

ORDINANCE NO. 2007-1940

Illicit Discharge and Connection Stormwater Ordinance

THE CITY OF PLYMOUTH, INDIANA

SECTION 1 PURPOSE

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of The City of Plymouth through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements 327 IAC 15-13-14. The objectives of this ordinance are:

- 1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user
- 2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- 3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

SECTION 2 DEFINITIONS

For the purpose of this article, the following definitions shall apply (words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word “shall” is mandatory and not discretionary. The word “may” is permissive. Words not defined herein shall be construed to have the meanings given by common and ordinary use as defined in the latest edition of Webster’s Dictionary.

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

Appeals and hearings shall be conducted by the:

City of Plymouth
Sanitary Board of Trustees
124 North Michigan Street
PO Box 492
Plymouth, IN 46563

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.

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.

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 Section 8 of this ordinance.

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

- 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
- 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.

Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

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 stormwater.

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.

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.

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: 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: 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 shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION 4 RESPONSIBILITY FOR ADMINISTRATION

The governing body for the administration, implementation, and enforcement of the provisions of this ordinance shall be:

City of Plymouth
Sanitary Board of Trustees
124 North Michigan Street
PO Box 492
Plymouth, IN 46563

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

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.

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 be no contamination, pollution, nor unauthorized discharge of pollutants.

SECTION 8 DISCHARGE PROHIBITIONS

8.1 Prohibition of Illegal Discharges

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain or otherwise discharge into the municipal storm drain system or watercourses any 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.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- 1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than 0.5 mg/l total residual chlorine), fire fighting activities, and any other water source not containing Pollutants.
- 2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- 3) Non-Toxic Dye Testing is an allowable discharge, but requires a verbal, fax or E-mail notification to the authorized enforcement agency prior to the time of the test.
- 4) The prohibition shall not apply to any non-storm water discharge permitted under a valid NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Indiana Department of Environmental Management and / or the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

8.2 Prohibition of Illicit Connections

- 1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- 2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- 3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- 4) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to the sanitary sewer system upon approval of the Department of Stormwater Management and the Wastewater and Sewer Department of the City of Plymouth.
- 5) Any drain or conveyance that has not been documented in plans, maps, and which may be connected to the storm water system, shall be located by the owner or occupant of that property upon receipt of written Notice of Violation from The City of Plymouth requiring

that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location of point of connection to the storm sewer system sanitary sewer system or other discharge point be identified. Results of this investigation are to be documented and provided to The City of Plymouth.

SECTION 9 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

9.1 Submission of NOI and Permit documentation to The City of Plymouth

- 1) Any person subject to an industrial or 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.
- 2) The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the City of Plymouth at the same time the operator submits the original Notice of Intent to the EPA/IDEM as applicable.
- 3) The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial or construction activity shall submit a copy of the IDEM Permit to the City of Plymouth once the permit is received.
- 4) The copy of the Notice of Intent & the IDEM Permit 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
- 5) A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent or the IDEM Permit to do so to the City of Plymouth.

9.2 Facility and Construction Site Operation

- 1) A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity that contains pollutants as indicated in Section 8.2 above.
- 2) A person commits an offense if the person operates a construction site that allows soil particulate to leave said construction site either in stormwater runoff, vehicle tracking, or mass land movement. BMP's must be installed and periodically inspected as required by the State of Indiana Rules and Regulations and as identified in the Indiana Storm Water Quality Manual. If a BMP fails to perform as designed

the operator shall repair/replace the existing BMP. If deemed necessary ;the BMP may need to be replaced with a different more efficient BMP.

9.3 Submission of NOT documentation to The City of Plymouth

- 1) Any person subject to an industrial or 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.

- 2) A person commits an offense if the person does not file the proper NOT documents to IDEM and to the City of Plymouth at the end of said activity.

SECTION 10 MONITORING OF DISCHARGES

10.1 Applicability

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

10.2 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 industrial 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 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE
STORM WATER POLLUTANTS BY THE USE OF BEST
MANAGEMENT PRACTICE**

The Department of Stormwater Management of The City of Plymouth will adopt 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 commercial or industrial establishment 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.

SECTION 12 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 13 NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency (AEA) in person or by phone or facsimile as soon as they become aware of the spill. If the spill occurs outside of normal business hours call the EMERGENCY PHONE NUMBER: 574-936-2126 (Plymouth Police Department). If during business hours contact:

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

or

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

Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the:

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

within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 14 ENFORCEMENT

14.1 Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City of Plymouth is authorized to enter upon the subject private property without giving prior notice, to take any and all measures necessary to abate their violation and/or restore the property. The City of Plymouth is authorized to seek costs of the abatement as outlined in Section 17.

14.2 Warning Notice

When the City of Plymouth finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the City of Plymouth may serve upon that person a written *Warning Notice*, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the *Warning Notice* in no way relieves 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* will 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 statement specifying the established time schedule to restore compliance.

14.3 Notice of Violation

Whenever the City of Plymouth finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City of Plymouth may order compliance by written *Notice of Violation* to the responsible person.

The *Notice of Violation* will 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 or 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 7 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) The performance or monitoring, analysis, and reporting;
- 2) The elimination of illicit connections or discharges;
- 3) That violating discharges, practices, or operations shall cease and desist;
- 4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- 5) Payment of a fine to cover administrative and remediation costs; and
- 6) The implementation of source control or treatment BMP's.

14.4 Suspension of MS4 Access

14.4.1 Emergency Cease and Desist Orders

The Authorized Enforcement Agency/Department (AEA) of The City of Plymouth may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the

United States. If the violator fails to comply with a suspension order issued in an emergency, 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.

When the City of Plymouth finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment the City of Plymouth may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- 1) Immediately comply with all ordinance requirements; and
- 2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediate halting operations and/or terminating the discharge.

Any person notified of an *Emergency Order* directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City of Plymouth may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The City of Plymouth may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City of Plymouth that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence to the:

City of Plymouth
Department of Stormwater Management
PO Box 492
900 Oakhill Ave
Plymouth, IN 46563
Attn: Emergency Order Response

Within 3 days of receipt of the *Emergency Order*. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

14.4.2 Suspension due to Illicit Discharges in Emergency Situations

The City of Plymouth may, without prior notice, suspend MS4 discharge access to a person when suspension is necessary to stop an actual or threatened discharge which present or may present imminent and substantial danger to the environment or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City of Plymouth 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.

14.4.3 Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

14.4.4 Illegal Reconnection

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

14.5 **Compensatory Action**

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the City of Plymouth may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, water-way clean-up, etc.

14.6 **Civil Penalties**

In the event the alleged violator fails to make the remedial measures set forth in the *Notice of Violation* or otherwise fails to cure the violations described within 7 days, or such greater period as the City of Plymouth shall deem appropriate, after the City of Plymouth has taken one or more of the actions described above, 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..

14.7 **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 15. APPEAL OF NOTICE OF VIOLATION

Any person receiving a *Notice of Violation* may appeal the determination of the authorized enforcement agency by filing a *Notice of Appeal*. The notice of appeal must be received within 7 days from the date of the *Notice of Violation*.

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 45 days from the date of receipt of the *Notice of Appeal*. The decision of the municipal authority or their designee shall be final.

SECTION 16. 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 14 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency may 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 17. COST OF ABATEMENT OF THE VIOLATION

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 7 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 8.0 percent per annum shall be assessed following the filing of the lien on the real estate.

SECTION 18. 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 19. 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 20. 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 21. 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 26th day of November, 2007.

PLYMOUTH COMMON COUNCIL

Gary L. Cook
Gary L. Cook, Presiding Officer

ATTEST:

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

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

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