

TOWN OF SPEEDWAY, INDIANA
SPEEDWAY TOWN COUNCIL
ORDINANCE NO. _____

**An Ordinance Relating to Construction Site & Post Construction Site Stormwater Control
and Amending Certain Provisions of Speedway Town Code**

[This Ordinance shall require Storm Water Pollution Prevention Plans, which includes erosion and sediment control measures and materials handling procedures to be submitted as part of the construction plans and specifications in order to be issued a site development permit for land disturbing activities. The Ordinance also requires the development of Post-Construction stormwater control measures, stormwater detention and stormwater design for new development and redevelopment to be submitted and approved as part of the construction plans and specifications and repealing all Town Code sections, or portions thereof, in conflict herewith.]

WHEREAS, The Town of Speedway, Indiana (the “Town”) has constructed and has in operation a stormwater collection system for collecting stormwater within its jurisdiction; and

WHEREAS, new requirements for stormwater quality affect the Town directly resulting from the United States Environmental Protection Agency (EPA) regulation entitled “National Pollutant Discharge Elimination System (NPDES) – Regulations for Revision of the Water Pollution Control Program Addressing Stormwater Discharges (Federal Register, Volume 64, Number 235, pages 68722-68852) on December 8, 1999 as required by section 402(p) of the Clean Water Act (CWA); and

WHEREAS, the program is administered by the Indiana Department of Environmental Management (IDEM) with the adoption of Construction Stormwater Permit (CSGP) for Stormwater Run-off Associated with Construction Activity, and Municipal Separate Storm Sewer System General Permit (MS4GP) for Storm Water Run-Off Associated with Municipal Separate Storm Sewer System (MS4) Conveyances; and

WHEREAS, the MS4GP requires the Town to adopt an ordinance or other local regulatory mechanism establishing a construction program that controls polluted run-off from construction activities with a land disturbance greater than or equal to one acre, or disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land; and

WHEREAS, the required ordinance or other local regulatory mechanism must contain, at a minimum, the requirements of the CSGP, including subsequent updates to the CSGP issued by IDEM, except for State permitting process references and submittal deadlines of construction plans; and

WHEREAS, the required ordinance or other regulatory mechanism must contain, at a minimum, the post-construction requirements of the CSGP; and

WHEREAS, the creation of a new stormwater management program will address stormwater management problems, and the Town desires to adopt the program as delineated below and desires that Chapter 13.44 of Speedway Town Code be amended to reflect the provisions contained herein.

13.44.010 - Purpose/Intent.

A. Site Construction Control

The purpose of this Ordinance is to establish requirements for stormwater discharges from construction activities so that the public health, existing water uses, and aquatic biota are protected. This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

Even in those instances where Stormwater Pollution Prevention Plan (SWPPP) approval is not required under this Ordinance or the CSGP, no person shall commence or perform any land disturbance by grading, stripping, or filling without complying with the applicable standards and requirements for control of soil erosion and sedimentation as contained in the Indiana Stormwater Quality Manual or similar guidance documents.

The objectives of this Chapter are:

- (1) To regulate construction activities as governed by the CSGP and the MS4GP.
- (2) To require construction site operators to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) in order to receive a site development permit from the Town.

B. Post-Construction Control

The purpose of this Ordinance is to implement planning procedures that promote and improve water quality and control of stormwater quantity. The planning procedures will include, at a minimum, the post-construction requirements of the CSGP and design requirements contained in the City of Indianapolis Stormwater Design and Construction Specifications Manual. The Town may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants on stormwater runoff. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

- (1) Buffer strip and riparian zone preservation.

- (2) Filter strip creation.
- (3) Minimization of land disturbance and surface imperviousness.
- (4) Minimization of directly connected impervious areas.
- (5) Maximization of open space.
- (6) Directing the community's growth away from sensitive areas and towards areas that can support growth without compromising water quality.

13.44.020 – Definitions.

Authorized Enforcement Agency: employees or designees of the Town Council of the Town of Speedway, Indiana.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 125I et seq.), and any subsequent amendments thereto.

City of Indianapolis Stormwater Design and Construction Specifications Manual: The current stormwater document used by the City of Indianapolis and available from the City of Indianapolis Department of Public Works.

Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more, as defined in the CSGP. Such activities include but are not limited to clearing and grubbing, land disturbance, excavating, and demolition.

Construction Stormwater General Permit (CSGP): Indiana Department of Environmental Management's Construction Stormwater General Permit (CSGP).

Illicit Discharge: Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in the Town's Illicit Discharge and Connection Stormwater Ordinance.

Indiana Storm Water Quality Manual: A reference manual developed by the State of Indiana that provides guidance on planning principals, as well as criteria for specific structural and non-structural stormwater management practices.

Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: means a permit issued by EPA (or by IDEM) 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-Stormwater Discharge: Any discharge to the stormwater system that is not composed entirely of stormwater.

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

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, and accumulations, so that same may cause or contribute to pollution; floatables; 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.

Storm Drain System: Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping Facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Stormwater Pollution Prevention Plan (SWPPP): A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

13.44.030 – Applicability.

This Ordinance covers any new development or re-development construction site resulting in the following:

1. Disturbances of one acre or more of total land area. Persons must meet the general permit rule applicability requirements under the CSGP.
2. Disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land within the corporate limits of the Town.
3. Fueling areas that install or replace tanks are regulated by this Ordinance regardless of the amount of land disturbance. Refer to Section 8 of this Ordinance for water quality treatment requirements.

4. Requirements of this Ordinance may also be applied to new development or re-development construction sites resulting in the disturbance of less than one acre as necessary to address stormwater runoff at the discretion of the Town.

All terms, conditions, definitions, and other measures defined in the CSGP shall apply except for state permitting process references, requirements, and submittal deadlines of construction plans.

All terms, conditions, definitions, and other measures defined in the City of Indianapolis Stormwater Design and Construction Specifications Manual shall apply except for submittal deadlines of construction plans and requirements for sites with soil disturbance of less than one acre, except as required by the Town.

This Ordinance does not apply to the following types of 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) Silvicultural 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 a sanitary district in accordance with IC 36-9-27.
- (5) Land-disturbing activities listed below, provided other applicable permits contain provisions requiring implementation of erosion and sediment control measures and stormwater management measures:
 - (A) Landfills that have been issued a certification of closure under 329 IAC 10.
 - (B) Coal mining activities permitted under IC 14-34.
 - (C) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by 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.

13.44.040 – Responsibility for Administration

The Town shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the President of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

13.44.050 – Severability.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance 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 Ordinance.

13.44.060: Ultimate Responsibility.

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

13.44.070 – Responsibility of construction site owner.

The project site owner has the following responsibilities:

- (1) Ensure that a Site Development Application, plans, drainage report, operation and maintenance manual (O&M Manual) and SWPPP are complete and submitted in accordance with procedures established by the Town.
- (2) Complete a sufficient Notice of Intent (NOI) to the Indiana Department of Environmental Management following Town approval of the SWPPP and forward a copy of the NOI to the Town.
- (3) Make application for a site development permit in accordance with procedures established by the Town. The applicant will submit a \$250.00 administrative fee at the time of submittal. If approved a site development permit shall be obtained at the Town Hall. The cost of the permit will be \$100.00 plus plan review and inspection fees.
- (4) Ensure compliance with this Ordinance during:
 - a. the construction activity; and
 - b. implementation of the construction plan.
- (5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this Ordinance and the approved construction plan.
- (6) Notify the Town of final site stabilization so that the Town can complete and sign off on a final site inspection prior to submittal of the Notice of Termination (NOT) to IDEM.
- (7) For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.

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

- (1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the Town.
- (2) Complete his or her own Site Development Application and submit it to the Town.
- (3) Apply for a building permit in accordance with the procedure established by the Town.

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

- (1) Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the Town.
- (2) Comply with the provisions set forth in Section 13.44.110 of this Chapter.
- (3) Not need to submit a Site Development Application.
- (4) Apply for a building permit in accordance with the procedures established by the Town.

13.44.080 – General requirements for stormwater quality control.

All stormwater quality and quantity control measures and erosion and sediment controls necessary to comply with this Ordinance must be implemented in accordance with the construction plan and sufficient to the requirements of the CSGP and City of Indianapolis Stormwater Design and Construction Specifications Manual. Additional requirements include the following:

- (1) Any fueling area, publicly or privately owned, that installs or replaces fuel tanks must install appropriate post-construction stormwater quality treatment measures to reduce lead, copper, zinc and polycyclic aromatic hydrocarbons in stormwater runoff. Treatment must include the water quality volume or flowrate.
- (2) When using infiltration measures, take into consideration the pollutants associated with run-off and the potential to contaminate ground water resources. When there is a potential for contamination, choose alternative measures or measures that pre-treat run-off to eliminate or reduce the pollutants of concern.
- (3) Where there is a potential for groundwater contamination, including in Wellhead Protection Areas, measures shall be implemented that pre-treat the water quality volume or flow rate to eliminate or reduce the pollutants of concern including TSS and oil/grease at a minimum.
- (4) Register any Class V Injection well with EPA Region 5.

13.44.090 – General requirements for individual building lots within a permitted project.

All stormwater quality measures, including erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

- (1) Implementation of stormwater quality measures and erosion and sediment controls in accordance with the construction plan and sufficient to satisfy the requirements of the CSGP and City of Indianapolis Stormwater Design and Construction Specifications Manual.
- (2) Notification to IDEM and the Town by submittal of a Construction Stormwater Residential Development Registration Form certifying intent to comply with the CSGP.

13.44.100 – Monitoring of discharges.

The Town shall have the authority to monitor discharges from construction sites covered under this Ordinance as described in the Town's Illicit Discharge and Connection Stormwater Ordinance.

13.44.110 – Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The Town will establish requirements identifying Best Management Practices ("BMPs") for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a SWPPP as necessary for compliance with requirements of the NPDES permit.

13.44.120 –

On areas that undergo new development or redevelopment, site construction resulting in disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or non-structural BMPs are required. Post-construction stormwater BMPs shall follow the City of Indianapolis Stormwater Design and Construction Specifications Manual. In addition to information required in the City of Indianapolis Stormwater Design and Construction Specifications Manual, the SWPPP, must also include the following information:

- (1) A description of potential pollutant sources and a list of pollutants from the final land use that may reasonably be expected to contribute pollutants to stormwater discharges,

- (2) Description of stormwater quality and stormwater management measures that will be installed to address post-construction sources that are expected to generate pollutants in stormwater discharges and increased run-off after construction activities have been completed,
- (3) Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality and stormwater management measures.
- (4) Sequence describing when each post-construction stormwater measure will be installed in relation to project construction activities including how post-construction measures will be protected from impacts if the measure is installed during active construction/land disturbance.
- (5) O&M Manual that complies with the requirements of the Indianapolis Manual and Standards. The O&M Manual is to be approved by the Town and signed by the Owner who will be responsible for long-term maintenance of the stormwater management system and BMPs.

Additionally, all post-construction stormwater BMPs and stormwater management systems shall be operated and maintained in the manner approved by the Town or its agents.

13.44.130 – Post construction BMP inspection.

- A. Each BMP on a site must have an O&M Manual that is submitted with the Post-Construction Stormwater Pollution Prevention plan (SWPPP) and approved by the Town. The approved O&M Manual must be provided to the BMP owner.
- B. Annual inspections of permanent BMPs will be performed by the Town. Prior to issuing a site development permit, the developer or owner of a site must pay a predetermined fee to cover the Town's costs for annual inspection for the first 3 years. After the first 3 years, the Town may annually inspect the facility and bill the owner. Refer to the schedule of fees below.

BMP Inspection Fee (per BMP)	
Inspections for first 3 years, paid lump	\$500.00 per BMP
Annual BMP inspection after Year 3	\$200.00 per BMP
Additional inspections required due to maintenance issues	\$200.00 per hour

- C. Routine inspections are the responsibility of the BMP owner. Maintenance is also the responsibility of the owner. Maintenance plans and inspection forms for each type of acceptable BMP are provided in the City of Indianapolis Stormwater Design and Construction Specifications Manual and should be used as guidance for performing maintenance activities. Completed routine inspection forms must be maintained by the BMP owner and produced upon request by the Town.

D. In the event that the Town finds a BMP in need of maintenance or repair, the Town will notify the BMP owner of the necessary maintenance or repairs and give the landowner a timeframe for completing the maintenance or repairs. If the maintenance or repairs are not completed within the designated timeframe, the Town shall perform the repairs or maintenance and bill the landowner for the actual costs of the work.

E. The Town must be notified of any changes in BMP ownership, major repairs, or BMP failure in writing within 30 days.

13.44.140 – Enforcement.

A. Stop-Work Order (Revocation of Permit)

In the event that any person holding a site development permit pursuant to this Ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town may issue a Stop-Work Order and may suspend or revoke the site development permit.

The Town may also issue a Stop-Work Order if violations are not resolved 72 hours after receipt of written notice of violations to this Ordinance.

B. Violation and Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Ordinance. Any person violating any of the provisions of this Ordinance shall be responsible for such Ordinance violation and each day during which any violation of any of the provisions of this Ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this Ordinance shall be required to bear the expense of such restoration.

C. Environmental Public Nuisance

In addition to the enforcement processes the penalties provided, if any conditions cause or are permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed an environmental nuisance, the condition may be abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise complete the cessation of such nuisance may be taken. Any person or business in violation of the environmental public nuisance under 6.03.040(d) shall be fined \$1,000.00 for the first offense and \$2,500 per occurrence per day for the second and any subsequent offenses thereafter.

IT IS FURTHER ORDAINED: This Ordinance shall become effective as provided for under Indiana law. All previous Ordinances or provisions thereof in conflict with any portion of this Ordinance shall be and are hereby repealed.

PASSED AND ADOPTED BY THE SPEEDWAY TOWN COUNCIL THIS ____ DAY OF _____, 2022.

Speedway Town Council

Vince Noblet, President

Gary L. Raikes, Vice President

David Lindsey

Eileen Fisher

Gary Pedigo

Attest:

Jacob Blasdel, Clerk-Treasurer

This document drafted by Robert Clutter, Speedway Town Attorney, 117 W. Main St., Lebanon, IN 46052

I have taken care to ensure that all Social Security numbers have been redacted from this document as required under Indiana law.