application fee. The fee shall be $25 for residential users and $100 for all others. It is the intent of the city that all applications will be reviewed and credits and discounts determined within 30 days after submittal of a complete and correct application package. The credit will be effective on the 1st billing cycle for that property following completion of construction, or the date of the application. Appeals of credit or discount determinations shall be handled consistent with the procedures set out above for reconsideration of ERU petitions. Appeals of credit or discount decisions will be made initially to the Director, or his designee. Should satisfaction not be achieved, an appeal may be lodged with the Board.

(b) Application for credit or discount, or appeal of determination thereon shall not constitute a valid reason for non-payment of the originally assessed stormwater service charge by the user.

§ 1.56 STORMWATER FUND.

All revenues earned and fees collected for stormwater service, including but not limited to, drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds shall be deposited in an account entitled "City of East Chicago Stormwater Account." Disbursements from this account will be authorized by the Board and, as required by law, the Common Council. Such disbursements will be used exclusively for the operation, maintenance and improvement of the city's stormwater system. Funds from this account shall not revert to any other Department of Stormwater Management or Civil City Fund and may not be transferred for any other purpose, including to avoid a default on bonds or any Department of Stormwater Management fund or the city.

§ 1.57 DELINQUENT FEES AND PENALTIES AS LIENS; DUPLICATES; COLLECTION.

Delinquent charges for stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of IC 36-9-23-32 and 36-9-23-33.

ENFORCEMENT

§ 1.60 ENFORCEMENT OF §§ 1.10, 1.20, 1.30 AND 1.40.

(A) *Enforcement Actions Generally.* Enforcement of this Chapter shall be subject to the severity of the infraction and the responsible party's efforts to comply as determined by the Department of Stormwater Management. The Department shall reserve the right to determine the level of enforcement on a case-by-case basis. Subject to division (G) below, enforcement actions shall be initiated by the serving of a Notice of Violation and may include any one or more of the following:

(1) Verbal warning to the responsible party/parties to make corrections.

(2) Written warning to the responsible party/parties to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.

(3) Warning of Non-Compliance with directions to the responsible party/parties that site conditions require immediate action.

(4) The performance of monitoring, analysis, and reporting.

(5) Stop Work Order.

(6) Suspension of access to the stormwater drainage system.

(7) Civil Penalties and fines.

(B) *Restoration and Remediation.* If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the responsible party/parties fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the responsible party/parties.

(C) *Emergency Suspensions.* The Department of Stormwater Management may, without prior notice, suspend access to the stormwater drainage system to a person or entity when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the stormwater drainage system or Waters of the United States. If a responsible party fails to comply with a suspension order issued in an emergency, the Department of Stormwater Management may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or Waters of the United States, or to minimize danger to persons.

(D) *Suspension of Access to the Stormwater Drainage System Due to the Detection of Illicit Discharge.* Any person or entity discharging to the agreed upon by the Board of Stormwater Management and the violator and that further the goals of East Chicago's approved Stormwater Quality Management Plan.

(E) *Civil Penalty.* Any person that has violated or continues to violate this Chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to $2,500 dollars per violation per day. Each and every day that the violation exists shall constitute a separate offense.

(F) *Fees and Costs.* The Department of Stormwater Management may recover all reasonable attorneys' fees, court costs, consultant costs and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses to the extent permitted by law.

(G) *Remedies Not Exclusive.* The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Department of Stormwater Management to seek cumulative remedies.

(H) *Authorized Enforcement Agencies.* The Board of Stormwater Management, Water Pollution Control Maintenance Department, Division of Public Works and Department of Stormwater Management, Department of Code Enforcement, and Fire Department of the City of East Chicago, or its subcontractors shall be the agencies authorized to enforce this Chapter of the East Chicago Municipal Code.

(I) *Appeal of Notice of Violation.* Any person receiving a Notice of Violation may appeal the determination to the Board of Stormwater Management. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the Board or its hearing officer shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the Board or its hearing officer shall be final, subject to any right of a person to seek judicial review in a court of competent jurisdiction.

§ 1.61 ENFORCEMENT OF OTHER PROVISIONS OF CHAPTER 1.

(A) Failure to pay a stormwater user fee when due shall constitute a violation of this chapter, which shall be enforced by the Director and such deputies as the Director, with the approval of the Board, may appoint for such purposes.

(B) Any non-residential user charged under division (A) above and found to be in violation shall be subject to a find of up to $2500 per day and shall be held responsible for the amount of the outstanding bill, in lieu of a collection action and assessment of collection or deferred payment charges set out in §1.53(B) and (C) or lien procedures under §1.57.

PASSED and ADOPTED by the Common Council of the City of East Chicago, Lake County, Indiana, on this the 24th day of March, 2008.

RICHARD MEDINA
PRESIDENT, EAST CHICAGO
COMMON COUNCIL

Attest:

MARY MORRIS LEONARD,
CITY CLERK

PRESENTED by me to the Mayor for his approval and signature on this _____ day of _____, 2008.

MARY MORRIS LEONARD,
CITY CLERK

APPROVED and SIGNED by me on this 27th day of March, 2008.

GEORGE PABEY, MAYOR
CITY OF EAST CHICAGO