

**AN ORDINANCE amending Chapter 53 of the City
of Fort Wayne Code of Ordinances.**

WHEREAS, the Fort Wayne Stormwater Utility's MS4 program recently underwent a routine audit by the Indiana Department of Environmental Management ("IDEM"); and

WHEREAS, as a result of the audit, IDEM recommended minor changes to the Fort Wayne Code of Ordinances to ensure conformity with the Indiana MS4 General Permit and the Indiana Construction Stormwater General Permit; and

WHEREAS, the Fort Wayne Board of Stormwater Management has adopted a resolution recommending changes to Chapter 53 of the Fort Wayne Code of Ordinances, specifically in regards to certain pre- and post-construction stormwater and erosion control requirements, based on the results of the IDEM audit; and

WHEREAS, the Common Council of the City of Fort Wayne, Indiana believes that the recommendations of the Fort Wayne Board of Stormwater Management are in the best interest of the Fort Wayne Stormwater Utility and the citizens of the City of Fort Wayne, and desires to adopt the recommendations of the Fort Wayne Board of Stormwater Management.

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

SECTION 1. That Section 53.11 of the Fort Wayne, Indiana Code of Ordinances is hereby deleted in its entirety and replaced with the following:

1 **§ 53.11 APPLICABILITY AND EXEMPTIONS.**

2 (A) It shall be required that a Notice of Intent (NOI) be submitted to the
3 Indiana Department of Environmental Management and to the DSM and that a
4 Stormwater Pollution Prevention Plan (SWP3) be submitted and approved by the
5 DSM for any project located within the Fort Wayne Stormwater Management
6 District that includes clearing, grading, excavation, filling and other land
7 disturbing activities resulting in the following:

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

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

13 (B) The SWP3 must be approved by the DSM prior to the beginning of
14 any land disturbing activities on the site for which the plan is submitted. The
15 SWPPP must comply with the design criteria and technical standards and
16 specifications approved by the BSM.

17 (C) A residential property that involves activities described in §
18 53.11(A) shall have an approved SWP3. If the condition described in § 53.11
19 (A)(1) applies, the residential property shall have its own SWP3. If the condition
20 described in § 53.11 (A)(2) applies, the residential property does not need its
21 own SWP3 but shall be covered by the SWP3 for the larger common plan of
22 development.

23 (D) This chapter does not apply to the following types of activities:

24 (1) Agricultural land disturbance activities.

25 (2) Forest harvesting activities.

26 (E) This section does not apply to the following activities, provided
27 other applicable permits contain provisions requiring immediate implementation
28 of soil erosion control measures:

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

 (2) Coal mining activities under I.C. 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

1 boundaries and construction of new cells either within or outside the
2 original solid waste permit boundary.

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

5 (F) Charges for review of SWP3 submittals will be assessed in
6 accordance with § 53.63.

7 **SECTION 2.** That Section 53.15 of the Fort Wayne, Indiana Code of
8 Ordinances is hereby deleted in its entirety and replaced with the following:

9
10 **§ 53.15 GENERAL REQUIREMENTS FOR STORMWATER QUALITY**
11 **CONTROL.**

12 All storm water quality measures and erosion and sediment controls
13 necessary to comply with this Chapter must be implemented in accordance with
14 the stormwater pollution prevention plan and comply with the technical standards
15 adopted by the Board of Stormwater Management. All water quality measures
16 must be sufficient to satisfy the following conditions.

17 (A) Minimize the potential for soil erosion by designing a development
18 that fits the topography and soils of the site. Deep cuts and fill in areas with steep
19 slopes should be avoided wherever possible, and natural contours should be
20 followed as closely as possible.

21 (B) Existing natural vegetation should be retained and protected
22 wherever possible. Areas immediately adjacent to watercourses and lakes also
23 should be left undisturbed wherever possible. Unvegetated or vegetated areas
24 with less than 70% cover that are scheduled or likely to be left inactive for seven
25 (7) days or more must be temporarily or permanently stabilized with measures
26 appropriate for the season to reduce erosion potential no later than 14 days after
27 initiation. Alternative measures to site stabilization may be acceptable if the
28 project site owner or their representative can demonstrate they have
29 implemented and maintained erosion and sediment control measures adequate
30 to prevent sediment discharge from the inactive area.

(C) All activities on a site should be conducted in a logical sequence so
that the smallest practical area of land will be exposed for the shortest practical
period of time during development.

1 (D) The length and steepness of designed slopes should be minimized
2 to reduce erosion potential. Drainage channels and swales must be designed
3 and adequately protected so that their final gradients and resultant velocities will
4 not cause erosion in the receiving channel or at the outlet.

5 (E) Sediment-laden water which otherwise would flow from the project
6 site shall be treated by erosion and sediment control measures appropriate to
7 minimize sedimentation. A stable construction site access shall be provided at all
8 points of construction traffic ingress and egress to the project site.

9 (F) Appropriate measures shall be implemented to prevent wastes or
10 unused building materials, including, garbage, debris, packaging material, fuels
11 and petroleum products, hazardous materials or wastes, cleaning wastes,
12 wastewater, concrete truck washout, and other substances from being carried
13 from a project site by runoff or wind. Identification of areas where concrete truck
14 washout is permissible must be clearly posted at appropriate areas of the site.
15 Wastes and unused building materials shall be managed and disposed of in
16 accordance with all applicable State statutes and regulations. Proper storage
17 and handling of materials such as fuels or hazardous wastes, and spill
18 prevention and cleanup measures (including having spill response equipment on
19 site) shall be implemented to minimize the potential for pollutants to contaminate
20 surface or ground water or degrade soil quality.

21 (G) Public, or private roadways shall be kept cleared of accumulated
22 sediment that is a result of runoff or tracking. Bulk clearing of accumulated
23 sediment shall not include flushing the area with water. Cleared sediment shall
24 be redistributed or disposed of in a manner that is in accordance with all
25 applicable statutes and regulations.

26 (H) Collected runoff leaving a project site must be either discharged
27 directly into a well-defined, stable receiving channel, or diffused and released to
28 adjacent property without causing an erosion or pollutant problem to the adjacent
29 property owner.

30 (I) Natural features, including wetlands, shall be protected from
pollutants associated with stormwater runoff. All erosion and sediment control
measures necessary to comply with this Chapter and with other provisions as
outlined in IDEM's Construction Stormwater General Permit (IDEM CSGP) must
be implemented in accordance with the submitted plans.

1
2 **SECTION 3.** That Section 53.21 of the Fort Wayne, Indiana Code of
3 Ordinances is hereby deleted in its entirety and replaced with the following:

4
5 **§ 53.21 APPLICABILITY AND EXEMPTIONS.**

6 (A) It shall be required that a Stormwater Pollution Prevention Plan
7 (SWP3) that addresses post-construction stormwater quality control measures
8 be submitted and approved by the DSM for any project located within the Fort
9 Wayne Stormwater Management District that includes clearing, grading,
excavation, filling and other land disturbing activities resulting in the following:

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

12 (2) Disturbances of less than one (1) acre of land that are part
13 of a larger common plan of development or sale if the larger common plan
14 will ultimately disturb one or more acres of land.

15 (B) The SWP3 must be approved by the DSM prior to the beginning of
16 any land disturbing activities on the site for which the plan is submitted. The
17 SWP3 shall include stormwater quality features that shall become permanent
18 features of the site plan and shall remain in place following completion of
19 construction activities. The SWP3 shall comply with the design criteria and
20 technical standards and specifications approved by the BSM.

21 (C) Unless otherwise determined by the DSM, all residential properties
22 that are required to have a SWP3 for construction site control as described in §
23 53.11(C) shall have an approved SWP3 that addresses post-construction
24 stormwater quality control measures. If the condition described in § 53.21(A)(1)
25 applies, the residential property shall have its own SWP3 addressing post-
26 construction stormwater quality control measures. If the condition described in
subsection § 53.21(A)(2) applies, the residential property does not need its own
SWP3 but shall be covered by the SWP3 for the larger common plan of
development.

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

28 (1) Agricultural land disturbance activities.

29 (2) Forest harvesting activities.

30 (E) This section does not apply to the following activities, provided

1 other applicable permits contain provisions requiring immediate implementation
2 of soil erosion control measures:

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

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

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

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

13 **SECTION 4.** That all actions previously taken by the City of Fort Wayne,
14 Indiana in connection the Agreement are hereby ratified, confirmed, and approved
15 in all respects.

16 **SECTION 5.** That this Ordinance shall be in full force and effect from and
17 after its passage and any and all necessary approval by the Mayor.

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19
20 _____
Council Member

21
22 APPROVED AS TO FORM AND LEGALITY

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24 _____
25 Malak Heiny, City Attorney
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27
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§ 53.11 APPLICABILITY AND EXEMPTIONS.

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(1) The disturbance of one 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 SWP3 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 SWP3 must comply with the design criteria and technical standards and specifications approved by the BSM.

(C) A residential property that involves activities described in § 53.11(A) shall have an approved SWP3. If the condition described in § 53.11 (A)(1) applies, the residential property shall have its own SWP3. If the condition described in § 53.11 (A)(2) applies, the residential property does not need its own SWP3 but shall be covered by the SWP3 for the larger common plan of development.

~~(DG)~~ This chapter does not apply to the following types of activities:

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- (2) Forest harvesting activities.

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

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- (2) Coal mining activities under I.C. 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.

(EE) Charges for review of SWP3 submittals will be assessed in accordance with § 53.63.

(Ord. G-11-07, passed 4-10-07; Am. Ord. G-28-22, passed 12-13-22; Am. Ord. G-17-24, passed 7-9-24)

§ 53.15 GENERAL REQUIREMENTS FOR STORMWATER QUALITY CONTROL.

All storm water quality measures and erosion and sediment controls necessary to comply with this Chapter must be implemented in accordance with the stormwater pollution prevention plan and comply with the technical standards adopted by the Board of Stormwater Management. All water quality measures must be sufficient to satisfy the following conditions.

(A) Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fill in areas with steep slopes should be avoided wherever possible, and natural contours should be followed as closely as possible.

(B) Existing natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to watercourses and lakes also should be left undisturbed wherever possible. Unvegetated or vegetated areas with less than 70% cover that are scheduled or likely to be left inactive for seven (7)15 days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential no later than 14 days after initiation. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.

(C) All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.

(D) The length and steepness of designed slopes should be minimized to reduce erosion potential. 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.

(E) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.

(F) Appropriate measures shall be implemented to prevent wastes or unused building materials, including, garbage, debris, packaging material, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by runoff 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 State statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures (including having spill response equipment on site) shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

(G) Public, or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated 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.

(H) Collected runoff 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.

(I) Natural features, including wetlands, shall be protected from pollutants associated with stormwater runoff. All erosion and sediment control measures necessary to comply with this Chapter and with other provisions as outlined in IDEM's Construction Stormwater General Permit (IDEM CSGP) must be implemented in accordance with the submitted plans.

(Ord. G-11-07, passed 4-10-07; Am. Ord. G-17-24, passed 7-9-24)

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

(2) Disturbances of less than one (1) 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 SWP3 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 SWP3 shall include stormwater quality features that shall become permanent features of the site plan and shall remain in place following completion of construction activities. The SWP3 shall comply with the design criteria and technical standards and specifications approved by the BSM.

(C) Unless otherwise determined by the DSM, all residential properties that are required to have a SWP3 for construction site control as described in § 53.11(C) shall have an approved SWP3 that addresses post-construction stormwater quality control measures. If the condition described in § 53.21(A)(1) applies, the residential property shall have its own SWP3 addressing post-construction stormwater quality control measures. If the condition described in subsection § 53.21(A)(2) applies, the residential property does not need its own SWP3 but shall be covered by the SWP3 for the larger common plan of development.

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