

ORDINANCE NO. 2007-1939

CONSTRUCTION SITE & POST CONSTRUCTION STORMWATER  
CONTROL ORDINANCE

An ordinance requiring Stormwater 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 receive a General Permit for Storm Water Discharges Associated with Construction Activity from the Indiana Department of Environmental Management for construction sites disturbing one acre or more of land. The ordinance also requires the development of Post-Construction stormwater control measures for new development and redevelopment to be submitted and approved as part of the construction plans and specifications.

WHEREAS, the City of Plymouth, Indiana (the City) has constructed and has in operation a stormwater collection system for the purpose of collecting stormwater within its jurisdiction; and

WHEREAS, new requirements for stormwater quality affect the City directly resulting from the United State Environmental Protection Agency (EPA) regulation entitled "National Pollutant Discharge Elimination System (NPDES) – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water 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 with the adoption of 327 IAC 15-5 for Storm Water Run-off Associated with Construction Activity, and 327 IAC 15-13 for Storm Water Run-Off Associated with Municipal Separate Storm Sewer System (MS4) Conveyances; and

WHEREAS, 327 IAC 15-13-15 (b) requires the City to pass 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 327 IAC 15-5 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 327 IAC 15-5-6.5(a)(8); and

WHEREAS, the creation of a new stormwater management program could help address stormwater management problems; and

WHEREAS, the City operates its stormwater system under the provisions of IC 36-9-25; Now therefore be it hereby ordained by the common council of the City of Plymouth, Marshall County, Indiana, that the municipal code be amended as follows:

**SECTION 1. PURPOSE/INTENT.**

**A. Site Construction Control**

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

1. To regulate construction activities disturbing more than one acre of land as governed by 327 IAC 15-5.
2. To require construction site operators to develop and implement a Construction Plan including a Storm Water Pollution Prevention Plan in order to receive a land disturbance permit from the City.

**B. Post-Construction Control**

The purpose of this ordinance is to implement planning procedures that promote and improve water quality. The planning procedures will include, at a minimum, the post-construction requirements of 327 IAC 5-5-6.5(a)(8). The City 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.

## **SECTION 2. DEFINITIONS.**

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency/Department (AEA): employees or representatives of the Mayor of the City of Plymouth and operator of the MS4 designated to enforce this ordinance. The following departments are designated for the enforcement of this ordinance:

Department of Stormwater Management  
PO Box 492  
900 Oakhill Ave  
Plymouth, IN 46563  
Phone: 574-936-3614  
Fax: 574-936-3017  
E-mail: publicworks@plymouthin.com

And

Wastewater and Sewer Department  
900 Oakhill Ave  
Plymouth, IN 46563  
Phone: 574-936-3017  
Fax: 574-936-3017  
E-mail: wastewater@plymouthin.com

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping 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. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more, as defined in 327 IAC 15-5. Such activities include but are not limited to clearing and grubbing, land disturbance, excavating, stockpiling, and demolition.

Environmental Protection Agency (EPA): The permitting agency, as designated by the United States government that authorizes the discharge of pollutants to waters within the United States.

Hazardous Materials: 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.

Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in City Ordinance Number 2007-1940 Illicit Discharge and Connection Stormwater Ordinance.

Illicit Connections: An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system 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
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Indiana Department of Environmental Management (IDEM): The permitting agency, as designated by the EPA that authorizes the discharge of pollutants to waters within the state of Indiana.

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. This manual is available on the internet at [www.idem.IN.gov/stormwater](http://www.idem.IN.gov/stormwater).

Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14). And activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

Municipal Separate Storm Sewer System (MS4): The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by The City of Plymouth and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying wastewater/sewage.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by 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 storm drain system that is not composed entirely of storm water.

Notice of Intent (NOI): Notice of Intent (NOI) letter required by the NPDES General Permit Rule Program. Filed as a notification letter to IDEM for the operation of a facility/construction site from which a point discharge of pollutants and/or storm water occurs.

Notice of Termination (NOT): Notice of Termination (NOT) letter required by the NPDES General Permit Rule Program. Filed as a notification letter to IDEM regarding the termination of operations for a facility/construction site from which a point discharge of pollutants and/or storm water occurs. A copy of the Notice of Termination submitted to IDEM must be submitted with the Completion Affidavit in order to release the SWPPP financial guarantees.

Operator: The Mayor of the City of Plymouth is by definition the operator of the MS4.

Person: means 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, household and cooking greases/oils or other discarded or abandoned objects, ordinances, 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.

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

City of Plymouth – Sanitary Board of Trustees: The city governing body providing oversight of this ordinance and the decision-making body regarding appeals and hearings regarding the various provisions of this ordinance. This board is implied in all City of Plymouth references in this ordinance

Storm Drainage System: Publicly-owned facilities by which storm water 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 [Storm Water]: 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.

Wastewater: Means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **SECTION 3.           APPLICABILITY.**

This ordinance covers any new development or re-development construction site resulting in the disturbance of one acre or more of total land area. Persons must meet the general permit rule applicability requirements under 327 IAC 15-2-6. This ordinance also applies to 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 City.

All terms, conditions, definitions, and other measures defined in 327 IAC 15-5 shall apply except for state permitting process references and submittal deadlines of construction plans.

This ordinance does not apply to persons who obtain an individual NPDES permit under 327 IAC 15-2-6.

This ordinance does not apply to the Indiana Department of Transportation when it conducts its business within the City corporate limit under its NPDES permit under 327 IAC 15.

This ordinance does not apply to the following types of activities:

1. Agricultural land disturbance activities.
2. Forest harvesting activities.

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

1. Landfills that have been issued a certification of closure under 329 IAC 10.
2. Coal mining activities permitted under IC 14-34.
3. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management 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.

### **SECTION 4.           RESPONSIBILITY FOR ADMINISTRATION.**

Administration, implementation, and enforcement of the provisions of this ordinance shall be the responsibility of:

City of Plymouth  
Department of Stormwater Management  
PO Box 492  
900 Oakhill Ave  
Plymouth, IN 46563  
Phone: 574-936-3614  
Fax: 574-936-3017  
E-mail: [publicworks@plymouthin.com](mailto:publicworks@plymouthin.com)

Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Mayor of the City of Plymouth and operator of the MS4 to persons or entities acting in the beneficial interest of or in the employ of the agency. The Sanitary Board of Trustees is the governing body responsible for the review and approval of the SWPPP and holding of hearings for enforcement appeals.

#### **4.1 Application Process**

The Sanitary Board of Trustees may appoint a representative to act on its behalf, including but not limited to: the City Stormwater Superintendent, the City Sewer Superintendent, the City Engineer, or a firm appointed for the purpose of carrying out this ordinance. Said representative may be given the authority to approve a Stormwater Pollution Prevention Plan (SWPPP), without the assemblage of the entire board. Said representative will have thirty (30) days to act on a project, once a complete submission has been made.

1. An Application for SWPPP Approval may be obtained from the Plymouth City Office at 124 North Michigan Street or obtained from the City of Plymouth website at [plymouthin.com](http://plymouthin.com). The Application for SWPPP Approval and the SWPPP shall be submitted to the Plymouth City Office at 124 North Michigan Street. The completed Application must be filed at least twenty-one (21) days prior to the regularly scheduled meeting of the Sanitary Board of Trustees. The Application must be accompanied by three (3) copies of the Stormwater Pollution Prevention Plan (SWPPP), and all required information and data.
2. Upon receipt of the Application for SWPPP Approval, the City Stormwater Superintendent will review the proposed SWPPP to determine whether they have been prepared in accordance with the terms of this Ordinance.
  - a. If the City Stormwater Superintendent finds that the Application and SWPPP have been submitted with the correct informational requirements and has been prepared in accordance with the terms of this ordinance, then he shall forward a report so stating to the Sanitary Board of Trustees for their consideration.
  - b. If the City Stormwater Superintendent finds that the Application and SWPPP have not been submitted with the correct informational requirements or has not been prepared in accordance with the terms of this Ordinance, he shall advise the applicant in writing (including but not limited to e-mail) of the items of non-conformance.
  - c. For minor revisions; if the applicant submits additional and/or revised information and plans as requested, at least one week prior to the regularly scheduled meeting, the City Stormwater Superintendent may re-review said SWPPP to determine their

conformance prior to the regularly scheduled meeting.

- d. For major revisions; submittals of additional and/or revised information and plans as requested pertaining to the SWPPP may or may not be reviewed City Stormwater Superintendent to determine their conformance prior to the regularly scheduled meeting. In such a case the SWPPP will be submitted at a future regularly scheduled meeting depending upon the extent of the modifications.
  - e. If the applicant fails to submit additional and/or revised information and plans in a timely manner, the Sanitary Board of Trustees shall not review the SWPPP until such time that all additional and/or revised information has been submitted and reviewed by the City Stormwater Superintendent.
3. The City Stormwater Superintendent may contact the City Engineer for technical assistance at any time during this process.
  4. Financial guarantees [Section 4.5] and confirmation that a NOI [Section 8] has been filed with IDEM are prerequisites to Approval of the SWPPP.

#### **4.2 Types of Approvals**

Upon receipt of the report from the City Stormwater Superintendent, the Sanitary Board of Trustees shall, at their regularly scheduled meeting, review the SWPPP along with the accompanying data and determine whether or not the SWPPP meets all of the minimum requirements and standards of this Ordinance. The Sanitary Board of Trustees shall then take one of the following actions on the application within thirty (30) days after all completed information and plans have been submitted, or an extension is mutually agreed upon.

1. Conditional Approval. If the Sanitary Board of Trustees determines that upon the satisfactory completion of one or more specified conditions consistent with the requirements, standards and specifications of this Ordinance, the Sanitary Board of Trustees may give conditional approval to the SWPPP. Conditional Approval is required for submission of the NOI to IDEM this includes the placement of financial guarantees for the installation and maintenance of Best Management Practices.
2. Approval. The Sanitary Board of Trustees shall give SWPPP Approval only after it has determined that the SWPPP meets the requirements of this Ordinance. This includes the confirmation that the NOI has been filed with IDEM.
3. Disapproval. Should the Sanitary Board of Trustees disapprove the SWPPP, written notice of such action, together with reasons therefore, shall be transmitted to the applicant. Such action shall also be entered on the official records of the



Board. If disapproved, the applicant may at any time reapply for SWPPP Approval.

4. Refer to City Stormwater Superintendent. Should the Board of Sanitary Trustees have a question about a specific technical aspect of the SWPPP, the Sanitary Board of Trustees may refer a question to the Stormwater Superintendent for a finding. The Stormwater Superintendent may request the assistance of the City Engineer if he so desires.

#### **4.3 Approvals**

Upon approval of the SWPPP, the City Stormwater Superintendent shall affix his signature to the Application for SWPPP Approval. Action taken by the Sanitary Board of Trustees shall be entered in the minutes of the meeting along with the written reasons for said action.

- 1) Documentation of the Conditional Approval of the 'Application for SWPPP Approval' will be required in the Construction Plan Certification section of the NOI to be submitted to IDEM. Conditional Approval does not authorize the developer/builder to begin grading and installation of building/infrastructure improvements.
- 2) Approval of the SWPPP will authorize the developer/builder to begin grading and installation of building/infrastructure improvements, after securing other necessary approvals and permits.

#### **4.4 Exempt Projects**

If the area requirements for filing a SWPPP are less than those provided for in 327 IAC 15-5. A SWPPP does not need to be filed. However, if a SWPPP is not required the owner/developer's construction operations are required to meet the intent of the law and utilize Best Management Practices to prevent erosion and sedimentation from leaving the site.

In environmentally sensitive areas a SWPPP may be required even though the site area requirements are not realized.

#### **4.5 Financial Guarantees**

Financial guarantees, provided by the property owner, shall be a prerequisite to the Sanitary Board of Trustees' action on the application for the approval of the SWPPP. The Sanitary Board of Trustees may grant Conditional Approve the SWPPP only after one of the following actions has been taken:

1. A performance bond is posted with the Sanitary Board of Trustees. Said bond shall:

- a) Run to the City of Plymouth Sanitary Board of Trustees.
  - b) Be in the amount equal to 100 percent of the cost, as estimated by the Sanitary Board of Trustees, of all improvements and installations as required under this Ordinance.
  - c) Be satisfactory to the Sanitary Board of Trustees.
  - d) Run until and terminate sixty (60) days after the filing of a NOT with IDEM and the submission of a copy of said filing is submitted to the Plymouth City Office.
  - e) This bond may be in conjunction with the financial guarantees required by the Plymouth Plan Commission for drainage, water, sanitary sewer, and road improvements.
2. Cash bonds, certified checks, or certificates of deposit with joint ownership between the Sanitary Board of Trustees and the property owner, or other negotiable securities acceptable and assigned to the Sanitary Board of Trustees are posted in lieu of the performance bond.
  3. Financial guarantees shall be deposited at the City of Plymouth Clerk-Treasurer's Office.

Any funds received from the financial guarantees required by this Ordinance may be used for the purpose of installing Stormwater Pollution Prevention Best management Practice (BMP) improvements for which said guarantees were provided, in accordance with the specifications and requirements of this Ordinance or for partial or total compensation for remediation measures due to an Illicit Discharge release(s) from the construction site.

The financial guarantees shall be released only after all the requirements of Section 4.6 have been met and the NOT has been filed with and approved by IDEM. For NOT option #1 a copy of the IDEM written notification of termination shall be submitted to the City of Plymouth and financial guarantees shall be submitted by the new property owner prior to the release of financial guarantees placed by the previous property owner. For NOT options #2 and #3 a copy of the IDEM written notification of termination shall be submitted to the City of Plymouth prior to the release of financial guarantees.

#### **4.6 Completion Affidavit, Inspection Records, NOT, and 'As-built' Drawing**

After completion of the project and before final acceptance can be made, a professionally prepared and certified "As Built" set of plans, Inspection Records, and a Completion Affidavit shall be submitted to the City Stormwater Superintendent (through the Plymouth City Office) for review. The documentation presented in the completion packet shall be submitted in triplicate.

The "As Built" drawings shall include all pertinent data relevant to the completed SWPPP and shall include the location of all BMP's utilized in the project. A certified statement on plans stating the completed SWPPP substantially complied with proposed SWPPP and identifying modifications/changes to the original SWPPP.

A copy of the Self-Monitoring Program Reports as required by Section 10.18 shall be submitted with the final completion submittal.

All such submitted plans and Inspection Reports of completed projects shall be reviewed for compliance within 30 days after submission to the City Stormwater Superintendent and maintained in the project files.

This review is required by and is an integral part of the IDEM - Notice of Termination (NOT) documentation.

#### **4.7 Post-Construction BMPs**

If maintenance is required in the future to bring the BMP features back to design standards, the property owner(s) shall be responsible for providing said maintenance. Should the property owner(s) fail to provide necessary maintenance, the City may provide said maintenance and the property owner(s) will be assessed for the amount of the work. See Sections 13 thru Section 22 for enforcement procedures.

#### **SECTION 5. 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.

#### **SECTION 6. COMPATIBILITY WITH OTHER REGULATIONS**

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law 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 provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

#### **SECTION 7. 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.

#### **SECTION 8. RESPONSIBILITY OF CONSTRUCTION SITE OWNER.**

The project site owner has the following responsibilities:

**1. Develop a Construction Plan, including the Storm Water Pollution Prevention Plan**

Evaluate the site, review the rule requirements, utilize the *Indiana Stormwater Quality Manual* for guidance in developing the plan. Copies of the manual may be obtained by contacting the IDEM at their website [www.idem.IN.gov/stormwater](http://www.idem.IN.gov/stormwater).

Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by IDEM and the City of Plymouth.

**2. Submit the Construction Plan to the City of Plymouth for review**

The City of Plymouth has up to 30 days from the date of submittal to review the plan. If the project site owner has not received notification that the plan is deficient within the 30-day review period, the NOI letter may be submitted to IDEM. If notice of a deficient plan is received, the plans must be revised to satisfy the deficiencies and resubmitted to the reviewing authority, at which time the 30-day review period starts over.

Submit a Construction Plan, the Stormwater Pollution Prevention Plan, and the Application for SWPPP Approval; in accordance with procedures established by the City.

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 City of Plymouth.
2. Complete his or her own notice of intent letter and submit it to the City of Plymouth.
3. Apply for a building permit in accordance with the procedures established by the City of Plymouth.

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 City of Plymouth.
2. Comply with the provisions set forth in Section 11 of this ordinance.
3. Will not need to submit a notice of intent letter.
4. Apply for a building permit in accordance with the procedures established by the City of Plymouth.

See Section 4.4 for requirements regarding Exempt Projects.

**3. Receive Construction Plan approval from reviewing authority**

Modifications to the plan may be requested by the City of Plymouth before approval is granted.

**4. Submit a Notice of Intent (NOI) letter to IDEM a minimum of 48 hours prior to initiation of land disturbing activities**

A complete NOI letter submittal must include:

1. Proof of Publication
2. Proof of Construction Plan approval, or expiration of the 30-day review period from the reviewing authority
3. \$100 general permit filing fee

Submit NOI documentation to the City of Plymouth.

- a. Any person subject to a construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Plymouth prior to the allowing of discharges to the MS4.
- b. The copy of the Notice of Intent may be delivered to the City of Plymouth either in person or by mailing to:  
City of Plymouth  
Department of Stormwater Management  
PO Box 492  
900 Oakhill Ave  
Plymouth, IN 46563  
Attn: Notice of Intent
- c. A person commits an offense if the person performs construction activities that may or will discharge storm water associated with said construction activity without having submitted a copy of the Notice of Intent to do so to the City of Plymouth.

**5. Begin construction activities**

Construction activities may not begin prior to Construction Plan approval and submittal of NOI letter. The project site owner must also notify IDEM and the City of Plymouth of the actual start date within 48 hours of starting land disturbing activities. Approval of the SWPPP will not be granted prior to the submission of the NOI to IDEM.

Ensure compliance with this ordinance during:

1. the construction activity; and
2. implementation of the construction plan.

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

A copy of the general permit for stormwater discharge along with the permit number

shall be forwarded to:

City of Plymouth  
Department of Stormwater Management  
PO Box 492  
900 Oakhill Ave  
Plymouth, IN 46563  
Attn: IDEM Permit

**6. Implement the approved Construction Plan throughout construction**

Revise the plan and make changes on the project site, as necessary, to prevent pollutants, including sediment, from leaving the project site. Communicate with the reviewing/inspecting authority, especially when significant changes are made.

**7. Submit a Notice of Termination (NOT)**

Submit the NOT to IDEM as referenced on their website. (The address that appears on the NOT form 51514 (R/1-04) is incorrect and is being corrected. In the interim, please substitute "MC 65-42, Room 1255" for "P.O. Box 6015" and use 46204 for the ZIP Code.)

The project site owner must:

1. Prepare a complete NOT, with all required supporting documentation
2. Receive verification from the local reviewing authority (City of Plymouth as designated by IDEM) that the project meets the termination requirements as specified in Rule 5.
3. Once verified by the local reviewing authority, submit the NOT form to IDEM for final approval.

Submit NOT documents to The City of Plymouth.

Any person subject to a construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Plymouth prior to the allowing of discharges to the MS4. A copy of the NOT documentation, submitted to IDEM, shall be submitted to the:

City of Plymouth  
Department of Stormwater Management  
PO Box 492  
900 Oakhill Ave  
Plymouth, IN 46563  
Attn: Notice of Termination

At the end of above said activity or when property ownership takes place (See Rule 5 – Notice of Termination (NOT) State Form 51514 for requirements .

A person commits an offense if the person does not file the proper NOT documents to IDEM and to the City of Plymouth.

**SECTION 9. GENERAL REQUIREMENTS FOR STORMWATER POLLUTION PREVENTION PLAN (SWPPP).**

Except for state permitting review process references and review submittal deadlines of construction plans and permit applications in 327 IAC 15-5 the SWPPP requirements of 327 IAC 15-5 are considered to be the minimum requirements for the submission of the Elements in the Site Plan and the Elements in the Plan Narrative portions of the SWPPP. The time restraints and requirements regarding the NOI, beginning of earth moving activities, and the NOT shall remain in effect. The plan scales shall be standard engineering scales and large enough to clearly depict topographic and other plan features.

## **SECTION 10. GENERAL REQUIREMENTS FOR STORMWATER QUALITY CONTROL.**

All storm water quality measures and erosion and sediment controls necessary to comply with this ordinance must be implemented in accordance with the construction plan and sufficient to satisfy the following conditions.

A project site owner shall, at least, meet the following requirements:

1. Sediment-laden water which otherwise would flow 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 truck washout, 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 in accordance with 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 run-off or 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 in accordance with all applicable statutes and regulations.
5. Storm water run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.
6. The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:
  - a. Copy of the completed NOI letter and the NPDES permit number, where applicable.
  - b. Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.
  - c. Location of the construction plan if the project site does not have an on-site location to store the plan.
7. This permit and posting of the notice under subdivision (6) 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.
8. The storm water pollution prevention plan shall serve as a guideline for storm water quality, but should not be interpreted to be the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this rule, all measures necessary to adequately prevent polluted storm water run-off.
  9. The project site owner shall inform all general contractors, construction management firms, land disturbance or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this rule and the conditions and standards of the storm water pollution prevention plan and the schedule for proposed implementation.
  10. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.
  11. Appropriate measures shall be planned and installed as part of an erosion and sediment control system.
  12. All storm water quality measures must be designed and installed under the guidance of a trained individual.
  13. Collected run-off 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.
  14. 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.
  15. Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water run-off.
  16. Unvegetated areas that are scheduled or likely to be left inactive for fifteen (15) days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. 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 seventy percent (70%) shall be restabilized using appropriate methods to minimize the erosion potential.
  17. During the period of construction activities, all storm water quality measures necessary to meet the requirements of this rule shall be maintained in working order.
  18. A self-monitoring program that includes the following must be implemented:
    - a. A trained individual shall perform a written evaluation of the project site:
      - i. by the end of the next business day following each 0.5 inch of rain; and
      - ii. at a minimum of one time per week.
    - b. The evaluation must:
      - i. address the maintenance of existing storm water quality measures to ensure they are functioning properly; and
      - ii. identify additional measures necessary to remain in compliance with all applicable laws and ordinances.
    - c. Written evaluation reports must include:
      - i. the name of the individual performing the evaluation;



- ii. the date of the evaluation;
  - iii. problems identified at the project site; and
  - iv. details of corrective actions recommended and completed.
- d. All evaluation reports for the project site must be made available to the inspecting authority within forty-eight (48) hours of a request.
- 19. 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 ground water or degrade soil quality.
- 20. Final stabilization of a project site is achieved when:
  - a. all land disturbance activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and
  - b. construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use or disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in clause (A).

**SECTION 11. GENERAL REQUIREMENTS FOR INDIVIDUAL BUILDING LOTS WITHIN A PERMITTED PROJECT.**

All storm water quality measures, including erosion and sediment control, necessary to comply with this ordinance must be implemented in accordance with the plan and sufficient to satisfy the following conditions.

Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

1. The 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 activities on individual lots.
2. Installation and maintenance of a stable construction site access.
3. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
4. Sediment discharge and tracking from each lot must be minimized throughout the land disturbance activities on the lot until permanent stabilization has been achieved.
5. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.
6. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
7. For individual residential lots, final stabilization meeting the criteria in Section 9.20 of this rule will be achieved when the individual lot operator:

- a. completes final stabilization; or
- b. has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

## **SECTION 12. MONITORING OF DISCHARGES.**

The City shall have the authority to monitor discharges from construction and/or post-construction sites covered under this ordinance as described below:

### **12.1 Applicability**

This section applies to all facilities that have storm water discharges associated with construction and/or post-construction activity.

### **12.2 Access to Facilities**

The Superintendent, Inspector, and/or other duly authorized City Representative/Employee of the City of Plymouth must bear the proper credentials and identification in order to properly obtain the right of entry to perform the following duties:

1. The Authorized Enforcement Agency/Department (AEA) of The City of Plymouth shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. 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 authorized enforcement agency.
2. Facility operators shall allow the AEA of The City of Plymouth ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
3. The AEA of The City of Plymouth shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The AEA of The City of Plymouth has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the owner/operator at the written or

oral request of the AEA of The City of Plymouth and shall not be replaced. The costs of clearing such access shall be borne by the owner/operator.

6. Unreasonable delays in allowing the AEA of The City of Plymouth to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the owner/operator of a facility with a NPDES permit to discharge storm water associated with construction and/or post-construction activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
7. If the AEA of The City of Plymouth has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

**SECTION 13. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

The City will establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, 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 system 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 storm water 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 stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit. The Indiana Storm Water Quality Manual can provide guidance in the selection and maintenance of the BMPs.

**SECTION 14. POST-CONSTRUCTION CONTROLS FOR NEW DEVELOPMENT OR REDEVELOPMENT.**

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 best management practices are required. Post-construction storm water pollutant loading will be addressed through the 6 Minimum Control Measures so that preconstruction loadings will not be exceeded. Post-construction storm water best management practices (BMPs) shall follow the Indiana Storm Water Quality Manual as a guidance document.

It is the goal of the City to have full technical and administrative approval authority on the application and design of all post-construction BMPs, conditions definitions, and submittal requirements of construction plans and specifications and related documents as defined in 327 IAC 15-5-6.5(a)(8). Additionally, all post-construction storm water best management practices, structural and / or nonstructural, shall be operated and maintained by the property owner or his/her representatives in the manor approved by the City or its agents.

## **SECTION 15. WATERCOURSE PROTECTION**

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

## **SECTION 16. ENFORCEMENT – NON-ILLCIT DISCHARGE VIOLATIONS.**

### **16.1 Violations**

Enforcement of this ordinance shall be subject to the severity of the infraction and the construction site 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 Mayor's discretion. The tiered enforcement may include:

### **16.2 Site Notice**

When the City of Plymouth finds that any person/construction site operator has failed to maintain the proper Best Management Practices (BMPs) for the site and an Illicit Discharge has not taken place; the City of Plymouth may serve upon that person/construction site operator a verbal *Site Notice*, specifying the particular items to be addressed. The person/construction site operator shall immediately investigate the matter and to seek a resolution whereby the BMPs may be reinstated to proper working conditions. Investigation and/or resolution of the matter in response to the *Site Notice* in no way relieve the alleged violator of liability for any violations occurring before or after receipt of the *Site Notice*. Nothing in this subsection shall limit the authority of the City of Plymouth to take any action, including emergency action or any other enforcement action without first issuing a *Site Notice*.

The *Site Notice* shall be confirmed through an e-mail or a facsimile correspondence.

### **16.3 Warning Notice**

When the City of Plymouth finds that any person/construction site operator has failed to maintain or continues to fail to maintain the proper Best Management Practices (BMPs) for the site and an Illicit Discharge has not taken place; the City of Plymouth may serve upon that person/construction site operator a written *Warning Notice*, specifying the particular items to be addressed. The person/construction site operator shall immediately investigate the matter and to seek a resolution whereby the BMPs may be reinstated to proper working conditions.

Investigation and/or resolution of the matter in response to the *Warning Notice* in no way relieve the alleged violator of liability for any violations occurring before or after receipt of the *Warning Notice*. Nothing in this subsection shall limit the authority of the City of Plymouth to take any action, including emergency action or any other enforcement action without first issuing a *Warning Notice*.

The *Warning Notice* to the person/construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.

#### **16.4 Notice of Violation**

When the City of Plymouth finds that any person/construction site operator has failed to maintain or continues to fail to maintain the proper Best Management Practices (BMPs) for the site and an Illicit Discharge has not taken place; the City of Plymouth may order compliance by written *Notice of Violation* to the responsible person.

The *Notice of Violation* shall contain:

1. The name and address of the alleged violator;
2. The address when available or a description of the building, structure or land upon which the violation is occurring or has occurred;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to restore compliance with this ordinance and a time table schedule for completion of such remedial action.
5. A statement of the penalty of penalties that shall or may be assessed against the person to whom the *Notice of Violation* is directed;
6. A statement that the determination of violation may be appealed to the City of Plymouth Sanitary Board of Trustees by filing a written *Notice of Appeal* within 5 days of service of the *Notice of Violation*.
7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency of a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

1. Payment of a fine to cover administrative and remediation costs; and
2. The further implementation of source control or treatment BMP's.

#### **16.5 Stop Work Order**

The Authorized Enforcement Agency/Department (AEA) of The City of Plymouth may, without prior notice, suspend the work on the project by issuing a *Stop Work Order*. If the violator fails

to comply with a Stop Work Order, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons. Only work being performed on the erosion control/illicit discharge items shall be permitted.

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

#### **16.6 Compensatory Action**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc

#### **16.7 Civil Penalties**

Any person that has violated or continues to violate this ordinance shall be liable to civil penalties to the fullest extent of the law. The City of Plymouth may impose a penalty not to exceed the maximum penalty as prescribed by Federal or State laws \$ 2,500.00 (depending on the severity of the violation) for the first day the violation remains unremedied after receipt of the *Notice of Violation* and \$7,500.00 for each day the violation remains unremedied thereafter.

#### **16.8 Criminal Prosecution**

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law.

### **SECTION 17. ENFORCEMENT – ILLICIT DISCHARGE VIOLATIONS.**

Enforcement of this ordinance shall be subject to the severity of the infraction and the construction site 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 Mayor of the City of Plymouth. When the City of Plymouth finds that any person/construction site operator has failed to maintain the proper Best Management Practices (BMPs) for the site and an Illicit Discharge has taken place; the **Illicit Discharge and Connection Stormwater Ordinance 2007-1940** shall also be enforced.

In the case of an Illicit Discharge from the site a *Stop Work Order* may be issued immediately.

### **SECTION 18. APPEAL OF STOP WORK ORDER**

Any person receiving a *Stop Work Order* may appeal the determination of the authorized enforcement agency by filing a *Notice of Appeal*. The notice of appeal must be received within 5 days from the date of the *Stop Work Order*.

The *Notice of Appeal* may be delivered to the City of Plymouth either in person or by mailing to:  
City of Plymouth  
Department of Stormwater Management  
PO Box 492  
900 Oakhill Ave  
Plymouth, IN 46563  
Attn: Notice of Appeal

Hearing on the appeal before the City of Plymouth Sanitary Board of Trustees shall take place within 21 days from the date of receipt of the *Notice of Appeal*. The decision of the municipal authority or their designee shall be final.

All activities on the project shall comply with the *Stop Work Order* until the City of Plymouth Sanitary Board of Trustees has made their decision on the appeal. If the Appeal is granted the City of Plymouth and its representatives shall be held harmless for any delays, expenses, and/or claims.

#### **SECTION 19. ENFORCEMENT MEASURES AFTER APPEAL**

If the violation has not been corrected pursuant to the requirements set forth in the *Notice of Violation*, or, in the event of an appeal, within 7 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

#### **SECTION 20. INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

#### **SECTION 21. VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or 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 a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**SECTION 22. REMEDIES NOT EXCLUSIVE.**

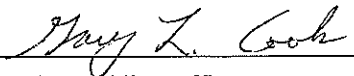
The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**SECTION 23. ADOPTION OF ORDINANCE.**


This ordinance shall be in full force and effect 30 days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND ADOPTED this 24th day of November, 2007, by the following vote:


PLYMOUTH COMMON COUNCIL

  
\_\_\_\_\_  
Gary L. Cook, Presiding Officer


ATTEST:

  
\_\_\_\_\_  
Toni L. Hutchings, Clerk-Treasurer

PRESENTED by me to the Mayor of the City of Plymouth, Indiana this 26th day of November, 2007.

  
\_\_\_\_\_  
Toni L. Hutchings, Clerk-Treasurer

APPROVED AND SIGNED by me this 26th day of November, 2007.

  
\_\_\_\_\_  
Gary L. Cook, Mayor  
City of Plymouth, Indiana