

ORDINANCE NO. 3-20-2025-6

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BRISTOL, INDIANA AMENDING CHAPTER 53 OF THE TOWN OF BRISTOL, INDIANA CODE OF ORDINANCES REGARDING STORMWATER MANAGEMENT AND REGULATIONS

WHEREAS, the Town of Bristol, Indiana (the “Town”) is a duly formed municipal corporation within the State of Indiana governed by its duly elected Town Council (the “Council”); and

WHEREAS, the Town previously adopted Ordinance 6-15-06A, as amended, to address stormwater management and promote and protect the public health and welfare of the Town; and

WHEREAS, in 2021, the Indiana Department of Environmental Management (“IDEM”) formally replaced 327 IAC 15-5 (Rule 5) with a new General Permit known as the Construction Stormwater General Permit No. INRA00000 (“CSGP”) and formally replaced 327 IAC 15-13 (Rule 13) with a new Municipal Separate Storm Sewer General Permit No. INR040000 (“MS4 GP”) (collectively the “General Permits”); and

WHEREAS regulated Indiana MS4 entities, such as the Town, are required to update existing ordinances, administrative rules, and other regulatory mechanisms to comply with these two (2) new General Permits; and

WHEREAS the Town has an ongoing partnership with the Elkhart County Soil & Water Conservation District (the “County”) to cooperatively manage and administer stormwater discharges within the Town’s MS4 boundaries, said boundaries situated within the boundaries of the Greater Elkhart County MS4 designated by IDEM; and

WHEREAS the County Commissioners adopted Ordinance No. 2024-09 on March 4, 2024, known as the “Elkhart County Stormwater Management Ordinance” in response to the CSGP and MS4 GP local ordinance requirements published by IDEM in 2021; and

WHEREAS the County Commissioners also adopted Ordinance No. 2024-15 on July 15, 2024, known as “An Ordinance of the County of Elkhart, Indiana Adopting the 2024 Street Standards” to, in part, provide drainage design standards for all proposed land developments in the County; and

WHEREAS, the Town, after giving due consideration to the new General Permits, has determined it necessary to review and update stormwater management under Title V, Chapter 53 of the Town Code of Ordinances (the “Code”).

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Bristol, Indiana, meeting in regular session, as follows:

- Section 1. The foregoing Recitals are incorporated herein by this reference.
- Section 2. As of the effective date of this Ordinance, Chapter 53 of the Code is hereby deleted and replaced in its entirety by new Chapter 53, known and cited as the “Town of Bristol Storm Water Stormwater Management Ordinance,” as set forth on Exhibit A attached hereto and incorporated herein.
- Section 3. The remaining portions of Chapter 53 of the Code are not affected by this Ordinance and shall remain in full force and effect.
- Section 4. All ordinances and parts of ordinances, and all Titles, Chapters and/or Sections of the Code that conflict with the provisions contained herein are hereby specifically repealed as of the effective date of this Ordinance.
- Section 5. If any portion on this Ordinance is for any reason declared to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance so long as enforcement of the same can be given the same effect.
- Section 6. This Ordinance shall be in full force and effect from and after its adoption in accordance with Indiana Law, and upon passage of any applicable waiting periods, all as provided by the laws of the State of Indiana. All acts pursuant to the adoption of this Ordinance are hereby ratified.

\* \* \* \* \*

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2025.

TOWN COUNCIL OF THE  
TOWN OF BRISTOL, INDIANA

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Jeff Beachy, President

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Cathy Burke

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Dean Rentfrow

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Gregg Tuholski

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Doug DeSmith

ATTEST:

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Cathy Antonelli, Clerk-Treasurer

## EXHIBIT A

This Ordinance shall be known and may be cited as the “Town of Bristol Stormwater Management Ordinance” as follows:

### **CHAPTER 53: STORM WATER STORMWATER MANAGEMENT AND REGULATIONS**

#### **§ 53.01 STORMWATER UTILITY ADOPTED BY REFERENCE.**

Pursuant to I.C. 8-1.5-5-1, the Town does hereby adopt the stormwater utility provisions of I.C. 8- 1.5-5 *et seq.* (Ord. 6-15-06A, passed 6-15-06)

#### **§ 53.02 STORMWATER MANAGEMENT.**

(A) Established. Pursuant to I.C. 8-1.5-5-4.5, the Department of Stormwater Management is hereby established.

(B) Board. The Department of Stormwater Management shall be controlled by the Board consisting of three (3) Directors. The Directors shall serve a term of three (3) years. However, the initial terms of the Directors shall be one year for the first Director appointed, two (2) years for the second Director appointed, and three years for the third Director appointed so that the Directors shall serve staggered terms. The President of the Town Council shall appoint the Directors, not more than two of whom may be of the same political party. The Town Council President may remove a Director at any time when, in the judgment of the President, it is for the best interest of the Department of Stormwater Management.

(C) Special taxing district. Pursuant to the I.C. 8-1.5-5-5, a special taxing district including all the territory within the corporate boundaries of the Town is hereby established.

(D) Governing provisions. Pursuant to the I.C. 8-1.5-5 *et seq.*, as amended from time to time, the Department of Stormwater Management shall be governed accordingly.

(E) Financial administration. The Town Clerk-Treasurer is hereby appointed as the fiscal agent for and authorized to administer the funds of the Department of Stormwater Management. (Ord. 6-15-06A, passed 6-15-06)

#### **§ 53.03 DEFINITIONS.**

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

**BOARD.** Board of the Town Department of Stormwater Management.

**COUNTY.** The County of Elkhart, Indiana and the Elkhart County Soil & Water Conservation District.

**CSGP.** The State of Indiana’s Construction Stormwater General Permit No. INRA00000 issued on December 9, 2021 and as it may be amended from time to time.

**DEPARTMENT.** The Department of Stormwater Management.

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

**GREATER ELKHART COUNTY MS4.** The area designated by IDEM as a Municipal Separate Stormwater System (MS4) entity which is comprised of the City of Elkhart, City of Goshen, Town of Bristol, and certain unincorporated areas within Elkhart County and any areas that may be designated by IDEM in the future as an MS4 (e.g., City of Nappanee).

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

**IDEM.** Indiana Department of Environmental Management.

**ILLEGAL CONNECTION.** Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 including, but not limited to any conveyances which allow any non-stormwater discharge including sewage, process waste water, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**ILLICIT DISCHARGE.** Any direct or indirect non-storm water discharge to the MS4, except as exempted in other provisions of this subchapter.

**INTERESTED PERSON.** The applicant for a stormwater clearance, the MS4 operator, the MS4 entities in the County, or any person adversely affected by stormwater clearance.

**MS4.** The Town of Bristol Municipal Separate Storm Sewer System.

**MS4 PERMIT.** The State of Indiana’s Municipal Separate Storm Sewer System General Permit No. INR04000 issued on December 9, 2021 and as it may be amended from time to time.

**MULTI-LOT RESIDENTIAL DEVELOPMENT.** A platted subdivision of land for residential development of multiple lots, together with its construction plans for infrastructure and its stormwater pollution prevention plans (SWP3), forming a residential project.

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

***NON-STORM WATER DISCHARGE.*** Any discharge to the stormwater, storm drainage system, or MS4 that is not composed entirely of stormwater.

***NOTICE OF INTENT (NOI).*** A notice required by the CSGP and containing information required by IDEM as described in the CSGP.

***NOTICE OF TERMINATION (NOT).*** A notice issue by IDEM, informing a CSGP permittee that coverage under the CSGP has been terminated because discharges of stormwater associated with construction activity and land disturbance have ceased.

***PERSON.*** Any individual, association, organization, partnership, firm, company, corporation or other entity recognized by law and acting as either the owner or as the owner's agent, whether for-profit or not-for-profit.

***POLLUTANT.*** Anything which causes or contributes to pollution. 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, ordinance and accumulations, so that same may cause or contribute to pollution; floatable; (excluding naturally floatables such as leaves or tree limbs); pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

***STORMWATER DRAINAGE SYSTEM.*** All methods, natural or man-made, used for conveying stormwater to, through or from a drainage area to include any of the following: conduits and appurtenant features; canals; channels; ditches; streams; culverts; streets; or pumping stations.

***STORMWATER RUNOFF.*** The water derived from precipitation falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits. (Ord. 6-15-06B, passed 6-15-06)

***TOWN.*** The Town of Bristol, Indiana.

## **§ 53.04 PURPOSE AND POLICY.**

(A) *Purpose.* This subchapter provides for the regulation of stormwater by regulating the introduction of pollutants into the MS4 in order to comply with the requirements of the NPDES permit process.

(B) *Policy.* The objectives of this subchapter are as follows:

(1) To conserve the natural hydrologic, hydraulic, water quality and other beneficial

functions of watercourses, floodplains and wetlands;

- (2) To regulate the contribution of pollutants to the MS4 by users;
- (3) To prohibit illicit discharges and illegal connections to the MS4 and other waters; and
- (4) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to obtain compliance with this subchapter. (Ord. 6-15-06B, passed 6-15-06)

### **§ 53.05 CONDUCT REGULATED.**

(A) *Improper discharges.* No person shall directly or indirectly discharge, cause to be discharged, or permit to be discharged into the Town MS4 any discharge or materials including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards other than storm water.

(B) *Permitted activities.* Notwithstanding the prohibitions contained in this subchapter, the following activities or conditions are permitted even if such activities or conditions result in any discharge or materials entering the Town MS4:

- (1) Water line flushing or other potable water sources;
- (2) Landscape irrigation or lawn watering;
- (3) Diverted stream flows;
- (4) Rising ground water;
- (5) Ground water infiltration to storm drains;
- (6) Uncontaminated pumped ground water;
- (7) Foundation or footing drains (not including active ground water dewatering systems);
- (8) Crawl space pumps;
- (9) Air conditioning condensation;
- (10) Springs;
- (11) Noncommercial washing of vehicles;
- (12) Natural riparian habitat or wetland flows;

(13) Swimming pools (if dechlorinated);

(14) Firefighting activities;

(15) Discharges specified by the Department as being necessary to protect public health or safety;

(16) Dye testing (verbal notification to the Department is required before test); and

(17) Any discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency or the Indiana Department of Environmental Management.

(C) *Improper connections.* No person shall directly or indirectly connect to any drain or conveyance or allow the continued connection of any drain or conveyance to the Town MS4 which allows any non- stormwater discharge to enter the Town MS4 including but not necessarily limited to any sewage, process waste water, and wash water.

(D) *Suspended access.* No person may reinstate a Town MS4 access if that access has been suspended pursuant to this subchapter until such time as the suspension is lifted by the Department or a court of competent jurisdiction.

(E) *NPDES permits.*

(1) No person subject to an NPDES stormwater discharge permit shall allow or permit any discharge to enter the Town MS4 without complete compliance with the terms and conditions of the NPDES permit.

(2) No person subject to an NPDES stormwater discharge permit shall unreasonably delay the Department's access to a permitted facility.

(F) *Notification of releases.* No person who owns or operates any facility or operation, or who is responsible for the emergency response at any facility or operation, shall fail to notify the Department as soon as practicable of any unpermitted release of materials, discharges, or pollutants into storm water, the stormwater drainage system, the Town MS4, or any watercourse if such person has information that such release may have occurred.

(G) *Response to releases.* No person who owns or operates any facility or operation, or who is responsible for the emergency response at any facility or operation, shall fail to take all reasonable steps to ensure the discovery, containment, and cleanup of any unpermitted release. (Ord. 6-15-06B, passed 6-15-06)

## **§ 53.06 MONITORING OF DISCHARGES.**

(A) *Inspections.* The Department shall be permitted to enter and inspect any facility or



property that directly or indirectly discharges waters or materials into the Town MS4 or into any watercourse within the corporate limits of the Town, even if only occasionally, as often as may be necessary to determine compliance with this subchapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Department.

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

(C) *Equipment.* The Department shall have the right to set up in any facility or on any property that has a permit to discharge into the Town MS4 such devices as are reasonably necessary to conduct monitoring and/or sampling of the stormwater discharge.

(D) *Monitoring.* The Department has the right to require the discharger to install monitoring equipment and to obtain and analyze storm water samples at any commercial or industrial facility or any property containing more than three residential units. The facility's or property'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.

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

(F) *Search warrant.* If the Department has been refused access to any part of the premises from which stormwater is discharged, and the Department is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection or sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, the Department may seek issuance of a search warrant from any court of competent jurisdiction within the county. (Ord. 6-15-06B, passed 6-15-06)

## **§ 53.07 NOTIFICATION OF SPILLS.**

(A) *Notification of illicit discharges.* Any person who owns or operates a facility or operation or who is responsible for the emergency response for a facility or operation shall immediately inform the Department of a known or suspected release of materials which may result in an illicit discharge by contacting the Department if such a release occurs within normal business hours and if not occurring within normal business hours by informing emergency dispatch services.

(B) *Response to illicit discharges.* As soon as any person who owns or operates a facility or operation or who is responsible for the emergency response for a facility or operation has information of a known or suspected release of materials which may result in an illicit discharge, such person shall take all necessary steps to contain and clean up the release.

(C) *Records.* If a discharge results in an illicit discharge, and the discharge emanates from a commercial or industrial establishment, the owner or operator of the establishment shall retain written record of the discharge, action taken to contain and clean up the discharge, and actions taken to ensure that such discharge does not occur again. (Ord. 6-15-06B, passed 6-15-06)

## **§ 53.08 ENFORCEMENT.**

### *(A) Notice of violation.*

(1) Whenever the Department finds that a person has committed a prohibited act or failed to meet the requirements of this subchapter, the Department may take one or more of the following actions:

(a) Notify the person who committed the act or failed to meet the requirements of the subchapter by telephone and request compliance or cessation of the prohibited act.

(b) Notify the person who committed the act or failed to meet the requirements of this subchapter in writing and order compliance or cessation of the prohibited act.

(c) Enter into an agreed order with the approval of the Board which order may include payment of a fine by the violator.

(d) File a notice of violation before the Board describing the violation of this subchapter found by the Department.

(e) File a complaint in a court of competent jurisdiction seeking a judicial determination that this subchapter has been violated and requesting the imposition of fines and ordering compliance with the violated provisions of this subchapter.

(2) If the Department takes any authorized action and taking such action does not result in compliance with this subchapter, the Department may take any other authorized action to obtain compliance.

(3) The Department may file a complaint with a court of competent jurisdiction to enforce the terms of an agreed order or an order of the Board.

### *(B) Right to enter premises.*

(1) The Department shall have the right to enter any premises for any of the following reasons:

(a) Investigate a suspected spill or discharge into the storm water or Town MS4;

(b) To carry out routine inspections;

(c) To carry out routine sampling; or

(d) To verify compliance with any agreed order, order of the Board, or order of any court of competent jurisdiction.

(e) Entry shall be first attempted by seeking consent of occupant or owner.

(2) If the Department has been refused access to any part of the premises from which stormwater is discharged and the Department is able to reasonably demonstrate to a court of competent jurisdiction that there may be a violation of this subchapter or that there is a need to inspect or sample as part of the Department's routine inspections and sampling program, the court may grant an order allowing Department access to all relevant parts of a premises.

(3) Any written notice of violation shall be issued upon the responsible party by regular U.S. mail or delivered personally to the responsible party unless the applicable ordinance or statute requires different written notice.

(C) *Board hearing.*

(1) Before any Board hearing is held, a party alleged to have violated this subchapter shall receive written notice of the violation including the nature of the violation and a summary of the facts that constitute that violation. In the event of an emergency hearing before the Board, this information may be orally presented to the affected party and the affected party may elect to proceed or the affected party may insist on written notice and delay the hearing. The emergency action taken by the Department shall continue until a hearing can be held.

(2) A party alleged to have violated this subchapter has the right to have an attorney present to cross examine witnesses and has the right to present evidence and have witnesses testify.

(3) A party found to have violated this subchapter has a right to appeal the determination of the Board to a court of competent jurisdiction within twenty (20) days of the action of the Board by filing a verified complaint. The court may affirm, modify, or reverse the action taken by the Board. Any such appeal shall be heard *de novo*.

(4) Filing a notice of violation is not a prerequisite to filing a complaint alleging a violation before a court of competent jurisdiction. (Ord. 6-15-06B, passed 6-15-06)

Penalty, see § 53.99

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## ***UNIFORM REQUIREMENTS FOR POST CONSTRUCTION STORM WATER MANAGEMENT***

### **§ 53.20 DEFINITIONS.**

(A) *Statutory definitions.* If any term or provision contained in new General Permit known as the Construction Stormwater General Permit No. INRA00000 (CSGP) or new Municipal Separate Storm Sewer General Permit No. INR040000 (MS4 GP) is used herein, then the term or provision shall have the same meaning in this subchapter as set forth in therein.

### **§ 53.21 GENERAL PROVISIONS.**

(A) *Applicability.* Any and all real estate within the Town subject to a post construction stormwater pollution prevention plan as required by Construction Stormwater General Permit No. INRA00000 (CSGP) at Section 4.1 shall be governed by the terms and provisions of this subchapter unless exempt under this subchapter.

(B) *Exempt real estate.* The following activities are exempt from the stormwater performance and documentation requirements established by this subchapter:

(1) Agricultural land distributing activities.

(2) Forest harvesting activities.

(3) Construction activities that result in a land disturbance of less than one acre of total land area as determined under Rule Five and are not part of a larger common plan of development or sale.

(4) The following activities provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

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

(b) Coal mining activities permitted under IC 14-34; and

(c) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains the equivalent storm water requirements to those under Rule Five, including expansion of landfill boundaries and construction of new cells

either within or outside the original solid waste permit boundary.

(5) Repairs to the MS4 deemed necessary by the Department. (Ord. 6-15-06C, passed 6-15-06)

## **§ 53.22 POST CONSTRUCTION COMPLIANCE REQUIREMENTS.**

(A) *Performance requirements.* For any real estate governed by the terms and provisions of this subchapter, the owner or operator of such real estate shall comply with the following requirements:

(1) Implementation of all terms and provisions of the post construction stormwater pollution prevention plan.

(2) Operation, maintenance, and repair of any and all stormwater quality measures and practices identified in the construction plan that were intended to remain in place after construction activities have been completed.

(3) Installation, operation, maintenance, and repair of each post construction stormwater quality measure and practice approved as part of the construction plan or the post construction stormwater pollution prevention plan.

(4) Inspection no less frequently than annually of all stormwater management facilities to document maintenance and repair needs and ensure compliance with the requirements of this subchapter and the accomplishment of its purposes. These needs include removal of silt, litter, and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner.

(5) Implementation of all terms and provision of the landscaping plan.

(6) Implementation of all terms and provisions of the erosion and sediment control plan for all construction activities related to implementing any on-site stormwater management facilities, measures, and practices.

(B) *Documentation requirements.* For any real estate governed by the terms and provisions of this subchapter, the owner or operator of such real estate shall comply with the following requirements:

(1) Provide to the Department a narrative description of the maintenance guidelines for all post construction stormwater quality measures to facilitate their proper long-term function and identify the entity or entities responsible for long-term maintenance. It is an obligation of the project owners and their successors in interest to provide these narrative descriptions to future parties who acquire an interest in any portion of the real estate or who assume responsibility for the operation and maintenance of the post construction

stormwater quality measures.

(2) Execution of an enforceable maintenance agreement that designates the parties responsible for the operation, maintenance, and repair of all stormwater management facilities and all stormwater quality measures and practices as required by this subchapter. As part of the agreement, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The agreement shall also include plans for periodic inspections to ensure proper performance between scheduled cleanouts. The agreement shall include provisions for funding all required maintenance. All maintenance agreements shall be subject to the approval of the Department and recorded with the County Recorder.

(3) Parties who are responsible for installation, operation, maintenance, and repair of stormwater management facilities shall make and maintain records for all installation, maintenance and repairs made to all systems, structures, and measures. These records must be maintained for at least five (5) years and made available to the Department at all reasonable times.

(4) The execution or provision of a drainage easement for access and maintenance purposes in favor of the Town which is recorded and binding on all subsequent owners of the real estate burdened by the easement and those served by the on-site stormwater management facilities and measures.

(5) The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(6) Establishment of a landscaping plan which provides for the maintenance of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(7) The establishment of an erosion and sediment control plan for all construction activities related to implementing any on-site stormwater management facilities, measures, and practices. (Ord. 6-15-06C, passed 6-15-06)

## **§ 53.23 ENFORCEMENT.**

### *(A) Notice of violation.*

(1) Whenever the Department finds that a person has committed a prohibited act or failed to meet the requirements of this subchapter, the Department may take one or more

of the following actions:

(a) Notify the person who committed the act or failed to meet the requirements of this chapter by telephone and request compliance or cessation of the prohibited act.

(b) Notify the person who committed the act or failed to meet the requirements of this chapter in writing and order compliance or cessation of the prohibited act.

(c) Enter into an agreed order with the approval of the Board which order may include payment of a fine by the violator.

(d) File a notice of violation before the Board describing the violation of this subchapter found by the Department.

(e) File a complaint in a court of competent jurisdiction seeking a judicial determination that this chapter has been violated and requesting the imposition of fines.

(2) If the Department takes any authorized action and taking such action does not result in compliance with this chapter, the Department may take any other authorized action to obtain compliance.

(3) The Department may file a complaint with a court of competent jurisdiction to enforce the terms of an agreed order or an order of the Board.

(B) *Right to enter premises.*

(1) The Department shall have the right to enter any premises for any of the following reasons:

(a) Investigate a suspected spill or discharge into the Town's stormwater or storm drain system;

(b) To carry out routine inspections;

(c) To carry out routine sampling; and

(d) To verify compliance with any agreed order, order of the Board, or order of any court of competent jurisdiction.

(e) Entry shall be first attempted by seeking consent of occupant or owner.

(2) If the Department has been refused access to any part of the premises from which stormwater is discharged and the Department is able to reasonably demonstrate to a

court of competent jurisdiction that there may be a violation of this subchapter, or that there is a need to inspect or sample as part of the Department's routine inspections and sampling program, the Department may seek a court order allowing the Department access to all relevant parts of a premises.

(3) Any written notice of violation shall be issued upon the responsible party by regular U.S. mail or delivered personally to the responsible party unless the applicable ordinance or statute requires different written notice.

(C) *Board hearing.*

(1) Before any Board hearing is held, a party alleged to have violated this chapter shall receive written notice of the violation including the nature of the violation and a summary of the facts that constitute that violation. In the event of an emergency hearing before the Board, this information may be orally presented to the affected party and the affected party may elect to proceed or the affected party may insist on written notice and delay the hearing. The emergency action taken by the Department shall continue until a hearing can be held.

(2) A party alleged to have violated this chapter has the right to have an attorney present to cross examine witnesses, and has the right to present evidence and have witnesses testify.

(3) A party found to have violated this chapter has a right to appeal the determination of the Board to a court of competent jurisdiction within twenty (20) days of the action of the Board by filing a verified complaint. The court may affirm, modify or reverse the action taken by the Board. Any such appeal shall be heard *de novo*.

(4) Filing a notice of violation is not a prerequisite to filing a complaint alleging a violation before a court of competent jurisdiction.

(D) *Injunctive relief.* If a party has violated this chapter and continues to do so, the Department may petition any court of competent jurisdiction for the issuance of a temporary restraining order or permanent injunction which restrains or requires specific compliance with this chapter.

(E) *Restoration of lands.* Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Department may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(F) *Access to inspections of stormwater facilities.*

(1) The Department shall be granted at all reasonable terms access to the real estate to inspect any stormwater management facility.



(2) When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer, or combined sewer, the property owner shall grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this chapter is occurring or has occurred, and to enter to correct a violation of this chapter. (Ord. 6-15-06C, passed 6-15-06) Penalty, see § 53.99

#### **§ 53.24 ADOPTION OF ELKHART COUNTY STORMWATER TECHNICAL MANUAL AND ELKHART COUNTY STREET STANDARDS .**

The latest version of the *Elkhart County Stormwater Technical Manual* is hereby adopted as the technical manual of reference for the minimum control requirements for erosion and sediment control for the Town.

Additionally, the *Elkhart County Street Standards (2024)*, in its current published version, and as it may be amended from time to time, shall provide design rate and volume criteria for controlling stormwater runoff from land developments in the Town.

#### **§ 53.25 RESIDENTIAL DEVELOPMENT.**

- (A) Individual Building Lots within multi-lot development with CSGP coverage. Activities shall comply with provisions set forth in CSGP at Section 3.8.
- (B) Single-Family Residential Lots and ponds that are not within multi-lot development. Activities shall comply with provisions set forth in CSGP at Section 3.9.

#### ***STORM WATER USER FEES***

#### **§ 53.35 DEFINITIONS.**

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

**ADVISORY BOARD.** The Advisory Board for the Greater Elkhart County MS4 as established under the Interlocal Agreement between the County of Elkhart, City of Elkhart, City of Goshen, and Town of Bristol for the implementation of the Phase II Stormwater NPDES Permit Regulations.

**EQUIVALENT RESIDENTIAL UNIT (ERU).** The number of units, equal to the assumed average amount of impervious area of a single-family residential parcel of real estate within the Town, which is established at 3,600 square feet of impervious area. The unit value, which will be carried out and rounded off to one decimal point, being the equivalent of one-tenth of an ERU, is also the basis for calculating the assessment of stormwater user fees for the Town storm water system.

**IMPERVIOUS AREA.** Those areas which prevent or impede the infiltration of into the soil as it enters natural conditions prior to development. Common impervious areas include, but are not limited to roof tops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of storm water runoff which existed prior to development.

**KEY NUMBER.** A number assigned to a tract of land in Elkhart County by the Elkhart County Auditor that identifies the taxing district in which the tract is located, is a number that is not assigned to any other tract in Elkhart County, and is listed in the transfer book or records maintained under I.C. § 6-1.1-5.

**NON-RESIDENTIAL REAL ESTATE.** All real estate tax parcels which are not described by the definition of **RESIDENTIAL REAL ESTATE** shall be defined as non-residential. Nonresidential real estate will include:

- (1) Agricultural real estate;
- (2) Commercial real estate;
- (3) Industrial real estate;
- (4) Institutional real estate;
- (5) Church real estate;
- (6) School real estate;
- (7) Federal, state, and local government real estate;
- (8) Utility real estate; and
- (9) Any other real estate not mentioned in this list and which is not described by the definition of residential real estate.

**RESIDENTIAL REAL ESTATE.** A separate tax parcel of real estate which is primarily used for dwelling purposes on which a building is situated which building contains one or more dwelling units which dwelling units are each used or are intended to be used primarily for living, sleeping, cooking, and eating. **RESIDENTIAL REAL ESTATE** shall include all types of dwelling units including single-family homes, duplexes, triplexes, quadplexes, and row type homes. **RESIDENTIAL REAL ESTATE** shall also include condominium dwellings, apartment dwellings, and mobile home parks. (Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

## § 53.36 STORMWATER USER FEE.

A storm water user fee shall be imposed on each and every tax parcel of real estate within the incorporated portions of the Town which directly or indirectly contributes to the stormwater system of the Town, which charge shall be assessed against the owner thereof, who shall be considered the user for purposes of this subchapter. This charge is hereby deemed to be reasonable and necessary to pay for the regulation, planning, operation, maintenance, repair, replacement, and improvement of the existing and future Town stormwater system. (Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

### **§ 53.37 STORMWATER RATES.**

Until later revised or amended, the storm water user fees shall be at the rate of Fifteen Dollars (\$15.00) per year per ERU. This stormwater rate is designed to cover the cost of rendering stormwater service to the users of the Town storm water system and shall be the basis for the assessment of the storm water user fee. This rate is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, variations in the requirements for providing such services, as well as future improvements and capital needs. This rate may be evaluated and adjusted, as necessary, with regard to its sufficiency to satisfy the needs of the Department of Stormwater Management; otherwise, this rate shall remain in effect. (Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

### **§ 53.38 RATE STRUCTURE AND CALCULATION.**

(A) There is hereby assessed a stormwater user fee to each owner of residential real estate and non-residential real estate located within the incorporated portions of the Town which contain impervious area in an amount based upon the assigned ERU as determined below. Such user fees shall be calculated and assessed each year on a tax parcel basis by key number.

(B) All real estate having impervious area within the incorporated portions of the Town will be assigned an ERU in accordance with the following provisions:

(1) Residential real estate. A residential tax parcel containing only a single-family dwelling unit shall be one ERU. A residential tax parcel containing two or three dwelling units shall also be assigned one ERU. All other residential tax parcels containing more than three dwelling units shall be assigned an ERU based upon the parcel's individually measured impervious area in square feet divided by 3,600 square feet. This division will be calculated and rounded to the first decimal point.

(2) Non-residential real estate. Each tax parcel of non-residential real estate shall be assigned an ERU based upon the parcel's individually measured impervious area in square feet divided by 3,600 square feet. This division will be calculated and rounded to the second decimal place.

(3) The identification of real estate tax parcels and key numbers, the classification

of primary use, the determination of whether a tax parcel contains a dwelling unit, the number of dwelling units a tax parcel contains, the classification of the type of dwelling unit and type of real estate, and the measurement and calculation of the impervious area on a tax parcel shall be based upon the existing data in the Elkhart County computer assisted mass appraisal system database for the respective determination date used for making the stormwater user fee assessments.

(4) For each current year stormwater user fee assessment, the determination date shall be March 1 of the prior year.

(C) Utilizing the provisions of paragraphs (3) and (4) of division (B) above, the assessment for any tax parcel with a calculated stormwater use fee equal to less than \$2.25 will be waived.

(D) There shall be no other exceptions or exemptions from the assignment of ERUs and the assessment of stormwater user fees for a particular type or classification of real estate tax parcel within the Town. (Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

#### **§ 53.39 COLLECTION OF USER FEES.**

(A) The collection of the stormwater user fees authorized by this subchapter shall be effectuated through a charge appearing each year on the property tax statements of the affected property owner. One-half of the stormwater user fees charged each year for a real estate tax parcel shall be billed on each of the spring and fall property tax statements for that parcel. The user fees shall be due and payable at the same time as the property taxes appearing on the spring and fall property tax statements are due and payable. In the event only one property tax statement is billed for a real estate tax parcel, the entire annual stormwater user fees for that parcel authorized by this subchapter shall be billed on that property tax statement which shall be due and payable at the same time as the property taxes appearing on the property tax statement are due and payable.

(B) If user fees are not paid when due, they shall be charged and assessed late payment penalties by the Elkhart County Treasurer in the same way and in the same manner that delinquent property taxes are charged and assessed.

(C) If user fees and penalties are not paid when due, they shall be collected by the Elkhart County Treasurer in the same way that delinquent property taxes are collected. (Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

#### **§ 53.40 APPEALS OF ERU DETERMINATION.**

(A) If, in the opinion of any user, the ERU assigned to the user's real estate tax parcel is inaccurate in light of the number of dwellings or amount of impervious area on the property, the user shall have the right to contest the ERU determination and thus the stormwater user fees assessed in accordance with the provisions contained in this section.

(B) The user shall obtain and complete a Petition to Appeal Stormwater Assessment Form

which shall be filed with the Elkhart County MS4 operator with verifiable documentation supporting the user's claim. To be timely for any current year stormwater user fee assessment, a Petition to Appeal must be filed no later than the date on which the spring installment of user fees shall be due and payable. The Elkhart County MS4 operator shall refer the petition to the Advisory Board for the Greater Elkhart County MS4.

(C) The Advisory Board shall investigate the user's claim and, upon review thereof, shall render a written determination that either the original ERU determination and assessment should be affirmed or that the user's rate should be adjusted and how much the adjustment should be.

(D) The determination made by the Advisory Board shall be forwarded to the user by certified mail, return receipt requested. The user shall have fifteen (15) days from date of receipt to request reconsideration if dissatisfied with the decision from the Advisory Board. 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 Elkhart County MS4 Operator. The Elkhart County MS4 Operator shall refer the matter to the Board of the Department of Stormwater Management. The Advisory Board shall submit a written report of the determination in the case, along with any documents used, in denying the user's claim or in recommending an adjustment.

(E) Thereafter, the Board of the Department of Stormwater Management shall review all documentation and conduct an informal hearing to determine and resolve the dispute based upon the documentation submitted and any oral testimony. The Board shall issue a determination which shall be binding upon the Department of Stormwater Management and the user. The hearing shall be recorded and the minutes of the hearing provided upon request at a cost per page as determined by the Secretary for the Board which rate shall be amended from time to time.

(F) Any user aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with Indiana law.

(G) If a user's storm water assessment is reduced or eliminated by the Advisory Board, the Board of the Department of Stormwater Management, or court of law, the user shall be refunded accordingly for any overpayment made from the earlier of the date the stormwater user fee assessment was paid or was due and payable.

(H) A dispute or appeal of an ERU determination for stormwater assessment shall not be a valid reason for non-payment of the originally assessed stormwater user fee. (Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

#### **§ 53.41 STORMWATER UTILITY FUND.**

All stormwater user fees and penalties collected and interest earned thereon shall be deposited in the Town Stormwater Utility Fund. (Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11) Cross-reference: Stormwater utility fund, see §§ 35.40, 35.42

**§ 53.99 PENALTY.**

(A) Any violation of this chapter is subject to a fine of up to \$2,500.

(B) The Department may enter upon private property and take any and all measures necessary to abate a violation, if a court of competent jurisdiction has found that a violation of this chapter has occurred and has approved the action to be taken by the Department. The costs of such abatement shall be assessed to the owner of the private property.

(C) The Department may suspend any MS4 discharge access to stop an actual or threatened discharge which presents imminent and substantial danger to the environment, to the health or welfare of any person, to the MS4, or to any waters. This suspension may be without notice if an emergency exists but a hearing will be held at the next Board meeting after the owner of the real estate can be notified to determine the existence of an emergency and that there is a substantial and imminent danger.

(D) The Board or any court may order the owner of the real estate or the responsible party for the operations on the real estate to take any and all actions necessary to comply with this chapter.

(E) The Department may recover reasonable attorney fees, court costs, and other expenses associated with the enforcement of this chapter including sampling and monitoring expenses and the cost of actual damages incurred by the Department.

(F) Each day a violation continues constitutes a new and separate violation.

(G) If a party has violated this chapter and continues to do so, the Department may petition any court of competent jurisdiction for the issuance of a temporary restraining order or permanent injunction which restrains or requires specific compliance with this chapter. (Ord. 6-15-06B, passed 6-15-06)