

**AN ORDINANCE AMENDING CHAPTER 53 OF THE
FORT WAYNE, INDIANA CODE OF ORDINANCES**

WHEREAS, the City of Fort Wayne, Indiana, Department of Stormwater Management ("DSM") plays a pivotal role in helping to protect the City's water sources by managing the quantity and quality of stormwater runoff within the City's municipal boundaries; and

WHEREAS, one of the ways in which the DSM exercises this role is by actively engaging in development projects involving the disturbance of one (1) acre or more of total land area; and

WHEREAS, for such projects, state law requires the owner of the property to submit stormwater plans describing proposed efforts to mitigate stormwater pollution and manage additional stormwater runoff generated as a result of the project; and

WHEREAS, the DSM is the local agency responsible for reviewing the property owner's stormwater plans, helping to ensure that the plans meet all state and local regulations and helping to ensure ongoing compliance with construction site management and post-construction requirements through recurring inspections; and

WHEREAS, the DSM also has several regulated drains under its jurisdiction, which form a part of the DSM's overall stormwater management system; and

WHEREAS, state law permits owners of properties impacted by a regulated drain to petition the DSM requesting changes to the drain or to allow certain encroachments and crossings in, over, through, and across the statutory right of way associated with such drains; and

WHEREAS, the DSM dedicates a significant amount of resources to reviewing stormwater plans, inspecting project sites to ensure compliance with the plans and post-construction BMPs, reviewing requests for changes to regulated drains, and reviewing requests for encroachments/crossings in, over, through, and across the statutory right of way for such drains; and

WHEREAS, the State continues to increase its requirements for the DSM's implementation of stormwater plan reviews, construction site management and water quality monitoring and expects the DSM to continue to modify its practices and ordinances to meet those requirements; and

WHEREAS, to ensure the DSM can continue the efforts described above without increasing general stormwater fees for customers of the DSM, the Common Council of the City of Fort Wayne, Indiana ("Common Council") believes it is appropriate to establish a schedule of fees for stormwater plan review, inspections and certain requests related to regulated drains under the DSM's control.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF FORT WAYNE, INDIANA:**

1 **SECTION 1.** That Section 53.11 of the Fort Wayne Code of Ordinances be
2 deleted in its entirety and replaced with the following:

3 **§ 53.11 APPLICABILITY AND EXEMPTIONS.**

4 (A) It shall be required that a Notice of Intent (NOI) be submitted to the Indiana
5 Department of Environmental Management and to the DSM and that a Stormwater
6 Pollution Prevention Plan (SWPPP) be submitted and approved by the DSM for any
7 project located within the Fort Wayne Stormwater Management District that includes
8 clearing, grading, excavation, filling and other land disturbing activities resulting in the
9 following:

10 (1) The disturbance of one (1) acre or more of total land area as determined in
11 § 53.13.

12 (2) Disturbances of less than one acre of land that are part of a larger common plan
13 of development or sale if the larger common plan will ultimately disturb one or more
14 acres of land.

15 (B) The SWPPP must be approved by the DSM prior to the beginning of any land
16 disturbing activities on the site for which the plan is submitted. The SWPPP must comply
17 with the design criteria and technical standards and specifications approved by the
18 BSM.

19 (C) This Chapter does not apply to the following types of activities:

20 (1) Agricultural land disturbance activities.

21 (2) Forest harvesting activities.

22 (D) This section does not apply to the following activities, provided other applicable
23 permits contain provisions requiring immediate implementation of soil erosion control
24 measures:

25 (1) Landfills that have been issued a certification of closure under 329 IAC 10.

26 (2) Coal mining activities under IC 14-34.

27 (3) Municipal solid waste landfills that are accepting waste pursuant to a permit
28 issued by IDEM under 329 IAC 10 that contains equivalent stormwater requirements,
29 including the expansion of landfill boundaries and construction of new cells either within
30 or outside the original solid waste permit boundary.

 (4) Roadway projects initiated by the Indiana Department of Transportation.

 (E) Charges for review of SWPPP submittals will be assessed in accordance with
Section 53.63.

SECTION 2. That Section 53.30 of the Fort Wayne Code of Ordinances be
deleted in its entirety and replaced with the following:

§ 53.30 INSPECTION, MAINTENANCE AND REPORTING.

 (A) Upon the approval of the SWPPP and the issuance of all other required permits
and approvals by the DSM the following shall occur during the period of construction
activities:

 (1) The BSM, or its designee, shall have the authority to conduct inspections of the
site to ensure full compliance with the provisions of this Chapter, the design standards
and technical specifications by the BSM and the terms and conditions of the approved
SWPPP.

 (2) A self-monitoring program shall be implemented by the project site owner to
ensure the stormwater pollution prevention plan is working effectively. The program
must include the following:

 (a) A trained individual shall perform an inspection and prepare a written
evaluation of the project site:

 1. By the end of the next business day following each 0.5 inch of rain; and

 2. At a minimum of one time per week.

- (b) The evaluation must:
1. Address the maintenance of existing stormwater quality measures to ensure they are functioning properly; and
 2. Identify additional measures necessary to remain in compliance with all applicable laws and ordinances.
- (c) Written evaluation reports must include:
1. The name of the individual performing the evaluation;
 2. The date of the evaluation;
 3. Problems identified at the project site; and
 4. 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.
- (e) Sites that are issued a Notice of Violation (NOV) for non-compliance with an approved SWPPP will be charged for time spent on each re-inspection until the site is brought into compliance in accordance with the table set forth in Section 53.63.
- (B) Upon completion of the construction activities the following shall occur perpetually in accordance with the SWPPP regardless of site usage and land ownership:
- (1) All constructed stormwater quality facilities shall be maintained by the property owner, or per agreements on file with the DSM, and be in good condition and in accordance with the approved SWPPP operation and maintenance procedures and schedules and the BSM approved technical standards.
 - (2) The approved stormwater quality facilities shall not be subsequently altered, revised or replaced except in accordance with the approved SWPPP or in accordance with DSM approved amendments or revisions to the SWPPP.
 - (3) The BSM, or its designee, shall have the authority to conduct inspections of the site and the installed BMPs to ensure full compliance with the provisions of this Chapter, the design standards and technical specifications approved by the BSM and terms and conditions of the SWPPP. Fees for such inspections shall be charged in accordance with the table set forth in Section 53.63.

SECTION 3. That Section 53.63 titled "MISCELLANEOUS STORMWATER CHARGES" is added to the Fort Wayne Code of Ordinances as a NEW Section to read as follows:

§ 53.63 MISCELLANEOUS STORMWATER CHARGES.

(A) *SWPPP Submittal Review and Fees.* The following table contains the hourly fees to be charged for review of SWPPP/stormwater plan submittals and compliance inspections.

Permit/Fee Type	Extra Submittal Review – Rate Per Hour ¹	Extra SWPPP Inspection – Rate Per Hour ²
Single Residential Lot	\$140.00	\$80.00
Development (0-19.99 acres) ³	\$265.00	\$220.00
Development (20+ acres)	\$355.00	\$220.00

¹ Review of initial submittals and a maximum of two (2) resubmittals will be performed at no charge to the applicant. Time spent on plan reviews beyond the initial submittal and two (2) resubmittals will be charged at these hourly rates until the submittal is approved. For projects involving only City Utilities in the review, the cost per hour is measured based on the City Utilities' staff time spent on the review. For projects involving consultants, the time measurement is based on the senior consulting engineer's time spent on the review.

² Sites that have been issued a Notice of Violation (NOV) will incur a re-inspection cost for time spent on each reinspection until the site is brought into compliance. For projects involving only City Utilities in the inspection, the cost per hour is measured based on the City Utilities' staff time spent on the review. For projects involving consultants, the time measurement is based on the senior consulting engineer's time spent on the review.

³ The size of all sites will be rounded to the nearest hundredth of an acre for purposes of determining SWPPP review and inspection fees.

(B) *Regulated Drain Fees.* Fees for review of petitions involving regulated drains will be assessed in accordance with the following table:

Permit/Fee Type	Standard Regulated Drain Review Fee
Drain Encroachment/Drain Crossing	\$220.00
Drain Reconstruction/Drain Vacation/Drain Abandonment	\$760.00

(C) *BMP Inspection Fees.* Fees for inspections of BMPs will be assessed in accordance with the following table.

Permit/Fee Type	Annual BMP Inspection Fee ⁴	BMP Extra Inspection Hourly Rate (\$/Hour) ⁵
Stormwater BMP	\$520.00	\$290.00

⁴ The inspection fee for a single private BMP if the required annual inspection is not performed by the property owner and/or information from the property owner does not meet City Utilities' requirements.

⁵ Sites with BMP deficiencies identified in site inspections will incur a re-inspection cost for time spent on each inspection until the site is brought into compliance. For projects involving only City Utilities in the inspection, the cost per hour is measured based on the City Utilities' staff time spent on the review. For projects involving consultants, the time measurement is based on the senior consulting engineer's time spent on the review.

SECTION 4. That except for the foregoing amendments, the remaining sections of Chapter 53 of the City of Fort Wayne, Indiana, Code of Ordinances shall remain in full force and effect.

SECTION 5. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Malak Heiny, City Attorney

CHAPTER 53: STORMWATER MANAGEMENT DEPARTMENT

General Provisions

- [53.01](#) Board of Stormwater Management to operate stormwater system
- [53.02](#) Purpose and objective
- [53.03](#) Abbreviations and definitions
- [53.04](#) Severability

Construction Site Control

- [53.10](#) Purpose and intent
- [53.11](#) Applicability and exemptions
- [53.12](#) Responsibility for administration
- [53.13](#) Determination of land disturbance
- [53.14](#) Responsibility for implementation
- [53.15](#) General requirements for stormwater quality control

Stormwater Quality Management Control For Post-Construction

- [53.20](#) Purpose and intent
- [53.21](#) Applicability and exemptions
- [53.22](#) Responsibility for implementation
- [53.23](#) Calculations, design standards and specifications

Inspection, Maintenance and Reporting

- [53.30](#) Inspection, maintenance and reporting

Prohibited Discharges and Connections

- [53.40](#) Purpose and intent
- [53.41](#) Applicability and exemptions
- [53.42](#) Prohibited discharges and connections
- [53.43](#) Storage of hazardous or toxic material
- [53.44](#) Monitoring of discharges
- [53.45](#) Pollutant reduction through the use of best management practices
- [53.46](#) Private property maintenance duties
- [53.47](#) Spill reporting

Rates, Charges and Billing

- [53.55](#) Stormwater service charge
- [53.56](#) Stormwater rate establishment procedures
- [53.57](#) Rate structure and calculation
- [53.58](#) Billings; terms of payment
- [53.59](#) Appeals of ERU determination
- [53.60](#) Discount and credits policies and procedures
- [53.61](#) Stormwater fund
- [53.62](#) Delinquent fees and penalties as liens; duplicates; collection

53.63 Miscellaneous Stormwater Charges

Enforcement

- [53.70](#) Enforcement of §§ 53.10, 53.20, 53.30 and 53.40
- [53.71](#) Enforcement of other provisions of Chapter 53

§ 53.11 APPLICABILITY AND EXEMPTIONS.

(A) It shall be required that a Notice of Intent (NOI) be submitted to the Indiana Department of Environmental Management and to the DSM and that a Stormwater Pollution Prevention Plan (SWPPP) be submitted and approved by the DSM for any project located within the Fort Wayne Stormwater Management District that includes clearing, grading, excavation, filling and other land disturbing activities resulting in the following:

(1) The disturbance of one (1) acre or more of total land area as determined in § 53.13.

(2) Disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land.

(B) The SWPPP must be approved by the DSM prior to the beginning of any land disturbing activities on the site for which the plan is submitted. The SWPPP must comply with the design criteria and technical standards and specifications approved by the BSM.

(C) This Chapter does not apply to the following types of activities:

(1) Agricultural land disturbance activities.

(2) Forest harvesting activities.

(D) This section 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 under IC 14-34.

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by IDEM under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(4) Roadway projects initiated by the Indiana Department of Transportation.

(E) Charges for review of SWPPP submittals will be assessed in accordance with Section 53.63

(Ord. G-11-07, passed 4-10-07)

INSPECTION, MAINTENANCE AND REPORTING

§ 53.30 INSPECTION, MAINTENANCE AND REPORTING.

(A) Upon the approval of the SWPPP and the issuance of all other required permits and approvals by the DSM the following shall occur during the period of construction activities:

(1) The BSM, or its designee, shall have the authority to conduct inspections of the site to ensure full compliance with the provisions of this Chapter, the design standards and technical specifications by the BSM and the terms and conditions of the approved SWPPP.

(2) A self-monitoring program shall be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. The program must include the following:

- (a) A trained individual shall perform an inspection and prepare a written evaluation of the project site:
1. By the end of the next business day following each 0.5 inch of rain; and
 2. At a minimum of one time per week.
- (b) The evaluation must:
1. Address the maintenance of existing stormwater quality measures to ensure they are functioning properly; and
 2. Identify additional measures necessary to remain in compliance with all applicable laws and ordinances.
- (c) Written evaluation reports must include:
1. The name of the individual performing the evaluation;
 2. The date of the evaluation;
 3. Problems identified at the project site; and
 4. 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.

(e) Sites that are issued a Notice of Violation (NOV) for non-compliance with an approved SWPPP will be charged for time spent on each re-inspection until the site is brought into compliance in accordance with the table set forth in Section 53.63.

(B) Upon completion of the construction activities the following shall occur perpetually in accordance with the SWPPP regardless of site usage and land ownership:

(1) All constructed stormwater quality facilities shall be maintained by the property owner, or per agreements on file with the DSM, and be in good condition and in accordance with the approved SWPPP operation and maintenance procedures and schedules and the BSM approved technical standards.

(2) The approved stormwater quality facilities shall not be subsequently altered, revised or replaced except in accordance with the approved SWPPP or in accordance with DSM approved amendments or revisions to the SWPPP.

(3) The BSM, or its designee, shall have the authority to conduct inspections of the site and the installed BMPs to ensure full compliance with the provisions of this Chapter, the design standards and technical specifications approved by the BSM and terms and conditions of the SWPPP. Fees for such inspections shall be charged in accordance with the table set forth in Section 53.63.

(Ord. G-11-07, passed 4-10-07)

§ 53.63 MISCELLANEOUS STORMWATER CHARGES.

(A) SWPPP Submittal Review and Fees. The following table contains the hourly fees to be charged for review of SWPPP/stormwater plan submittals and compliance inspections.

<u>Permit/Fee Type</u>	<u>Extra Submittal Review – Rate Per Hour¹</u>	<u>Extra SWPPP Inspection – Rate Per Hour²</u>
<u>Single Residential Lot</u>	<u>\$140.00</u>	<u>\$80.00</u>

<u>Development (0-19.99 acres)³</u>	<u>\$265.00</u>	<u>\$220.00</u>
<u>Development (20+ acres)</u>	<u>\$355.00</u>	<u>\$220.00</u>

¹ Review of initial submittals and a maximum of two (2) resubmittals will be performed at no charge to the applicant. Time spent on plan reviews beyond the initial submittal and two (2) resubmittals will be charged at these hourly rates until the submittal is approved. For projects involving only City Utilities in the review, the cost per hour is measured based on the City Utilities' staff time spent on the review. For projects involving consultants, the time measurement is based on the senior consulting engineer's time spent on the review.

² Sites that have been issued a Notice of Violation (NOV) will incur a re-inspection cost for time spent on each reinspection until the site is brought into compliance. For projects involving only City Utilities in the inspection, the cost per hour is measured based on the City Utilities' staff time spent on the review. For projects involving consultants, the time measurement is based on the senior consulting engineer's time spent on the review.

³ The size of all sites will be rounded to the nearest hundredth of an acre for purposes of determining SWPPP review and inspection fees.

(B) Regulated Drain Fees. Fees for review of petitions involving regulated drains will be assessed in accordance with the following table:

<u>Permit/Fee Type</u>	<u>Standard Regulated Drain Review Fee</u>
<u>Drain Encroachment/Drain Crossing</u>	<u>\$220.00</u>
<u>Drain Reconstruction/Drain Vacation/Drain Abandonment</u>	<u>\$760.00</u>

(C) BMP Inspection Fees. Fees for inspections of BMPs will be assessed in accordance with the following table.

<u>Permit/Fee Type</u>	<u>Annual BMP Inspection Fee⁴</u>	<u>BMP Extra Inspection Hourly Rate (\$/Hour)⁵</u>
<u>Stormwater BMP</u>	<u>\$520.00</u>	<u>\$290.00</u>

⁴ The inspection fee for a single private BMP if the required annual inspection is not performed by the property owner and/or information from the property owner does not meet City Utilities' requirements.

⁵ Sites with BMP deficiencies identified in site inspections will incur a re-inspection cost for time spent on each inspection until the site is brought into compliance. For projects involving only City Utilities in the inspection, the cost per hour is measured based on the City Utilities' staff time spent on the review. For projects involving consultants, the time measurement is based on the senior consulting engineer's time spent on the review.