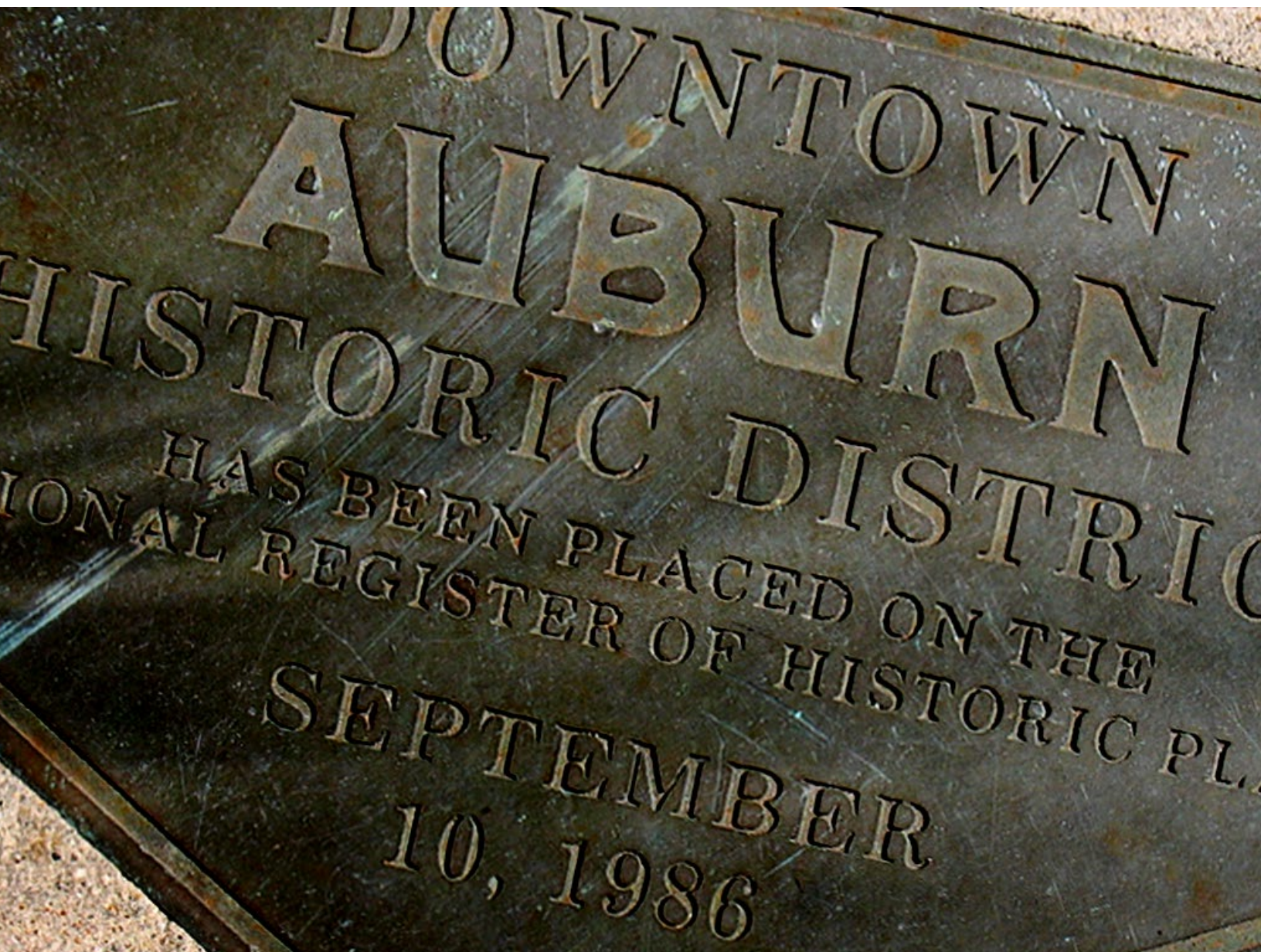




**Code of Ordinances**  
CITY OF AUBURN





**Code of Ordinances**  
CITY OF AUBURN

---

Storm Water Runoff  
Control

CHAPTER  
161

---

AUBURN



## Table of Contents

<b>161.001</b>	<b>INTRODUCTION/ PURPOSE</b>
<b>161.002</b>	<b>LEGAL AUTHORITY</b>
<b>161.003</b>	<b>DEFINITIONS</b>
<b>161.004</b>	<b>COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS</b>
<b>161.005</b>	<b>SEVERABILITY</b>
<b>161.006</b>	<b>RESPONSIBILITY FOR ADMINISTRATION</b>
<b>161.007</b>	<b>ULTIMATE RESPONSIBILITY</b>
<b>161.008</b>	<b>DISCLAIMER OF LIABILITY</b>
<b>161.009</b>	<b>DEVELOPMENT OF TECHNICAL MANUAL</b>
<b>161.010</b>	<b>APPLICABILITY AND EXEMPTIONS</b>
<b>161.011</b>	<b>CONSTRUCTION STORMWATER CONTROL GENERAL REQUIREMENTS</b>
<b>161.012</b>	<b>CONSTRUCTION SWPPP APPLICATION</b>
<b>161.013</b>	<b>REVIEW AND APPROVAL</b>
<b>161.014</b>	<b>PROJECT SITE OWNER RESPONSIBILITIES</b>
<b>161.015</b>	<b>INDIVIDUAL LOT OWNER OR OPERATOR RESPONSIBILITIES</b>
<b>161.016</b>	<b>FEE STRUCTURE</b>
<b>161.017</b>	<b>CONSTRUCTION INSPECTIONS</b>
<b>161.018</b>	<b>ENFORCEMENT</b>
<b>161.019</b>	<b>REMEDIES NOT EXCLUSIVE</b>
<b>161.020</b>	<b>PENALTIES</b>



## 161.001 INTRODUCTION/ PURPOSE

During the construction process, the 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 habitats for fish and other desirable species. Eroded soil also necessitates the repair of sewers, ditches, and streams. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitats. Construction activities can also expose stormwater runoff to pollutants from spills, trash, concrete washouts, sediment tracking, leaky equipment, and other activities.

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

## 161.002 LEGAL AUTHORITY

This chapter is adopted per statutory authority granted under code authorizing jurisdiction over the storm system and is required by the NPDES program (FR Doc. 99-29181) authorized by the 1972 amendments to the Clean Water Act and the Indiana Department of Environmental Management's (IDEM) Construction Stormwater General Permit (CSGP) and Municipal Separate Storm Sewer System (MS4) General Permit (MS4GP). Based on this authority and these requirements, this chapter regulates:

- A. Stormwater drainage improvements related to developing lands located within the City boundaries.
- B. Drainage control systems installed during construction and grading of lots and other parcels of land.
- C. Erosion and sediment control measures installed during construction and grading of lots and other parcels of land.
- D. Stormwater pollution prevention planning for land-disturbing activities.

## 161.003 DEFINITIONS

- Agricultural Conservation Practices  
Means practices that are constructed on agricultural land to control soil erosion and sedimentation. These practices include grass waterways, sediment basins, terraces, and grade stabilization structures.
- 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 purposes of this ordinance, the term does not include land-disturbing activities for the construction of agricultural-related facilities, such as:

- 1. Barns
  - 2. Buildings to house livestock
  - 3. Roads associated with infrastructure
  - 4. Agricultural waste lagoons and facilities
  - 5. Lakes and ponds
  - 6. Wetlands
  - 7. Other infrastructure
- Best Management Practices (BMPs)



Means structural or nonstructural practices, or a combination of practices, designed to function 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 nonpoint source pollution (NPS). Nonstructural BMPs range from programs that increase public awareness to prevent pollution to the implementation of control-oriented techniques (such as bioretention and stormwater wetlands) that utilize vegetation to enhance pollutant removal and restore the infiltrative capacity of the landscape.

- City  
Means employees or designees of the City of Auburn designated to enforce and administer this ordinance.
- 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 stormwater pollution prevention plan is a part of the construction plan.
- Construction Site Access  
Means a stabilized surface (often made of stone) at all points of ingress or egress to a project site to capture and detain sediment carried by tires of vehicles or other equipment entering or exiting the project site.
- Construction Stormwater General Permit (CSGP)  
Means the Indiana Department of Environmental Management's Construction Stormwater General Permit (CSGP).
- Contiguous  
Means adjoining or in actual contact with.
- Contour  
Means an imaginary line on the surface of the earth connecting points of the same elevation.
- Contractor or Subcontractor  
Means an individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.
- Conveyance

Means 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.

- Design Storm

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

- Developer

Means any individual, firm, association syndicate, partnership, corporation, trust, or any other legal entity financially responsible for construction activity; or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

- Development

Means construction and site preparation work involving structures or improvements of any kind, and all land-disturbing activities including, but not limited to, digging, drilling, excavating, grading, clearing, earth moving, filling, or performing any subsurface work.

- Discharge of a Pollutant

Means any addition of any pollutant, or combination of pollutants, into any waters of the state from a point or non-point source in Indiana. The term includes, without limitation, additions of pollutants into waters of the state from the following: (1) surface runoff collected or channeled; (2) discharges through pipes, sewers, or other conveyances that do not lead to treatment works; and (3) sheet flow of stormwater runoff.

- Erosion

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

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

- Erosion and Sediment Control

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

- Filter Strip

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



- Final Stabilization  
Means the establishment of permanent vegetative cover or the application of a permanent non-erosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current permit.
- Grading  
Means the cutting and filling of the land surface to a desired slope or elevation.
- Impervious Surface  
Means any land surface with a low or no capacity for soil infiltration, including, but not limited to pavement (sidewalks, streets, parking areas, and driveways), compacted gravel or soil, and rooftops.
- Individual Lot  
Means a single parcel of land within a multi-parcel development.
- Individual Lot Operator  
Means a contractor or subcontractor working on an individual lot.
- Individual Lot Owner  
Means a person who has financial control of construction activities for an individual lot.
- Land Disturbing Activity  
Means any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.
- Larger Common Plan of Development or Sale  
Means a plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous or is known, designated, purchased, or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.
- Municipal Separate Storm Sewer System” or “MS4”  
Means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, which is:
  1. Owned or operated by:
    - a. Federal, state, city, town, county, district, association, or other public body (created by or under state law) having jurisdiction over stormwater, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges into waters of the state; or
    - b. Privately owned stormwater utility, hospital, university, or college having jurisdiction over stormwater that discharges into waters of the state;
  2. Designed or used for collecting or conveying stormwater;
  3. Not a combined sewer; and
  4. Not part of a publicly owned treatment works (POTW).
- Municipal Separate Storm Sewer System General Permit or “MS4GP”  
Means the Indiana Department of Environmental Management’s Municipal Separate Storm Sewer System General Permit.
- National Pollution Discharge Elimination System (NPDES)

Means a permitting program that regulates point sources that discharge pollutants to waters of the United States.

- Nonpoint Source Pollution

Means pollution does not have a single identifiable origin, but rather comes from many diffuse sources. It is caused by rainfall or snowmelt moving over and through the ground picking up and carrying away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters, and groundwater.

- Peak Discharge

Means the maximum instantaneous flow from a given storm condition at a specific location.

- Permanent Stabilization

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

- Pollutant

Means anything that causes or contributes to pollution discharged into waterways. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; sediment; nutrients; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind. Also, but not limited to dredged spoil; incinerator residue, filter backwash; sewage; garbage; sludge; munitions; chemical wastes; solid wastes; toxic wastes; hazardous substances; biological materials; radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended; 42 U.S.C. 011, et seq., heat, wrecked or discarded equipment; rock; sand; cellar dirt; and other industrial, municipal, and agricultural waste; discharged into water.

- Phasing of Construction

Means sequential development of smaller portions of a large project site, stabilizing each portion before beginning land disturbance on subsequent portions, to minimize exposure of disturbed land to erosion.

- Project Site

Means the entire area on which construction activity is to be performed.

- Project Site Owner

Means the person required to submit the Construction SWPPP Application under this chapter and required to comply with the terms of this chapter, including either of the following:

1. A developer.
2. A person or entity that has financial and operational control of construction activities and project plans and specifications, including the authority to approve an expenditure of funds and the ability to make modifications to those plans and specifications.

- Publicly Owned Treatment Works or (POTW)

Means a treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) owned in this instance by the City of Auburn. This definition includes any sewers, pipes, and other conveyances conveying wastewater to the POTW treatment plant. The term does not include pipes, sewers or other conveyances not connected to a facility providing treatment or storage. For this Ordinance, "POTW" shall also include any sewers, pipes, or other conveyances that convey wastewater to the POTW from



persons outside the City who are, by contract or agreement with the City, users of the City's POTW. The term also means the municipality, as defined in Section 502(4) of the Clean Water Act, which has jurisdiction over the discharges to and the direct discharges from such a treatment works

- Runoff  
Means water that originates during a precipitation event and flows over the land rather than infiltrating into the ground or evaporating.
- Sediment  
Means 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  
Means the process that deposits soils, debris, and other unconsolidated materials either on the ground surfaces or in bodies of water or watercourses.
- Site  
Means the entire area included in the legal description of the land on which land-disturbing activity is to be performed.
- 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 (SWCD)  
Means the DeKalb County Soil and Water Conservation District.
- Spill  
Means the unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.
- Stormwater Management Measure  
Means a practice, or a combination of practices, selected to improve the quality of runoff discharges, divert runoff, or mitigate impacts related to the quantity of runoff.
- Stormwater Pollution Prevention Plan (SWPPP)  
Means a plan developed to minimize the impact of stormwater pollutants resulting from land-disturbing activities.
- Stormwater Quality Measure  
Means a practice, or a combination of practices, to control or minimize pollutants associated with stormwater runoff.
- Strip Development  
Means a multi-lot project site where individual lots front on an existing road and are not part of a larger common plan of development or sale.
- 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.

- Surface Runoff  
Means precipitation that flows onto the surfaces of roofs, streets, the ground, and the like, and is not absorbed or retained by that surface but collects and runs off.
- Temporary Stabilization  
Means the covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive material applied at a uniform density of seventy percent (70%) across the disturbed area.
- Topography  
Means the representation of a portion of the earth's surface showing natural and man-made features of a given locality such as rivers, streams, ditches, lakes, roads, buildings, and most importantly, variations in ground elevations for the terrain of the area.
- Tracking  
Means the deposition of soil that is transported from one (1) location to another by tires, tracks of vehicles, or other equipment.
- Trained Individual  
Means 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.
- Watercourse  
Means any river, stream, creek, brook, branch, natural or man-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.
- Watersheds  
Means the region drained by or contributing water to a specific point that could be along a stream, lake, or other stormwater facility. Watersheds are often broken down into subareas for hydrologic modeling.

#### **161.004 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS**

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

#### **161.005 SEVERABILITY**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

#### **161.006 RESPONSIBILITY FOR ADMINISTRATION**

The City shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the City may be delegated by the mayor to persons or entities acting in the beneficial interest of or in the employ of the agency.



## 161.007 ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated under this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will not be violations of NPDES permits.

## 161.008 DISCLAIMER OF LIABILITY

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

## 161.009 DEVELOPMENT OF TECHNICAL MANUAL

The City has furnished additional policy, criteria, and information including specifications and standards, for the proper implementation of the requirements of this ordinance and has provided such information in the form of a *Stormwater Best Management Practices Technical Manual* (Technical Manual). This manual includes a list of approved stormwater management measures, including specific design criteria and operation and maintenance requirements for each. The manual may be updated and expanded from time to time, at the discretion of the City, based on improvements in engineering, science, monitoring, and local maintenance experience. Stormwater management measures that are constructed per these design and sizing criteria are presumed to meet the minimum performance standards.

## 161.010 APPLICABILITY AND EXEMPTIONS

- A. This chapter applies to the discharge of stormwater from construction activities within the City resulting in land disturbance greater than or equal to one (1) acre, or to disturbances of less than one (1) acre of land that is part of a larger common plan of development or sale if the larger common plan will disturb more than one or more acres of land.
- B. A determination of 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 at the project site. Land disturbances for this chapter include:
  1. Off-site construction activities that provide services including, but not limited to, road extensions, sewer, water, and other utilities, to a permitted project site; these off-site activity areas 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.
  2. Construction support activities including concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material, etc. provided the support activity is directly related to the construction site.
  3. Strip developments or multi-lot project sites, unless the total combined land disturbance for all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale, as determined by the following:
    - a. For a single-family residential project site where the lots are one-half (0.5) acre or more in total size, at least one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.
    - b. 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.



4. Land disturbance for industrial and commercial project sites shall be considered a minimum of one (1) acre for all lots regardless of actual size.
  5. Land-disturbing activities for the construction of the following agricultural operations must obtain permit coverage when the land disturbance is greater than or equal to one (1) acre:
    - a. Barns.
    - b. Buildings to house livestock.
    - c. Roads associated with infrastructure.
    - d. Agricultural waste lagoons and other facilities.
    - e. Lake, ponds, and impoundments.
    - f. Wetlands constructed voluntarily or as mitigation.
    - g. Other infrastructure
- C. The requirements under this chapter do not apply to the following land-disturbing activities:
1. Agricultural land disturbing activities, including tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery and vegetative crops, pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural subsurface field tile.
  2. Silviculture activities associated with nonpoint discharges (40 CFR 122.27).
  3. Stormwater discharges associated with oil and gas exploration, production, processing or treatment operations, or transmission facilities (40 CFR 122.26)
  4. Ditch maintenance for activities performed on a regulated drain by a county drainage board, or a ditch where the drainage board has relinquished jurisdiction to a municipality or sanitary district per IC 36-9-27.
- D. 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.
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 under a permit issued by the Indiana Department of Environmental Management (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. Indiana Department of Transportation conducting business under its CSGP within city limits.
- E. The following discharges from construction activities are not authorized by this chapter:
1. Direct discharges into waters that are designated as an Outstanding National Resource Water (ONRW) defined at IC 13-11-2-149.5 or an Outstanding State Resource Water (OSRW) defined at IC 13-11-2-149.6 and listed at 327 IAC 2-1.3-3(d) when the commissioner determines that a discharge from the land-disturbing activity will significantly lower water quality as defined under 327 IAC 2-1.3-2(50) of such a water downstream of that discharge.
  2. Direct discharges to a receiving stream when the discharge results in an increase in the ambient concentration of a pollutant which contributes to the impairment of the receiving stream for that pollutant as identified on the current 303(d) list of impaired waters.
  3. Discharges of concrete or mortar wash water from concrete washout activities or release from containment systems.
  4. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials.
  5. Soaps, detergents, or solvents used in vehicle and equipment washing.



6. Other discharges, including but not limited to fuel, oil, or other pollutants used in vehicle and equipment operation and maintenance.
- F. Waivers and Special Conditions.
1. The City has the authority to modify, grant exemptions, and/or waive certain requirements of this chapter and its associated technical standards document. A pre-submittal meeting with the City may be requested by the applicant to discuss the applicability of various provisions of the chapter and its associated technical standards document about unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the City that may be based on the review of more detailed information and plans.
  2. Discharges are conditionally authorized for land-disturbing activities that are subject to this chapter but are considered an emergency. Emergency activities include any work that requires immediate implementation to avoid imminent endangerment to human health, public safety, or the environment, or to re-establish essential public services.
    - a. Procedures for obtaining an emergency condition authorization, require the applicant to:
    - b. Submit a preliminary notification of the emergency to IDEM and the City within 24 hours or the next business day of initiating land disturbance.
    - c. Develop a Stormwater Pollution Prevention Plan (SWPPP) that specifically addresses the operations associated with the emergency. The submittal of the plan is not required.
    - d. Submit a complete Notice of Intent (NOI) within 30 calendar days after commencing land-disturbing activities to IDEM and the City.

### 161.011 CONSTRUCTION STORMWATER CONTROL GENERAL REQUIREMENTS

- A. All property owners or developers shall implement the requirements of this chapter for construction activities within the City resulting in land disturbance greater than or equal to one (1) acre of land.
- B. Individual lot owners or operators shall follow the requirements in Chapter 161.015 for Individual Lot Owner or Operator Responsibilities when the land disturbance is less than or greater than one (1) acre and the lot lies within a larger common plan for development or sale.

### 161.012 CONSTRUCTION SWPPP APPLICATION

- A. No land-disturbing activity that would require the disturbance of one (1) acre or more of land shall be initiated without submittal of all the required documentation identified in the City of Auburn's Construction/Stormwater Pollution Prevention Plan Technical Review form and receiving approval from the SWCD or the City.
- B. Construction SWPPP approval is not required for any emergency activity that is immediately necessary for the protection of life, property, or natural resources. Notification to the City and IDEM is required per the CSGP.
- C. The application shall contain the items in the City of Auburn's Construction/Stormwater Pollution Prevention Plan Technical Review form and the Technical Manual including the following:
  1. City of Auburn's Construction/Stormwater Pollution Prevention Plan Technical Review form.
  2. Professionally certified design plans with erosion and sediment control measures identified and details following the Technical Manual or the *Indiana Stormwater Quality Manual*, as applicable.
  3. Construction Site SWPPP.
  4. A draft of IDEM's Notice of Intent with proof of public notice.





5. Post-Construction SWPPP documents as described in Chapter 162.01, including design calculations, O&M Manual and covenant, easement documentation, and any additional documentation as required by the City of Auburn Unified Development Ordinance.
  6. Plan review and inspection fees.
- D. The SWPPP will serve as a guideline for stormwater management but should not be interpreted to be the only basis for the implementation of stormwater measures for a project site. The permittee is responsible for implementing all measures necessary to comply with the provisions of this chapter and the CSGP.
- E. The posting of the notice under (C)(4) does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.

### 161.013 REVIEW AND APPROVAL

- A. The SWCD or the City will review each application to determine its conformance with the provisions of this chapter, the Technical Manual, and the CSGP. The SWCD or the City will follow the procedures outlined in the City of Auburn's Construction/Stormwater Pollution Prevention Plan Technical Review form. Upon review, the SWCD or the City shall, in writing:
1. Approve the application and associated documentation and provide a Construction/Stormwater Pollution Prevention Plan Technical Review form deeming the "Plan is Adequate."
  2. Approve the application and associated documentation subject to such reasonable conditions as may be necessary to secure the objectives of this chapter and provide a Construction/Stormwater Pollution Prevention Plan Technical Review form deeming the "Plan is Adequate." Conditions may include obtaining other City department or agency permits or approvals.
  3. Provide a Construction/Stormwater Pollution Prevention Plan Technical Review form stating that the "Plan is Deficient" and indicate the reason(s) and procedure for submitting a revised application and/or submission.
- B. If the submitted application and support documents are altered after approval, plans must be resubmitted for additional review.
- C. If the submitted application and support documents are determined to be deficient, the SWCD or City may require modifications, terms, and conditions as necessary to meet the requirements of this chapter, Technical Manual, or CSGP. Deficient items will need to be amended and resubmitted for review. The initiation of land-disturbing activities following written notification by the SWCD or the City that the submitted application and support documents do not meet the requirements violates this chapter and is subject to enforcement action.
- D. The City or the DeKalb County SWCD may, upon finding reasonable cause, require modification to the Construction SWPPP if it is determined that changes are necessary due to site conditions or project design changes. Revised plans, if requested, must be submitted to the appropriate entity within 28 calendar days of a request for a modification or before land disturbance.

### 161.014 PROJECT SITE OWNER RESPONSIBILITIES

Upon receiving stormwater approval, it is the responsibility of the project site owner, operator, or agent to:

- A. Submit the Technical Review form and the final NOI with proof of public notice for the CSGP to IDEM, at least 48 hours before any land disturbance or discharges occur.



- B. Submit the Notice of Sufficiency from IDEM with a final NOI to the SWCD and City at least 48 hours before any land disturbance or discharges occur.
- C. Receive approval for other building permits or City permits, and State and Federal permits as required.
- D. Ensure proper construction and installation of all stormwater measures in compliance with the approved submittal, this chapter, the Technical Manual, the *Indiana Stormwater Quality Manual*, and the CSGP (as applicable).
- E. Ensure that all persons engaging in construction activities on the permitted project site comply with the applicable requirements of this chapter, CSGP, and the approved application.
- F. Install and stabilize all erosion and sediment control devices before any clearing, except what is necessary to establish the devices.
- G. Ensure all stormwater quality measures are designed and installed under the guidance of a trained individual.
- H. Inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the requirements of this chapter, the conditions and standards included in the SWPPP, and the schedule for proposed implementation.
- I. Maintain a self-monitoring program and complete regular inspections of all control measures per the inspection schedule outlined in the CSGP. The purpose of such inspections will be to determine the overall effectiveness of the SWPPP and the need for additional control measures. All inspections shall be documented and submitted to the City upon request within 48 hours. Self-monitoring reports are to be completed by a trained individual.
- J. Develop and maintain a Project Management Log per the CSGP.
- K. Meet all performance standards and implementation requirements of the CSGP.
- L. The following requirements for stormwater pollution prevention shall be met on all project sites:
  - 1. Sediment-laden water flowing from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.
  - 2. Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete or cementitious washout water, mortar/masonry products, soil stabilizers, lime stabilization materials and other substances from being carried from a project site by run-off 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 per all applicable statutes and regulations.
  - 3. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
  - 4. Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is per all applicable statutes and regulations.
  - 5. Minimize the generation of dust through dust suppression techniques to prevent deposition into waters of the state and areas located beyond the permitted boundaries of the site.
  - 6. Stormwater runoff leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.



7. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.
8. Soil compaction is to be minimized, especially in areas where permanent vegetation will be re-established and/or areas that are designated to infiltrate stormwater for the post-construction phase.
9. Topsoil must be preserved, unless infeasible.
10. Appropriate measures shall be planned and installed as part of an erosion and sediment control system.
11. All stormwater quality measures must be designed and installed under the guidance of a trained individual.
12. 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.
13. 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.
14. Sediment basins, where feasible, must withdraw water from the surface of the water column unless equivalent sediment reduction can be achieved using alternative measures.
15. Discharge water from dewatering of groundwater must not be discharged when sediment-laden water is not first directed to an appropriate sediment control measure or a series of control measures that minimize the discharge of the sediment or when a visible sheen and/or pollutants are present at a level that requires additional treatment and/or an alternate permit.
16. The use of anionic polymers (cationic polymers are not authorized for use) on the project site is authorized for sediment control provided their use is in conformance with current State of Indiana standards and specifications and the use is identified in the SWPPP. If the use of a polymer is not in the SWPPP and is selected later, notification to IDEM and the City of Auburn is required.
17. Natural features, including wetlands and sinkholes, must be protected with appropriate stormwater management and/or treatment measures to address pollutant discharges associated with stormwater runoff.
18. Existing natural buffers that are adjacent to the waters of the state must be preserved to promote infiltration and provide protection of the water resource, unless infeasible. Activities performed by a county drainage board under IC 36-9-27 are excluded.
19. Natural buffers must be preserved, including the entire buffer bordering and/or surrounding the water resource. Existing buffers:
  - a. 50 feet or more in width must be preserved to a minimum of 50 feet.
  - b. Less than 50 feet in width must be preserved in their entirety. It may be enhanced with vegetation that is native and promotes ecological improvement and sustainability.
20. Runoff directed to the natural buffer must be:
  - a. Treated with appropriate erosion and sediment control measures before discharging to the buffer.
  - b. Managed with appropriate runoff control measures to prevent erosion from occurring within the buffer area.
  - c. Further information regarding buffer requirements is contained in IDEM's "Implementation of Buffers" guidance document.
21. Un-vegetated areas that are left idle or scheduled to be left inactive must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Stabilization must be initiated by the end of the seventh day the area is left idle. The



stabilization activity must be completed within 14 days after initiation. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with a density of less than 70% shall be restabilized using appropriate methods to minimize the erosion potential.

22. During the period of construction activities, all stormwater quality measures necessary to meet the requirements of this rule shall be maintained in working order.
23. Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or groundwater or degrade soil quality.

### M. Project Completion and Permit Termination

1. The project site owner or operator shall plan an orderly and timely termination of the land-disturbing activities, including the implementation of stormwater management measures that are to remain on the project site.
2. A current active permit must be in place until all land-disturbing activities associated with the project have been completed, including but not limited to the construction of all structures within the development or project site.
3. The City approval shall expire simultaneously with the CSGP. Upon the expiration, a new application shall be made and additional fees as set forth above shall be submitted.
4. The project site owner or operator shall notify the City of final stabilization so the City may verify the Notice of Termination (NOT) by completing a final site inspection before the project site owner or operator submits the NOT to IDEM.
  - a. Final stabilization of a project site is achieved when all land disturbing activities have been completed, temporary BMPs have been removed, permanent BMPs have been cleaned, and a uniform perennial vegetative cover with a density of 70% has been established on all unpaved areas and areas not covered by a permanent structure or equivalent permanent stabilization measures have been employed.
  - b. Final stabilization does not apply to landscaping that is part of the final project plan.
  - c. Final stabilization for construction projects on land used for agricultural purposes is achieved when:
    - i. Stabilization is completed per (4)(a) above as land disturbance progresses.
    - ii. Land returned to its preconstruction agricultural use is temporarily or permanently seeded upon completing land disturbance activities. Stabilization may be waived by the City if the project site does not pose a threat of discharging sediment.
    - iii. Disturbed areas, not previously used for agricultural production, such as filter strips, are being returned to their preconstruction agricultural use.
5. After a verified NOT has been submitted for a project site, City approval and CSGP coverage are terminated and maintenance of the remaining stormwater management measures shall be the responsibility of the property owner or occupier of the property.

### 161.015 INDIVIDUAL LOT OWNER OR OPERATOR RESPONSIBILITIES

- A. An individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with the activities on individual lots.
- B. An Individual lot operator of a lot (less than or greater than one (1) acre) within a larger common plan of development or sale, is required to:



1. Submit all the documents identified in the City of Auburn's Individual Construction SWPPP Review form to the City of Auburn Building Department before construction.
  2. Develop a lot-specific Individual Construction SWPPP that includes all provisions in the City of Auburn's Individual Construction SWPPP Review form.
  3. Comply with the erosion and sediment control requirements described and approved in the Individual Construction SWPPP.
  4. Comply with the approved plans under the larger common plan for development or sale for individual lots.
  5. Complete final stabilization per C. below.
- C. Final stabilization for individual lots (less than or greater than one (1) acre) within a larger common plan of development or sale, is achieved when the operator:
1. Completes final stabilization considering weather and season;
  2. Initiates permanent seeding with appropriately crimped or tackified mulch cover, erosion control blanket or sod; or
  3. Installs appropriate and/or ensures functional erosion and sediment control measures are in place in the individual lot. Upon issuance of a Certificate of Occupancy through the City of Auburn Building Department to the homeowner, the homeowner is responsible for maintaining the erosion and sediment control measures until final stabilization has occurred.

### 161.016 FEE STRUCTURE

Before the issuance of approvals or permits associated herein, the following fees shall be paid to the City of Auburn for the administration of the requirements for projects regulated under this chapter and under the administration of the City's jurisdiction and or control, whether located in the city limits or outside thereof.

- A. Developments of 10.00 acres or more are \$1,500.00.
- B. Developments of 5.00 acres to 9.99 acres are \$1,000.00.
- C. Other Developments 1.00 acre to 4.99 acres are \$500.00.

### 161.017 CONSTRUCTION INSPECTIONS

- A. SWCD or the City shall inspect as required the installation, implementation, and maintenance of erosion and sediment control and pollution prevention measures at any project site involved in construction activities. The SWCD or the City shall either approve that portion of the work completed or notify the owner where the work fails to comply with the SWPPP as approved.
- B. Plans for grading, stripping, excavating, and filling work with the approval of the SWCD or the City shall be maintained at the site during the progress of the work.
- C. The applicant must notify the City in advance before the commencement of construction of stormwater BMPs.
- D. To obtain inspections, the permittee shall follow the directions on the City of Auburn's Construction/Stormwater Pollution Prevention Plan Technical Review form at least 48 hours (two (2) business days) before the following:
  1. Installation of infrastructure (grading, roads, and utilities);
  2. Installation of post-construction BMP(s);
  3. Completion of final landscaping and final stabilization.

### 161.018 ENFORCEMENT





- A. The City, or designee, shall investigate potential violations of this chapter to determine which person may be responsible for the violation. The City shall, if appropriate, consider public records of ownership, building permits issued by local units of government, and other relevant information, which may include site inspections, stormwater pollution prevention plans, permit applications, and other information related to the specific facts and circumstances of the potential violation.
- B. Enforcement of this chapter shall be subject to enforcement actions within the city code, the severity of the violation, and the owner's or operator's efforts to comply. The City shall reserve the right to interpret enforcement on a case-by-case basis. Tiered enforcement will be practiced at the discretion of the City designee. The tiered enforcement may include:
  1. Verbal warning to the owner or operator to make corrections of identified deficiencies.
  2. Written warning to the owner or operator to make corrections within a specified time, but not less than 72 hours. The specified time shall consider issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.
  3. Written warning of non-compliance with directions to the owner or operator that site deficiencies require corrective action within 72 hours.
  4. Stop work order.
    - a. If deficiencies in a written warning of non-compliance are not resolved 72 hours after receipt of the written notification, the City may issue a stop work order or may revoke the owner's stormwater approval. In this event, all construction work shall cease until and unless the City determines that compliance has been obtained.
    - b. Any person who neglects or fails to comply with a stop work order may be fined for each offense, plus costs, damages, and expenses. Each day such violation occurs or continues, shall be deemed a separate offense, and shall make the violator liable for the imposition of a fine for each day. The City may assess a stormwater approval reinstatement fee.
    - c. The City may issue a stop work order and may suspend or revoke stormwater approval if any of the work is being conducted in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
  5. Injunctive Relief.
    - a. It shall be a violation for any person to violate any provision or fail to comply with any of the requirements of this chapter.
    - b. If a person has violated or continues to violate the provisions of this chapter, the City may petition any court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.
    - c. Costs, including attorney fees, for injunctive relief may be assessed against the violator.
  6. Cost Recovery.
    - a. If the property owner fails to complete the corrective actions and the work is completed through the City or a contractor, the City will provide a letter to the property owner of the work completed, copies of all invoices paid by the City, and a log of all hours spent by City personnel and/or its designated contractor.
    - b. If the amount contained in the letter is not paid within 30 days of the receipt of the bill, the City may certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification, and said amounts shall be collected as delinquent taxes are collected per I.C. 36-1-6-2.



- C. If abatement of a violation and/or restoration of affected property is required, the written notifications shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that should the violator fail to remediate or restore within the established deadline, the work will be done by the City or a contractor, and the expense shall be charged to the violator.
- D. All written enforcement actions shall be delivered to the owner:
  - 1. By hand;
  - 2. The next business day through an overnight delivery service; or
  - 3. By mail, on the third business day following delivery to the U.S. Postage Service.

### **161.019 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 City to seek cumulative remedies.

### **161.020 PENALTIES**

Any person found violating any provision of this chapter shall be responsible for fines per IC 36-1-3-8 (a)(1) of up to \$2,500 for a first violation of the ordinance and up to \$7,500 for a second or subsequent violation of the ordinance. Each fine is subject to cost recovery for damages and expenses. Each day a violation continues after the original notification shall be deemed a separate offense under this chapter.

The City may recover all attorney's fees, court costs, and other expenses associated with the enforcement of this chapter, including sampling and monitoring expenses.

(Amended 2024-14 passed 07/02/2024)